Tab 1	**CS/SJR 170** by **FT, Brandes (CO-INTRODUCERS) Hutson**; (Similar to CS/H 0193) Renewable Energy Source Device

399704	D	S		RCS	AP, Negron	Delete everything after	03/03 12:27 PM

Tab 2	**CS/CS/SB 172** by **FT, CA, Brandes (CO-INTRODUCERS) Hutson**; (Similar to CS/H 0195) Renewable Energy Source Devices

573552	D	S		RCS	AP, Negron	Delete everything after	03/03 12:30 PM
~~838060~~	AA	S	L	WD	AP, Negron	Delete L.18 - 20:	03/02 10:36 PM
~~604082~~	SA	S	L	WD	AP, Negron	Delete L.18 - 22:	03/02 10:03 PM
158306	AA	S	L	RCS	AP, Negron	Delete L.18 - 22	03/03 12:30 PM

Tab 3	**SB 314** by **Diaz de la Portilla (CO-INTRODUCERS) Smith, Garcia**; (Similar to CS/H 0129) Juvenile Justice

Tab 4	**CS/SB 326** by **GO, Brandes**; (Similar to CS/H 1341) State-owned Motor Vehicles

189108	PCS	S			AP, AGG		02/15 03:06 PM
474634	PCS:A	S	L		AP, Gaetz	btw L.60 - 61:	03/02 07:43 PM
~~467238~~	A	S		WD	AP, Gaetz	btw L.60 - 61:	03/02 07:54 PM

Tab 5	**CS/SB 604** by **JU, Diaz de la Portilla (CO-INTRODUCERS) Hutson, Gaetz**; (Compare to CS/CS/CS/1ST ENG/H 0439) Mental Health Services in the Criminal Justice System

907278	PCS	S		RCS	AP, AHS	03/03 12:18 PM

Tab 6	**CS/CS/SB 686** by **GO, EE, Gaetz**; (Compare to CS/2ND ENG/H 0479) Government Accountability

399826	D	S			AP, Gaetz	Delete everything after	03/02 04:11 PM

Tab 7	**CS/SB 750** by **CF, Hutson, Bean**; (Compare to CS/CS/1ST ENG/H 0563) Temporary Cash Assistance Program

743014	PCS	S		RCS	AP, AHS		03/03 12:43 PM
491150	PCS:A	S		RCS	AP, Hukill	Delete L.16 - 139:	03/03 12:43 PM

Tab 8	**SB 770** by **Simpson, Flores**; (Similar to CS/CS/H 0447) Local Government Environmental Financing

389166	PCS	S		RCS	AP, AGG	03/03 12:31 PM

Tab 9	**SB 824** by **Stargel**; (Compare to CS/1ST ENG/H 0835) Dual Enrollment Program

230384	PCS	S			AP, AED		02/26 04:44 PM

Tab 10	**CS/SB 868** by **FT, Smith**; (Identical to CS/H 0627) Community Contribution Tax Credits

380482	A	S		RCS	AP, Flores	Before L.16:	03/03 12:33 PM
971344	AA	S	L	RCS	AP, Flores	Delete L.5 - 42:	03/03 12:33 PM

Tab 11	**SB 884** by **Benacquisto (CO-INTRODUCERS) Gaetz, Soto, Bradley, Bullard, Abruzzo**; (Identical to H 0907) Youth Suicide Awareness and Prevention

Tab 12	**CS/SB 1088** by **ED, Stargel (CO-INTRODUCERS) Garcia**; (Similar to CS/H 0837) Education Programs for Individuals with Disabilities

Tab 13	**CS/SB 1168** by **EP, Negron (CO-INTRODUCERS) Benacquisto, Soto, Flores, Simpson, Altman, Latvala**; (Similar to H 0989) Implementation of the Water and Land Conservation Constitutional Amendment

419000	PCS	S		RCS	AP, AGG		03/03 12:38 PM
~~327964~~	PCS:A	S		WD	AP, Negron	Delete L.49 - 65:	03/02 01:42 PM

Tab 14 **CS/SB 1216** by **CM, Stargel**; (Similar to CS/H 1017) Reemployment Assistance Fraud

Tab 15 **SB 1270** by **Simpson**; (Identical to H 4035) Pesticide Registration

Tab 16 **SB 1290** by **Simpson**; (Similar to CS/CS/1ST ENG/H 1075) State Lands

914914	PCS	S	RCS	AP, AGG		03/03 12:41 PM

Tab 17 **SB 1356** by **Brandes (CO-INTRODUCERS) Stargel**; (Compare to CS/H 1003) Employment After Retirement of School District Personnel

964084	PCS	S		AP, AED		02/26 04:46 PM

Tab 18 **SB 1428** by **Simmons**; State Investments

Tab 19 **CS/SB 1430** by **GO, Brandes**; (Compare to CS/CS/H 1195) State Technology

680352	PCS	S		AP, AGG		02/26 07:52 PM
699884	PCS:D	S		AP, Gaetz	Delete everything after	03/02 05:04 PM

Tab 20 **CS/SB 1646** by **CM, Latvala**; (Compare to H 0061) Economic Development

747054	PCS	S		AP		02/15 04:10 PM
658668	PCS:A	S	L	AP, Flores	Delete L.3684 - 3838:	03/02 10:27 PM

Tab 21 **SB 7054** by **CF**; (Similar to CS/CS/1ST ENG/H 1083) Agency for Persons with Disabilities

366342	PCS	S		RCS	AP, AHS		03/03 05:10 PM
500696	PCS:A	S		RCS	AP, Garcia	Delete L.495 - 578:	03/03 05:10 PM
607676	PCS:A	S		RCS	AP, Hays	btw L.642 - 643:	03/03 05:10 PM
577968	PCS:AA	S	L	FAV	AP, Hays	Delete L.40 - 47:	03/03 05:10 PM
712692	PCS:A	S		RCS	AP, Garcia	Delete L.806 - 961:	03/03 05:10 PM

Tab 22 **SB 7056** by **HP**; (Similar to CS/H 1335) Long-term Care Managed Care Prioritization

939436	PCS	S	RCS	AP, AHS		03/03 06:47 PM

Tab 23 **SB 7064** by **FT**; (Compare to 2ND ENG/H 7099) Corporate Income Tax

Tab 24 **HB 7099** by **FTC, Gaetz (CO-INTRODUCERS) Avila, Nunez**; (Compare to CS/S 0098) Taxation

~~941552~~	D	S		WD	AP, Hukill, Lee	Delete everything after	03/02 07:34 PM
~~523276~~	AA	S		WD	AP, Hays	btw L.4 - 5:	03/02 07:36 PM
~~453284~~	AA	S		WD	AP, Negron	btw L.4 - 5:	03/02 06:20 PM
~~342894~~	AA	S		WD	AP, Gaetz	btw L.4 - 5:	03/02 11:18 PM
~~266252~~	AA	S		WD	AP, Hays	btw L.355 - 356:	03/02 07:36 PM
299122	A	S		OO	AP, Latvala	Delete L.189 - 380.	03/03 11:00 AM
~~960516~~	A	S		WD	AP, Negron	Delete L.682 - 729:	03/02 06:19 PM
~~624704~~	A	S		WD	AP, Negron	In directory clause, de	03/02 06:20 PM
524478	A	S		OO	AP, Hays	btw L.2304 - 2305:	03/03 11:00 AM
403268	D	S	L		AP, Hukill, Lee	Delete everything after	03/02 07:45 PM
~~576912~~	AA	S	L	WD	AP, Hays	btw L.4 - 5:	03/04 09:25 AM
~~953564~~	AA	S	L	WD	AP, Hays	btw L.4 - 5:	03/04 09:25 AM
~~961560~~	AA	S	L	WD	AP, Gaetz	btw L.4 - 5:	03/04 09:25 AM
279492	AA	S	L	RE	AP, Gaetz	btw L.4 - 5:	03/04 09:25 AM
673118	D	S	L	FAV	AP, Hukill, Lee	Delete everything after	03/04 09:25 AM

The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

APPROPRIATIONS
Senator Lee, Chair
Senator Benacquisto, Vice Chair

MEETING DATE: Thursday, March 3, 2016
TIME: 8:00—10:00 a.m.
PLACE: *Pat Thomas Committee Room,* 412 Knott Building

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

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	**CS/SJR 170** Finance and Tax / Brandes (Similar CS/HJR 193, Compare CS/H 195, Linked CS/CS/S 172)	Renewable Energy Source Device; Proposing amendments to the State Constitution to require the Legislature, by general law, to exempt the assessed value of a renewable energy source device from the tangible personal property tax, to allow the Legislature, by general law, to prohibit the consideration of the installation of such device in determining the assessed value of residential and nonresidential real property for the purpose of ad valorem taxation, and to provide effective and expiration dates, etc. CU 11/03/2015 Favorable CA 12/01/2015 Favorable FT 01/11/2016 Fav/CS AP 03/03/2016 Fav/CS	Fav/CS Yeas 17 Nays 0
2	**CS/CS/SB 172** Finance and Tax / Community Affairs / Brandes (Similar CS/H 195, Compare CS/HJR 193, Linked CS/SJR 170)	Renewable Energy Source Devices; Redefining the term "renewable energy source device"; specifying a period during which a property appraiser is prohibited from considering an increase in the just value of real property used for residential purposes which is attributable to the installation of a renewable energy source device; exempting a renewable energy source device from the tangible personal property tax, etc. CU 11/03/2015 Favorable CA 12/01/2015 Fav/CS FT 01/11/2016 Fav/CS AP 03/03/2016 Fav/CS	Fav/CS Yeas 19 Nays 0
3	**SB 314** Diaz de la Portilla (Similar CS/H 129, Compare H 239, CS/CS/H 293, S 282, S 558, CS/S 700)	Juvenile Justice; Revising the circumstances under which a state attorney may file an information when a child of a certain age range commits or attempts to commit specified crimes; revising the crimes and the age of a child who is subject to the jurisdiction of a circuit court; requiring the adult court to render an order including specific findings of fact and the reasons for its decision; removing a provision that requires a court to impose adult sanctions under certain circumstances, etc. CJ 11/02/2015 Favorable ACJ 02/11/2016 Favorable AP 03/03/2016 Favorable	Favorable Yeas 18 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
	With subcommittee recommendation – Criminal and Civil Justice		
	A proposed committee substitute for the following bill (CS/SB 326) is available:		
4	**CS/SB 326** Governmental Oversight and Accountability / Brandes (Similar CS/H 1341)	State-owned Motor Vehicles; Requiring the Department of Management Services to prepare a plan regarding the centralized management of state-owned motor vehicles; requiring the department to submit the plan to the Governor and the Legislature by a specified date; prescribing requirements for the plan; requiring the department to conduct certain evaluations while developing the plan, etc. GO 11/02/2015 GO 11/17/2015 Fav/CS AGG 02/11/2016 Fav/CS AP 03/03/2016 Not Considered	Not Considered
	With subcommittee recommendation – General Government		
	A proposed committee substitute for the following bill (CS/SB 604) is available:		
5	**CS/SB 604** Judiciary / Diaz de la Portilla (Compare CS/CS/CS/H 439)	Mental Health Services in the Criminal Justice System; Expanding eligibility for military veterans and servicemembers court programs; authorizing the funding for mental health court programs; creating the Forensic Hospital Diversion Pilot Program; expanding eligibility requirements for certain pretrial intervention programs; authorizing pretrial mental health court programs for certain juvenile offenders, etc. JU 11/17/2015 Fav/CS AHS 02/17/2016 Fav/CS AP 03/03/2016 Fav/CS	Fav/CS Yeas 18 Nays 0
	With subcommittee recommendation – Health and Human Services		

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
6	**CS/CS/SB 686** Governmental Oversight and Accountability / Ethics and Elections / Gaetz (Compare CS/H 479, CS/CS/H 593, CS/CS/CS/H 651, CS/CS/CS/H 669, H 7071, CS/CS/S 524, CS/S 582, S 956, CS/CS/S 992, CS/S 1166, CS/S 1360)	Government Accountability; Specifying that the Governor, the Commissioner of Education, or the designee of the Governor or of the Commissioner of Education may notify the Legislative Auditing Committee of an entity's failure to comply with certain auditing and financial reporting requirements; excluding water management districts from certain audit requirements; prohibiting a member of the Legislature or a candidate for legislative office from accepting employment with a private entity that directly receives funding through state revenues under certain circumstances, etc. EE 01/12/2016 Fav/CS GO 02/01/2016 Not Considered GO 02/09/2016 Fav/CS CA 02/16/2016 Favorable AP 03/03/2016 Not Considered	Not Considered

A proposed committee substitute for the following bill (CS/SB 750) is available:

7	**CS/SB 750** Children, Families, and Elder Affairs / Hutson / Bean (Compare CS/CS/H 563)	Temporary Cash Assistance Program; Revising the consideration of income from illegal noncitizen or ineligible noncitizen family members in determining eligibility for temporary cash assistance, etc. CF 01/14/2016 Temporarily Postponed CF 02/17/2016 Fav/CS AHS 02/24/2016 Fav/CS AP 03/03/2016 Fav/CS With subcommittee recommendation – Health and Human Services	Fav/CS Yeas 17 Nays 0

A proposed committee substitute for the following bill (SB 770) is available:

8	**SB 770** Simpson / Flores (Similar CS/CS/H 447, Compare H 867, S 1210)	Local Government Environmental Financing; Citing this act as the "Florida Keys Stewardship Act"; expanding the use of local government infrastructure surtaxes to include acquiring any interest in land for public recreation, conservation, or protection of natural resources or to reduce impacts of new development on hurricane evacuation clearance times; expanding the use of Everglades restoration bonds to include the City of Key West Area of Critical State Concern; requiring the Department of Environmental Protection to annually consider certain recommendations to buy specific lands within and outside an area of critical state concern, etc. CA 12/01/2015 Favorable AGG 02/17/2016 Fav/CS AP 03/03/2016 Fav/CS	Fav/CS Yeas 18 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
	With subcommittee recommendation – General Government		
	A proposed committee substitute for the following bill (SB 824) is available:		
9	**SB 824** Stargel (Compare CS/H 835)	Dual Enrollment Program; Exempting dual enrollment students from paying technology fees; requiring a home education secondary student to be responsible for his or her own instructional materials and transportation in order to participate in the dual enrollment program unless the articulation agreement provides otherwise; authorizing certain instructional materials to be made available free of charge to dual enrollment students in home education programs and private schools if provided for in the articulation agreement; requiring a postsecondary institution eligible to participate in the dual enrollment program to enter into an articulation agreement with certain eligible private schools, etc. ED 02/02/2016 Favorable AED 02/24/2016 Fav/CS AP 03/03/2016 Not Considered	Not Considered
	With subcommittee recommendation – Education		
10	**CS/SB 868** Finance and Tax / Smith (Identical CS/H 627)	Community Contribution Tax Credits; Providing definitions related to community contribution tax credits that may apply against certain tax liabilities, etc. CA 02/01/2016 Favorable FT 02/16/2016 Fav/CS AP 03/03/2016 Fav/CS	Fav/CS Yeas 17 Nays 1
11	**SB 884** Benacquisto (Identical H 907, Compare CS/S 1166)	Youth Suicide Awareness and Prevention; Requiring the Department of Education to incorporate training in youth suicide awareness and prevention into certain instructional personnel continuing education or inservice training requirements; requiring the department, in consultation with the Statewide Office for Suicide Prevention and suicide prevention experts, to develop a list of approved materials for the training, etc. ED 01/20/2016 Favorable AED 01/28/2016 Favorable AP 03/03/2016 Not Considered	Not Considered
	With subcommittee recommendation – Education		

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
12	**CS/SB 1088** Education Pre-K - 12 / Stargel (Similar CS/H 837, Compare H 5003, CS/S 1166, S 2502)	Education Programs for Individuals with Disabilities; Exempting a foster child from specified eligibility provisions; providing that a student enrolled in a transition-to-work program is eligible for a John M. McKay Scholarship; creating a transition-to-work program for specific students enrolled in the John M. McKay Scholarships for Students with Disabilities Program; changing the name of the program to the "Adults with Disabilities Workforce Education Program"; exempting a John M. McKay Scholarship award from a specified funding calculation for purposes of the Florida Education Finance Program, etc. ED 01/27/2016 Fav/CS AED 02/24/2016 Favorable AP 03/03/2016 Favorable	Favorable Yeas 16 Nays 0

With subcommittee recommendation – Education

A proposed committee substitute for the following bill (CS/SB 1168) is available:

13	**CS/SB 1168** Environmental Preservation and Conservation / Negron (Similar H 989)	Implementation of the Water and Land Conservation Constitutional Amendment; Requiring a minimum specified percentage of funds within the Land Acquisition Trust Fund to be appropriated for Everglades restoration projects; providing a preference in the use of funds to certain projects that reduce harmful discharges to the St. Lucie Estuary and the Caloosahatchee Estuary; requiring a minimum specified percentage of funds within the Land Acquisition Trust Fund to be appropriated for spring restoration, protection, and management projects, etc. EP 02/09/2016 Fav/CS AGG 02/29/2016 Fav/CS AP 03/03/2016 Fav/CS	Fav/CS Yeas 18 Nays 0

With subcommittee recommendation – General Government

14	**CS/SB 1216** Commerce and Tourism / Stargel (Similar CS/H 1017)	Reemployment Assistance Fraud; Citing this act as the "Department of Economic Opportunity Cybercrime Prevention Act"; adding the Department of Economic Opportunity as an entity that may be issued reproductions from certain files or digital records for specified reasons; revising provisions relating to disqualification from reemployment assistance benefits, etc. CM 02/16/2016 Fav/CS ATD 02/24/2016 Favorable AP 03/03/2016 Not Considered	Not Considered

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
	With subcommittee recommendation – Transportation, Tourism, and Economic Development		
15	**SB 1270** Simpson (Identical H 4035)	Pesticide Registration; Deleting provisions relating to supplemental registration fees for certain pesticides that contain active ingredients for which the United States Environmental Protection Agency has established food tolerance limits; deleting a provision requiring the department to publish a list of certain active ingredients, etc. AG 01/19/2016 Favorable AGG 02/11/2016 Favorable AP 03/03/2016 Not Considered	Not Considered
	With subcommittee recommendation – General Government		
	A proposed committee substitute for the following bill (SB 1290) is available:		
16	**SB 1290** Simpson (Similar CS/CS/H 1075)	State Lands; Authorizing the Board of Trustees of the Internal Improvement Trust Fund to waive certain requirements and rules and substitute procedures relating to the acquisition of state lands under certain conditions; providing for public agencies and nonprofit organizations to enter into written agreements with the Department of Environmental Protection rather than the Division of State Lands to purchase and hold property for subsequent resale to the board rather than the division; providing for the use of alternatives to fee simple acquisition by public land acquisition agencies, etc. EP 02/09/2016 Favorable AGG 02/24/2016 Fav/CS AP 03/03/2016 Fav/CS	Fav/CS Yeas 16 Nays 0
	With subcommittee recommendation – General Government		
	A proposed committee substitute for the following bill (SB 1356) is available:		
17	**SB 1356** Brandes (Compare CS/H 1003)	Employment After Retirement of School District Personnel; Revising provisions relating to reemployment of retirees as instructional personnel on a contract basis; providing legislative intent and findings to clarify authorization to award contracts; providing requirements for a judgment in certain civil actions or administrative proceedings, etc. GO 01/26/2016 Favorable AED 02/17/2016 Temporarily Postponed AED 02/24/2016 Fav/CS AP 03/03/2016 Not Considered	Not Considered

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
	With subcommittee recommendation – Education		
18	**SB 1428** Simmons	State Investments; Encouraging the State Board of Administration to determine which publicly traded companies in which the Florida Retirement System Trust Fund is invested operate in Northern Ireland; encouraging the state board to take certain action upon making a determination; providing that the state board is not liable or subject to a cause of action under the act, etc. GO 02/01/2016 Favorable AGG 02/11/2016 Favorable AP 03/03/2016 Favorable	Favorable Yeas 16 Nays 0
	With subcommittee recommendation – General Government		
	A proposed committee substitute for the following bill (CS/SB 1430) is available:		
19	**CS/SB 1430** Governmental Oversight and Accountability / Brandes (Compare CS/CS/H 1195)	State Technology; Establishing a chief data officer within the Agency for State Technology who shall be appointed by the executive director; authorizing the Agency for State Technology to oversee the transition of various licenses and identification cards to an optional digital proof of the licenses and identification cards for a specified fee; requiring the Department of Highway Safety and Motor Vehicles, in coordination with the Agency for State Technology, to develop, rather than begin to review and prepare for the development of, a system for issuing an optional digital proof of driver license for a specified fee, subject to certain requirements, etc. GO 02/09/2016 Fav/CS AGG 02/24/2016 Fav/CS AP 03/03/2016 Not Considered	Not Considered
	With subcommittee recommendation – General Government		
	A proposed committee substitute for the following bill (CS/SB 1646) is available:		

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
20	**CS/SB 1646** Commerce and Tourism / Latvala (Compare H 61, CS/H 1325, S 106)	Economic Development; Requiring the Department of Economic Opportunity to contract with a direct-support organization to promote the sports industry and the participation of residents in certain athletic competitions in this state and to promote the state as a host for certain athletic competitions; requiring the Office of Economic and Demographic Research and the Office of Program Policy Analysis and Government Accountability to provide a detailed analysis of the retention of Major League Baseball spring training baseball franchises; requiring the Office of Economic and Demographic Research to include certain guidelines for the calculation of economic benefits, etc. CM 01/25/2016 Fav/CS ATD 02/11/2016 Fav/CS AP 03/03/2016 Not Considered	Not Considered

With subcommittee recommendation – Transportation, Tourism, and Economic Development

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A proposed committee substitute for the following bill (SB 7054) is available:

21	**SB 7054** Children, Families, and Elder Affairs (Similar CS/CS/H 1083, Compare CS/CS/CS/H 919, H 4037, CS/H 7003, CS/S 7010)	Agency for Persons with Disabilities; Repealing provisions relating to a program for the prevention and treatment of severe self-injurious behavior; adding client needs that qualify as extraordinary needs, which may result in the approval of an increase in a client's allocated funds; requiring the Agency for Persons with Disabilities to conduct a certain utilization review; providing for annual reviews for persons involuntarily committed to residential services, etc. AHS 02/11/2016 Fav/CS AP 03/03/2016 Fav/CS	Fav/CS Yeas 15 Nays 0

With subcommittee recommendation – Health and Human Services

A proposed committee substitute for the following bill (SB 7056) is available:

22	**SB 7056** Health Policy (Similar CS/H 1335)	Long-term Care Managed Care Prioritization; Requiring the Department of Elderly Affairs to maintain a statewide wait list for enrollment for home and community-based services through the Medicaid long-term care managed care program; requiring the department to prioritize individuals for potential enrollment using a frailty-based screening tool that provides a priority score; providing for determinations regarding offers of enrollment, etc. AHS 02/11/2016 Fav/CS AP 03/03/2016 Fav/CS	Fav/CS Yeas 18 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
	With subcommittee recommendation – Health and Human Services		
23	**SB 7064** Finance and Tax (Compare H 7099)	Corporate Income Tax; Revising the applicable version of the Internal Revenue Code and federal income tax code statutes; amending due dates for partnership information returns and corporate tax returns; amending the dates used to calculate interest and penalties on underpayments of estimated corporate income tax, etc. AP 03/03/2016 Not Considered	Not Considered
24	**HB 7099, 2nd Eng.** Finance and Tax Committee / Gaetz (Compare H 115, H 247, H 301, H 551, H 721, H 939, CS/H 1079, CS/S 98, S 116, CS/CS/S 698, CS/S 842, CS/S 844, CS/CS/S 1236, CS/S 1272, S 1488, S 7064)	Taxation; Revises certain documentary stamp tax provisions; specifies uses of community redevelopment agency redevelopment trust fund moneys for youth centers; revises provisions regarding payment of aerial photographs; expands exemptions & discounts from ad valorem taxes; revises excise taxes on certain aviation fuels; reduces tax on leasing of real property; authorizes credit of tax for certain resales; revises provisions regarding sales of certain aircraft; revises sales tax exemptions for a variety of entities & activities; adopts 2016 version of IRC; extends rehabilitation tax credits; extends renewable energy technology corporate income tax credits; revises due dates for partnership information & corporate tax returns; revises tax credits available for rehabilitation of certain drycleaning contaminated sites; specifies excise tax for cider made from pears; creates method of tax for certain alcoholic beverages & tobacco products; exempts certain items for specified periods from sales & use tax; provides finding of important state interest. AP 03/01/2016 Temporarily Postponed AP 03/03/2016 Fav/1 Amendment	Fav/1 Amendment (Yeas 18 Nays 0
	Other Related Meeting Documents		

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	CS/CS/SJR 170
INTRODUCER:	Appropriations Committee; Finance and Tax Committee; and Senators Brandes and Hutson
SUBJECT:	Renewable Energy Source Device
DATE:	March 3, 2016
REVISED:	

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SJR 170 amends Article VII, section 3 of the State Constitution, authorizing the Legislature to exempt the assessed value of a solar or renewable energy source device from the tangible personal property tax. It also amends section 4 to allow the Legislature to prohibit the consideration of the installation of a solar or renewable energy source device for the purpose of ad valorem taxation of real property. It creates Article XII, section 34 of the State Constitution to establish an implementation schedule under which the amendments would take effect January 1, 2018, and expire on December 31, 2037, with the text of the amended sections reinstated at that time.

If approved by vote of at least 60 percent of the electors voting on the measure and implemented by the Legislature, SJR 170 will reduce ad valorem tax revenue from solar or renewable energy source devices that would otherwise be taxed as real or tangible person property. The actual impact will depend upon the terms of the implementing legislation.

II. Present Situation:

The State Constitution authorizes local government ad valorem taxes on real property and tangible personal property,[1] and provides conditions and limitations upon the assessment of property for tax purposes.[2] It also provides several ad valorem tax exemptions.[3]

The Legislature is authorized to prohibit the consideration of the following in the determination of the assessed value of real property used for residential purposes:

- Any change or improvement made for the purpose of improving the property's resistance to wind damage.
- The installation of a renewable energy source device.[4]

The Legislature has implemented this prohibition in s. 193.624, F.S. The statute prohibits a property appraiser who is determining the assessed value of real property used for residential purposes from considering an increase in the just value of the property attributable to the installation of a renewable energy source device. The statute applies to a renewable energy source device installed on or after January 1, 2013, on new and existing residential real property. The statute defines the term "renewable energy source device" to mean any of the following equipment that collects, transmits, stores, or uses solar energy, wind energy, or energy derived from geothermal deposits:

- Solar energy collectors, photovoltaic modules, and inverters;
- Storage tanks and other storage systems, excluding swimming pools used as storage tanks;
- Rockbeds;
- Thermostats and other control devices;
- Heat exchange devices;
- Pumps and fans;
- Roof ponds;
- Freestanding thermal containers;
- Pipes, ducts, refrigerant handling systems, and other equipment used to interconnect such systems; however, such equipment does not include conventional backup systems of any type;
- Windmills and wind turbines;
- Wind-driven generators;
- Power conditioning and storage devices that use wind energy to generate electricity or mechanical forms of energy; and
- Pipes and other equipment used to transmit hot geothermal water to a dwelling or structure from a geothermal deposit.

Under current law, a renewable energy source device owned and installed on non-residential real property, by the owner of the real property, is taxable as real property. If a device is owned by someone other than the owner of the real property where it is installed, the device remains

[1] FLA. CONST. art. VII, s. 9.
[2] FLA. CONST. art. VII, s. 4.
[3] FLA. CONST. art. VII, s. 3.
[4] FLA. CONST. art. VII, s. 4(i).

separate and distinct from the real property and the owner of the device is subject to tangible personal property tax on the device.

III. Effect of Proposed Changes:

This bill amends the State Constitution to allow the Legislature to prevent ad valorem taxation of a solar or renewable energy source device whether it is owned by the owner of the real property on which it is installed or by another person. For a solar or renewable energy source device taxed as tangible personal property, the bill amends Art. VII, s. 3, of the State Constitution to authorize the Legislature to exempt the assessed value of a solar or renewable energy source device from the tangible personal property tax, subject to conditions, limitations, and reasonable definitions specified by general law. For a solar or renewable energy source device owned by the real property owner and taxed as real property, the bill amends Art. VII, s. 4 of the State Constitution to authorize the Legislature to prohibit the consideration of the installation of a solar or renewable energy source devices for the purpose of ad valorem taxation of real property.

The bill also creates Art. XII, s. 34 of the State Constitution to provide a schedule of implementation. The amendments to the State Constitution would take effect January 1, 2018, and would expire December 31, 2037. Upon expiration, the schedule of implementation (Art. XII, s. 34 of the State Constitution) would be repealed and the text of the amended substantive sections (Art. VII, s. 3(e) and Art. VII, s. 4(i) of the State Constitution) would revert to that in existence on December 31, 2017, except that any amendments to such text otherwise adopted are preserved and shall continue to operate to the extent that such amendments are not dependent upon the portions of text which expire pursuant to this section.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

A joint resolution must be passed by three-fifths of the membership of each house of the Legislature. It must be submitted to the electors at the next general election held more than 90 days after the joint resolution proposing it is filed with the custodian of state records, unless, pursuant to law enacted by the affirmative vote of three-fourths of the membership of each house of the Legislature and limited to a single amendment or revision, it is submitted at an earlier special election held more than 90 days after such

filing.[5] To pass, a proposed constitutional amendment must be approved by at least 60 percent of the electors voting on the measure, and if passed, it becomes effective as an amendment on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment or revision.[6]

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference determined that a similar bill, HJR 193, would have an indeterminate negative impact or zero impact to local governments or the state. If the proposed amendment does not pass, there is no impact. If it is approved by the voters and implemented by the Legislature, there will be a negative impact on ad valorem tax revenue. The magnitude of any impact will depend upon the terms of the implementing legislation.

B. Private Sector Impact:

If approved by the voters and implemented by the Legislature, CS/CS/SJR 170 may stimulate sales and leases of solar or renewable energy source devices, and encourage the development of solar or renewable energy device leasing businesses. The bill also reduces property taxes for electric utilities that install solar or renewable energy devices to produce electricity.

C. Government Sector Impact:

The Department of State provided the following information on the fiscal impact of the constitutionally required advertising and other notice requirements:

The Division of Elections is required to advertise the full text of proposed constitutional amendments in English and Spanish twice in a newspaper of general circulation in each county before the election in which the amendment shall be submitted to the electors. The Division is also required to provide each Supervisor of Elections with either booklets or posters displaying the full text of proposed amendments. The cost to advertise constitutional amendments for the 2014 general election was $135.97 per word. Using 2014 rates, the cost to advertise this amendment for the 2016 general election will be approximately $356,000.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

[5] FLA. CONST. art. XI, s. 5(a).
[6] FLA. CONST. art. XI, s. 5(e).

VIII. Statutes Affected:

This bill substantially amends Article VII, sections 3 and 4 of the State Constitution.

This bill creates Article XII, section 34 of the State Constitution.

IX. Additional Information:

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

CS/CS by Appropriations on March 3, 2016:
The committee substitute authorizes the Legislature to exempt solar or renewable energy source devices from the ad valorem tax on tangible personal property, subject to conditions, limitations, or reasonable definitions. For a solar or renewable energy source device owned by the real property owner, the bill authorizes the Legislature to prohibit the consideration of the installation of a solar or renewable energy source devices for the purpose of ad valorem taxation of real property.

The effective date is delayed by one year to January 1, 2018, and the amendment's repeal is delayed until December 31, 2037.

CS by Finance and Tax on January 11, 2016:
The CS removes references to "components" of renewable energy source devices for purposes of preventing taxation of these devices.

B. Amendments:

None.

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LEGISLATIVE ACTION

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

The Committee on Appropriations (Negron) recommended the following:

Senate Amendment (with ballot and title amendments)

Delete everything after the resolving clause and insert:

That the following amendment to Sections 3 and 4 of Article VII and the creation of Section 34 of Article XII of the State Constitution are agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

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ARTICLE VII

FINANCE AND TAXATION

SECTION 3. Taxes; exemptions.—

(a) All property owned by a municipality and used exclusively by it for municipal or public purposes shall be exempt from taxation. A municipality, owning property outside the municipality, may be required by general law to make payment to the taxing unit in which the property is located. Such portions of property as are used predominantly for educational, literary, scientific, religious or charitable purposes may be exempted by general law from taxation.

(b) There shall be exempt from taxation, cumulatively, to every head of a family residing in this state, household goods and personal effects to the value fixed by general law, not less than one thousand dollars, and to every widow or widower or person who is blind or totally and permanently disabled, property to the value fixed by general law not less than five hundred dollars.

(c) Any county or municipality may, for the purpose of its respective tax levy and subject to the provisions of this subsection and general law, grant community and economic development ad valorem tax exemptions to new businesses and expansions of existing businesses, as defined by general law. Such an exemption may be granted only by ordinance of the county or municipality, and only after the electors of the county or municipality voting on such question in a referendum authorize the county or municipality to adopt such ordinances. An exemption so granted shall apply to improvements to real property made by or for the use of a new business and

improvements to real property related to the expansion of an existing business and shall also apply to tangible personal property of such new business and tangible personal property related to the expansion of an existing business. The amount or limits of the amount of such exemption shall be specified by general law. The period of time for which such exemption may be granted to a new business or expansion of an existing business shall be determined by general law. The authority to grant such exemption shall expire ten years from the date of approval by the electors of the county or municipality, and may be renewable by referendum as provided by general law.

(d) Any county or municipality may, for the purpose of its respective tax levy and subject to the provisions of this subsection and general law, grant historic preservation ad valorem tax exemptions to owners of historic properties. This exemption may be granted only by ordinance of the county or municipality. The amount or limits of the amount of this exemption and the requirements for eligible properties must be specified by general law. The period of time for which this exemption may be granted to a property owner shall be determined by general law.

(e) By general law and subject to conditions specified therein:~~,~~

(1) Twenty-five thousand dollars of the assessed value of property subject to tangible personal property tax shall be exempt from ad valorem taxation.

(2) The assessed value of a solar or renewable energy source device subject to tangible personal property tax may be exempt from ad valorem taxation, subject to conditions,

limitations, and reasonable definitions specified by general law.

(f) There shall be granted an ad valorem tax exemption for real property dedicated in perpetuity for conservation purposes, including real property encumbered by perpetual conservation easements or by other perpetual conservation protections, as defined by general law.

(g) By general law and subject to the conditions specified therein, each person who receives a homestead exemption as provided in section 6 of this article; who was a member of the United States military or military reserves, the United States Coast Guard or its reserves, or the Florida National Guard; and who was deployed during the preceding calendar year on active duty outside the continental United States, Alaska, or Hawaii in support of military operations designated by the legislature shall receive an additional exemption equal to a percentage of the taxable value of his or her homestead property. The applicable percentage shall be calculated as the number of days during the preceding calendar year the person was deployed on active duty outside the continental United States, Alaska, or Hawaii in support of military operations designated by the legislature divided by the number of days in that year.

SECTION 4. Taxation; assessments.—By general law regulations shall be prescribed which shall secure a just valuation of all property for ad valorem taxation, provided:

(a) Agricultural land, land producing high water recharge to Florida’s aquifers, or land used exclusively for noncommercial recreational purposes may be classified by general law and assessed solely on the basis of character or use.

(b) As provided by general law and subject to conditions, limitations, and reasonable definitions specified therein, land used for conservation purposes shall be classified by general law and assessed solely on the basis of character or use.

(c) Pursuant to general law tangible personal property held for sale as stock in trade and livestock may be valued for taxation at a specified percentage of its value, may be classified for tax purposes, or may be exempted from taxation.

(d) All persons entitled to a homestead exemption under Section 6 of this Article shall have their homestead assessed at just value as of January 1 of the year following the effective date of this amendment. This assessment shall change only as provided in this subsection.

(1) Assessments subject to this subsection shall be changed annually on January 1st of each year; but those changes in assessments shall not exceed the lower of the following:

a. Three percent (3%) of the assessment for the prior year.

b. The percent change in the Consumer Price Index for all urban consumers, U.S. City Average, all items 1967=100, or successor reports for the preceding calendar year as initially reported by the United States Department of Labor, Bureau of Labor Statistics.

(2) No assessment shall exceed just value.

(3) After any change of ownership, as provided by general law, homestead property shall be assessed at just value as of January 1 of the following year, unless the provisions of paragraph (8) apply. Thereafter, the homestead shall be assessed as provided in this subsection.

(4) New homestead property shall be assessed at just value

as of January 1st of the year following the establishment of the homestead, unless the provisions of paragraph (8) apply. That assessment shall only change as provided in this subsection.

(5) Changes, additions, reductions, or improvements to homestead property shall be assessed as provided for by general law; provided, however, after the adjustment for any change, addition, reduction, or improvement, the property shall be assessed as provided in this subsection.

(6) In the event of a termination of homestead status, the property shall be assessed as provided by general law.

(7) The provisions of this amendment are severable. If any of the provisions of this amendment shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any remaining provisions of this amendment.

(8)a. A person who establishes a new homestead as of January 1, 2009, or January 1 of any subsequent year and who has received a homestead exemption pursuant to Section 6 of this Article as of January 1 of either of the two years immediately preceding the establishment of the new homestead is entitled to have the new homestead assessed at less than just value. If this revision is approved in January of 2008, a person who establishes a new homestead as of January 1, 2008, is entitled to have the new homestead assessed at less than just value only if that person received a homestead exemption on January 1, 2007. The assessed value of the newly established homestead shall be determined as follows:

1. If the just value of the new homestead is greater than or equal to the just value of the prior homestead as of January

1 of the year in which the prior homestead was abandoned, the assessed value of the new homestead shall be the just value of the new homestead minus an amount equal to the lesser of $500,000 or the difference between the just value and the assessed value of the prior homestead as of January 1 of the year in which the prior homestead was abandoned. Thereafter, the homestead shall be assessed as provided in this subsection.

2. If the just value of the new homestead is less than the just value of the prior homestead as of January 1 of the year in which the prior homestead was abandoned, the assessed value of the new homestead shall be equal to the just value of the new homestead divided by the just value of the prior homestead and multiplied by the assessed value of the prior homestead. However, if the difference between the just value of the new homestead and the assessed value of the new homestead calculated pursuant to this sub-subparagraph is greater than $500,000, the assessed value of the new homestead shall be increased so that the difference between the just value and the assessed value equals $500,000. Thereafter, the homestead shall be assessed as provided in this subsection.

b. By general law and subject to conditions specified therein, the legislature shall provide for application of this paragraph to property owned by more than one person.

(e) The legislature may, by general law, for assessment purposes and subject to the provisions of this subsection, allow counties and municipalities to authorize by ordinance that historic property may be assessed solely on the basis of character or use. Such character or use assessment shall apply only to the jurisdiction adopting the ordinance. The

requirements for eligible properties must be specified by general law.

(f) A county may, in the manner prescribed by general law, provide for a reduction in the assessed value of homestead property to the extent of any increase in the assessed value of that property which results from the construction or reconstruction of the property for the purpose of providing living quarters for one or more natural or adoptive grandparents or parents of the owner of the property or of the owner's spouse if at least one of the grandparents or parents for whom the living quarters are provided is 62 years of age or older. Such a reduction may not exceed the lesser of the following:

(1) The increase in assessed value resulting from construction or reconstruction of the property.

(2) Twenty percent of the total assessed value of the property as improved.

(g) For all levies other than school district levies, assessments of residential real property, as defined by general law, which contains nine units or fewer and which is not subject to the assessment limitations set forth in subsections (a) through (d) shall change only as provided in this subsection.

(1) Assessments subject to this subsection shall be changed annually on the date of assessment provided by law; but those changes in assessments shall not exceed ten percent (10%) of the assessment for the prior year.

(2) No assessment shall exceed just value.

(3) After a change of ownership or control, as defined by general law, including any change of ownership of a legal entity that owns the property, such property shall be assessed at just

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value as of the next assessment date. Thereafter, such property shall be assessed as provided in this subsection.

(4) Changes, additions, reductions, or improvements to such property shall be assessed as provided for by general law; however, after the adjustment for any change, addition, reduction, or improvement, the property shall be assessed as provided in this subsection.

(h) For all levies other than school district levies, assessments of real property that is not subject to the assessment limitations set forth in subsections (a) through (d) and (g) shall change only as provided in this subsection.

(1) Assessments subject to this subsection shall be changed annually on the date of assessment provided by law; but those changes in assessments shall not exceed ten percent (10%) of the assessment for the prior year.

(2) No assessment shall exceed just value.

(3) The legislature must provide that such property shall be assessed at just value as of the next assessment date after a qualifying improvement, as defined by general law, is made to such property. Thereafter, such property shall be assessed as provided in this subsection.

(4) The legislature may provide that such property shall be assessed at just value as of the next assessment date after a change of ownership or control, as defined by general law, including any change of ownership of the legal entity that owns the property. Thereafter, such property shall be assessed as provided in this subsection.

(5) Changes, additions, reductions, or improvements to such property shall be assessed as provided for by general law;

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however, after the adjustment for any change, addition, reduction, or improvement, the property shall be assessed as provided in this subsection.

(i) The legislature, by general law and subject to conditions specified therein, may prohibit the consideration of the following in the determination of the assessed value of real property ~~used for residential purposes~~:

(1) Any change or improvement to real property used for residential purposes made to improve ~~for the purpose of improving~~ the property's resistance to wind damage.

(2) The installation of a solar or renewable energy source device.

(j)(1) The assessment of the following working waterfront properties shall be based upon the current use of the property:

a. Land used predominantly for commercial fishing purposes.

b. Land that is accessible to the public and used for vessel launches into waters that are navigable.

c. Marinas and drystacks that are open to the public.

d. Water-dependent marine manufacturing facilities, commercial fishing facilities, and marine vessel construction and repair facilities and their support activities.

(2) The assessment benefit provided by this subsection is subject to conditions and limitations and reasonable definitions as specified by the legislature by general law.

ARTICLE XII

SCHEDULE

SECTION 34. Solar or renewable energy source devices; exemption from certain taxation and assessment.—This section, the amendment to subsection (e) of Section 3 of Article VII

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authorizing the legislature, by general law, to exempt the assessed value of a solar or renewable energy source device from the tangible personal property tax, and the amendment to subsection (i) of Section 4 of Article VII authorizing the legislature, by general law, to prohibit the consideration of the installation of a solar or renewable energy source device in determining the assessed value of real property for the purpose of ad valorem taxation shall take effect on January 1, 2018, and shall expire on December 31, 2037. Upon expiration, this section shall be repealed and the text of subsection (e) of Section 3 of Article VII and subsection (i) of Section 4 of Article VII shall revert to that in existence on December 31, 2017, except that any amendments to such text otherwise adopted shall be preserved and continue to operate to the extent that such amendments are not dependent upon the portions of text which expire pursuant to this section.

====== B A L L O T S T A T E M E N T A M E N D M E N T ======

And the ballot statement is amended as follows:

Delete everything after the resolving clause

and insert:

CONSTITUTIONAL AMENDMENT

ARTICLE VII, SECTIONS 3 AND 4

ARTICLE XII, SECTION 34

SOLAR OR RENEWABLE ENERGY SOURCE DEVICES; EXEMPTION FROM CERTAIN TAXATION AND ASSESSMENT.—Proposing an amendment to the State Constitution to authorize the Legislature to exempt the assessed value of a solar or renewable energy source device from the tangible personal property tax and authorize the Legislature

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to prohibit consideration of the installation of such device in determining the assessed value of all real property for the purpose of ad valorem taxation. This amendment takes effect January 1, 2018, and expires on December 31, 2037.

========== 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 resolving clause and insert:

A bill to be entitled

A joint resolution proposing amendments to Sections 3 and 4 of Article VII and the creation of Section 34 of Article XII of the State Constitution to authorize the Legislature, by general law, to exempt the assessed value of a solar or renewable energy source device from the tangible personal property tax, to authorize the Legislature, by general law, to prohibit the consideration of the installation of such device in determining the assessed value of residential and nonresidential real property for the purpose of ad valorem taxation, and to provide effective and expiration dates.

By the Committee on Finance and Tax; and Senator Brandes

593-02009-16 2016170c1

Senate Joint Resolution

A joint resolution proposing amendments to Sections 3 and 4 of Article VII and the creation of Section 34 of Article XII of the State Constitution to require the Legislature, by general law, to exempt the assessed value of a renewable energy source device from the tangible personal property tax, to allow the Legislature, by general law, to prohibit the consideration of the installation of such device in determining the assessed value of residential and nonresidential real property for the purpose of ad valorem taxation, and to provide effective and expiration dates.

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

That the following amendment to Sections 3 and 4 of Article VII and the creation of Section 34 of Article XII of the State Constitution are agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE VII

FINANCE AND TAXATION

SECTION 3. Taxes; exemptions.—

(a) All property owned by a municipality and used exclusively by it for municipal or public purposes shall be exempt from taxation. A municipality, owning property outside the municipality, may be required by general law to make payment to the taxing unit in which the property is located. Such portions of property as are used predominantly for educational, literary, scientific, religious or charitable purposes may be

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exempted by general law from taxation.

(b) There shall be exempt from taxation, cumulatively, to every head of a family residing in this state, household goods and personal effects to the value fixed by general law, not less than one thousand dollars, and to every widow or widower or person who is blind or totally and permanently disabled, property to the value fixed by general law not less than five hundred dollars.

(c) Any county or municipality may, for the purpose of its respective tax levy and subject to the provisions of this subsection and general law, grant community and economic development ad valorem tax exemptions to new businesses and expansions of existing businesses, as defined by general law. Such an exemption may be granted only by ordinance of the county or municipality, and only after the electors of the county or municipality voting on such question in a referendum authorize the county or municipality to adopt such ordinances. An exemption so granted shall apply to improvements to real property made by or for the use of a new business and improvements to real property related to the expansion of an existing business and shall also apply to tangible personal property of such new business and tangible personal property related to the expansion of an existing business. The amount or limits of the amount of such exemption shall be specified by general law. The period of time for which such exemption may be granted to a new business or expansion of an existing business shall be determined by general law. The authority to grant such exemption shall expire ten years from the date of approval by the electors of the county or municipality, and may be renewable

by referendum as provided by general law.

(d) Any county or municipality may, for the purpose of its respective tax levy and subject to the provisions of this subsection and general law, grant historic preservation ad valorem tax exemptions to owners of historic properties. This exemption may be granted only by ordinance of the county or municipality. The amount or limits of the amount of this exemption and the requirements for eligible properties must be specified by general law. The period of time for which this exemption may be granted to a property owner shall be determined by general law.

(e) By general law and subject to conditions specified therein:~~,~~

(1) Twenty-five thousand dollars of the assessed value of property subject to tangible personal property tax shall be exempt from ad valorem taxation.

(2) The assessed value of a renewable energy source device shall be exempt from the tangible personal property tax.

(f) There shall be granted an ad valorem tax exemption for real property dedicated in perpetuity for conservation purposes, including real property encumbered by perpetual conservation easements or by other perpetual conservation protections, as defined by general law.

(g) By general law and subject to the conditions specified therein, each person who receives a homestead exemption as provided in section 6 of this article; who was a member of the United States military or military reserves, the United States Coast Guard or its reserves, or the Florida National Guard; and who was deployed during the preceding calendar year on active

duty outside the continental United States, Alaska, or Hawaii in support of military operations designated by the legislature shall receive an additional exemption equal to a percentage of the taxable value of his or her homestead property. The applicable percentage shall be calculated as the number of days during the preceding calendar year the person was deployed on active duty outside the continental United States, Alaska, or Hawaii in support of military operations designated by the legislature divided by the number of days in that year.

SECTION 4. Taxation; assessments.—By general law regulations shall be prescribed which shall secure a just valuation of all property for ad valorem taxation, provided:

(a) Agricultural land, land producing high water recharge to Florida's aquifers, or land used exclusively for noncommercial recreational purposes may be classified by general law and assessed solely on the basis of character or use.

(b) As provided by general law and subject to conditions, limitations, and reasonable definitions specified therein, land used for conservation purposes shall be classified by general law and assessed solely on the basis of character or use.

(c) Pursuant to general law tangible personal property held for sale as stock in trade and livestock may be valued for taxation at a specified percentage of its value, may be classified for tax purposes, or may be exempted from taxation.

(d) All persons entitled to a homestead exemption under Section 6 of this Article shall have their homestead assessed at just value as of January 1 of the year following the effective date of this amendment. This assessment shall change only as provided in this subsection.

(1) Assessments subject to this subsection shall be changed annually on January 1st of each year; but those changes in assessments shall not exceed the lower of the following:

a. Three percent (3%) of the assessment for the prior year.

b. The percent change in the Consumer Price Index for all urban consumers, U.S. City Average, all items 1967=100, or successor reports for the preceding calendar year as initially reported by the United States Department of Labor, Bureau of Labor Statistics.

(2) No assessment shall exceed just value.

(3) After any change of ownership, as provided by general law, homestead property shall be assessed at just value as of January 1 of the following year, unless the provisions of paragraph (8) apply. Thereafter, the homestead shall be assessed as provided in this subsection.

(4) New homestead property shall be assessed at just value as of January 1st of the year following the establishment of the homestead, unless the provisions of paragraph (8) apply. That assessment shall only change as provided in this subsection.

(5) Changes, additions, reductions, or improvements to homestead property shall be assessed as provided for by general law; provided, however, after the adjustment for any change, addition, reduction, or improvement, the property shall be assessed as provided in this subsection.

(6) In the event of a termination of homestead status, the property shall be assessed as provided by general law.

(7) The provisions of this amendment are severable. If any of the provisions of this amendment shall be held unconstitutional by any court of competent jurisdiction, the

decision of such court shall not affect or impair any remaining provisions of this amendment.

(8)a. A person who establishes a new homestead as of January 1, 2009, or January 1 of any subsequent year and who has received a homestead exemption pursuant to Section 6 of this Article as of January 1 of either of the two years immediately preceding the establishment of the new homestead is entitled to have the new homestead assessed at less than just value. If this revision is approved in January of 2008, a person who establishes a new homestead as of January 1, 2008, is entitled to have the new homestead assessed at less than just value only if that person received a homestead exemption on January 1, 2007. The assessed value of the newly established homestead shall be determined as follows:

1. If the just value of the new homestead is greater than or equal to the just value of the prior homestead as of January 1 of the year in which the prior homestead was abandoned, the assessed value of the new homestead shall be the just value of the new homestead minus an amount equal to the lesser of $500,000 or the difference between the just value and the assessed value of the prior homestead as of January 1 of the year in which the prior homestead was abandoned. Thereafter, the homestead shall be assessed as provided in this subsection.

2. If the just value of the new homestead is less than the just value of the prior homestead as of January 1 of the year in which the prior homestead was abandoned, the assessed value of the new homestead shall be equal to the just value of the new homestead divided by the just value of the prior homestead and multiplied by the assessed value of the prior homestead.

However, if the difference between the just value of the new homestead and the assessed value of the new homestead calculated pursuant to this sub-subparagraph is greater than $500,000, the assessed value of the new homestead shall be increased so that the difference between the just value and the assessed value equals $500,000. Thereafter, the homestead shall be assessed as provided in this subsection.

b. By general law and subject to conditions specified therein, the legislature shall provide for application of this paragraph to property owned by more than one person.

(e) The legislature may, by general law, for assessment purposes and subject to the provisions of this subsection, allow counties and municipalities to authorize by ordinance that historic property may be assessed solely on the basis of character or use. Such character or use assessment shall apply only to the jurisdiction adopting the ordinance. The requirements for eligible properties must be specified by general law.

(f) A county may, in the manner prescribed by general law, provide for a reduction in the assessed value of homestead property to the extent of any increase in the assessed value of that property which results from the construction or reconstruction of the property for the purpose of providing living quarters for one or more natural or adoptive grandparents or parents of the owner of the property or of the owner's spouse if at least one of the grandparents or parents for whom the living quarters are provided is 62 years of age or older. Such a reduction may not exceed the lesser of the following:

(1) The increase in assessed value resulting from

construction or reconstruction of the property.

(2) Twenty percent of the total assessed value of the property as improved.

(g) For all levies other than school district levies, assessments of residential real property, as defined by general law, which contains nine units or fewer and which is not subject to the assessment limitations set forth in subsections (a) through (d) shall change only as provided in this subsection.

(1) Assessments subject to this subsection shall be changed annually on the date of assessment provided by law; but those changes in assessments shall not exceed ten percent (10%) of the assessment for the prior year.

(2) No assessment shall exceed just value.

(3) After a change of ownership or control, as defined by general law, including any change of ownership of a legal entity that owns the property, such property shall be assessed at just value as of the next assessment date. Thereafter, such property shall be assessed as provided in this subsection.

(4) Changes, additions, reductions, or improvements to such property shall be assessed as provided for by general law; however, after the adjustment for any change, addition, reduction, or improvement, the property shall be assessed as provided in this subsection.

(h) For all levies other than school district levies, assessments of real property that is not subject to the assessment limitations set forth in subsections (a) through (d) and (g) shall change only as provided in this subsection.

(1) Assessments subject to this subsection shall be changed annually on the date of assessment provided by law; but those

changes in assessments shall not exceed ten percent (10%) of the assessment for the prior year.

(2) No assessment shall exceed just value.

(3) The legislature must provide that such property shall be assessed at just value as of the next assessment date after a qualifying improvement, as defined by general law, is made to such property. Thereafter, such property shall be assessed as provided in this subsection.

(4) The legislature may provide that such property shall be assessed at just value as of the next assessment date after a change of ownership or control, as defined by general law, including any change of ownership of the legal entity that owns the property. Thereafter, such property shall be assessed as provided in this subsection.

(5) Changes, additions, reductions, or improvements to such property shall be assessed as provided for by general law; however, after the adjustment for any change, addition, reduction, or improvement, the property shall be assessed as provided in this subsection.

(i) The legislature, by general law and subject to conditions specified therein, may prohibit the consideration of the following in the determination of the assessed value of real property ~~used for residential purposes~~:

(1) Any change or improvement to real property used for residential purposes made to improve ~~for the purpose of improving~~ the property's resistance to wind damage.

(2) The installation of a renewable energy source device.

(j)(1) The assessment of the following working waterfront properties shall be based upon the current use of the property:

a. Land used predominantly for commercial fishing purposes.

b. Land that is accessible to the public and used for vessel launches into waters that are navigable.

c. Marinas and drystacks that are open to the public.

d. Water-dependent marine manufacturing facilities, commercial fishing facilities, and marine vessel construction and repair facilities and their support activities.

(2) The assessment benefit provided by this subsection is subject to conditions and limitations and reasonable definitions as specified by the legislature by general law.

ARTICLE XII

SCHEDULE

SECTION 34. Renewable energy source devices; exemption from certain taxation and assessment.—This section, the amendment to subsection (e) of Section 3 of Article VII requiring the legislature, by general law, to exempt the assessed value of a renewable energy source device from the tangible personal property tax, and the amendment to subsection (i) of Section 4 of Article VII allowing the legislature, by general law, to prohibit the consideration of the installation of a renewable energy source device in determining the assessed value of real property for the purpose of ad valorem taxation shall take effect on January 1, 2017, and shall expire on December 31, 2036. Upon expiration, this section shall be repealed and the text of subsection (e) of Section 3 of Article VII and subsection (i) of Section 4 of Article VII shall revert to that in existence on December 31, 2016, except that any amendments to such text otherwise adopted shall be preserved and continue to operate to the extent that such amendments are not dependent

upon the portions of text which expire pursuant to this section.

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

CONSTITUTIONAL AMENDMENT
ARTICLE VII, SECTIONS 3 AND 4
ARTICLE XII, SECTION 34

RENEWABLE ENERGY SOURCE DEVICES; EXEMPTION FROM CERTAIN TAXATION AND ASSESSMENT.—Proposing an amendment to the State Constitution to require the Legislature to exempt the assessed value of a renewable energy source device from the tangible personal property tax and allow the Legislature to prohibit consideration of the installation of such device in determining the assessed value of all real property for the purpose of ad valorem taxation. This amendment takes effect January 1, 2017, and expires on December 31, 2036.

The Florida Senate

Committee Agenda Request

To: Senator Tom Lee, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: January 12, 2016

I respectfully request that **Senate Joint Resolution #170**, relating to **Renewable Energy Source Device**, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Senator Jeff Brandes
Florida Senate, District 22

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/23/16
Meeting Date

170
Bill Number (if applicable)

399704
Amendment Barcode (if applicable)

Topic Renewable Energy

Name David Cullen

Job Title

Address 1674 Univ. Pkwy
Street

Sarasota Fl 34243
City *State* *Zip*

Phone

Email

Speaking: ☐ For ☑ Against ☐ Information

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

Representing Sierra Club Florida

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/16
Meeting Date

170C1
Bill Number (if applicable)

399704 DE
Amendment Barcode (if applicable)

Topic RENEWABLE ENERGY

Name JEFFREY SHARKEY

Job Title CAPITOL ALLIANCE GROUP

Address 106 E College Ave #640
Street

TLH FL 32301
City State Zip

Phone 850 224 1660

Email jeffreysharkey@...

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

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

Representing ENERGY FREEDOM COALITION OF AMERICA

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

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

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-3-16
Meeting Date

SSR 170
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name DAVIN SUGGS

Job Title FISCAL POLICY DIRECTOR

Address 100 S. MONROE STREET
Street

TALLAHASSEE FL 32308
City *State* *Zip*

Phone 850.320.2635

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FL. ASSOCIATION OF COUNTIES

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-3-16
Meeting Date

170
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Richard Pinsky

Job Title _____

Address 106 E College Ave #1200 Phone _____
Street

Tallahassee FL 32301 Email _____
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Solar Energy Industry Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

3-3-2016 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting) SJR 170

Meeting Date *Bill Number (if applicable)*

Amendment Barcode (if applicable)

Topic Energy

Name Susan Glickman

Job Title Florida Director

Address PO Box 310 *Street*

Indian Rocks Beach FL *City* *State* *Zip*

Phone 7277429003

Email susan@cleanenergy.org

Speaking: ☐ For ☐ Against ☑ Information

Waive Speaking: ☑ In Support ☐ Against

(The Chair will read this information into the record.)

Representing Southern Alliance for Clean Energy

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3 / 3 /2016
Meeting Date

Topic _____ Bill Number 170/172 *(if applicable)*

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

Job Title TRUSTEE

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

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

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

March 3 2016
Meeting Date

170
Bill Number (if applicable)

Topic Renewable Energy Source Devices

Amendment Barcode (if applicable)

Name Janet Bowman

Job Title The Nature Conservancy

Address 234 E. 5th Ave
Street

Phone 251-4406

Tall FL 32303
City *State* *Zip*

Email Janet_Bowman@TNC.ORG

Speaking: ☑ For ☐ Against ☐ Information

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

Representing The Nature Conservancy

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

3 3.16
Meeting Date

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

170
Bill Number (if applicable)

Topic Solar

Amendment Barcode (if applicable)

Name Melissa Ramba

Job Title VP Govt Affairs

Address 227 Adams
Street
TLH FL 32301
City *State* *Zip*

Phone 570.0269

Email Melissa@frf.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Retail Federation

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/16
Meeting Date

178
Bill Number (if applicable)

Topic RENEWABLE ENERGY

Amendment Barcode (if applicable)

Name DAVID CULLEN

Job Title

Address 1674 UNIVERSITY PKWY
Street

SARASOTA FL 34243
City *State* *Zip*

Phone

Email

Speaking: ☑ For ☐ Against ☐ Information

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

Representing SIERRA CLUB FLORIDA

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-3-16
Meeting Date

SB 170
Bill Number (if applicable)

Topic Renewable Energy Source Device

Amendment Barcode (if applicable)

Name Debbie Harrison Rumberger

Job Title Legislative Liaison

Address 540 Beverly Court
Street

Tallahassee, FL 32301
City *State* *Zip*

Phone 850-224-2545

Email lwvfadvocacy@gmail.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida League of Women Voters

Appearing at request of Chair: ☒ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	CS/CS/CS/SB 172
INTRODUCER:	Appropriations Committee; Finance and Tax Committee; Community Affairs Committee; and Senators Brandes and Hutson
SUBJECT:	Renewable Energy Source Devices
DATE:	March 3, 2016
REVISED:	

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 172 provides that, pursuant to Section 5 of Article XI of the State Constitution, a special election will be held on August 30, 2016, concurrently with other statewide elections held on that date. At the special election, the electors of this state will vote on an amendment to the State Constitution, proposed by CS/CS/SJR 170 or a similar joint resolution. The subject matter of the joint resolution relates to legislative authority to provide property tax exemptions for solar and renewable energy source devices.

The bill provides for publication of notice in accordance with Section 5 of Article XI of the State Constitution.

Passage of the bill requires a three-fourths vote of the membership of each house of the Legislature, and it shall take effect upon becoming a law if Senate Joint Resolution 170, 2016 Regular Session, or a similar joint resolution, is adopted by both houses of the Legislature.

II. Present Situation:

Section 5(a) of Article XI of the State Constitution provides:

> *"A proposed amendment to or revision of this [State] Constitution… shall be submitted to the electors at the next general election held more than ninety days after the joint resolution or report of revision commission, constitutional convention or taxation and budget reform commission proposing it is filed with the custodian of state records,* ***unless, pursuant to law enacted by the affirmative vote of three-fourths of the membership of each house of the legislature and limited to a single amendment or revision, it is submitted at an earlier special election held more than ninety days after such filing.****" (emphasis added)*

Section 5(d) of Article XI of the State Constitution requires that the proposed amendment or revision, with notice of the date of election at which it will be submitted to the electors, be published in one newspaper of general circulation in each county in which a newspaper is published once in the tenth week and once in the sixth week immediately preceding the week in which the election is held.

III. Effect of Proposed Changes:

Section 1 provides that, pursuant to Section 5 of Article XI of the State Constitution, there shall be a special election on August 30, 2016, to be held concurrently with other statewide elections held on that date, at which there shall be submitted to the electors of this state for approval or rejection the amendments to the State Constitution proposed in Senate Joint Resolution 170, 2016 Regular Session, or a similar joint resolution having substantially the same specific intent and purpose. The subject matter of the joint resolution relates to legislative authority to provide property tax exemptions for solar and renewable energy source devices.

Section 2 requires that publication of notice shall be in accordance with Section 5 of Article XI of the State Constitution and that the special election shall be held as other special elections are held.

Section 3 provides that the bill takes effect upon becoming a law if passed by a vote of at least three-fourths of the membership of each house of the Legislature and if Senate Joint Resolution 170 or a similar joint resolution is adopted by both houses of the Legislature.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of State has indicated that the expected cost of meeting the notification requirements of Section 5 of Article XI of the State Constitution for SJR 170 is approximately $356,000.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates an unnumbered sections of Florida law.

IX. Additional Information:

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

CS/CS/CS by Appropriations on March 3, 2016:
The committee substitute deletes the language that implements CS/CS/SJR 170 and substitutes language providing for a special election for SJR 170 on August 30, 2016.

CS/CS by Finance and Tax on January 11, 2016:
The CS/CS adds "wiring, structural supports, and other components used as integral parts of (renewable energy source device) systems" to the statutory definition of "renewable energy source device" and removes all other references to components of renewable energy source devices from the bill. It also removes a requirement that a renewable energy source device be installed on real property on or after January 1, 2017, in order to qualify for a property tax exemption.

CS by Community Affairs on December 1, 2015:
Inserts the linked bill, SJR 170, into the effective date of the bill.

B. Amendments:

None.

573552

LEGISLATIVE ACTION

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

The Committee on Appropriations (Negron) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Pursuant to Section 5 of Article XI of the State Constitution, there shall be a special election on August 30, 2016, to be held concurrently with other statewide elections held on that date, if any, at which there shall be submitted to the electors of this state for approval or rejection the amendments to the State Constitution proposed in Senate Joint

573552

Resolution 170, 2016 Regular Session, or a similar joint resolution having substantially the same specific intent and purpose.

Section 2. Publication of notice shall be in accordance with Section 5 of Article XI of the State Constitution. The special election shall be held as other special elections are held.

Section 3. The sum of $ in nonrecurring funds from the General Revenue Fund is appropriated to the Department of State for the 201 -201 fiscal year for the purpose of advertising the constitutional amendments being submitted to the electors of this state at the special election called by this act.

Section 4. This act shall take effect upon becoming a law if enacted by a vote of at least three-fourths of the membership of each house of the Legislature and if Senate Joint Resolution 170, 2016 Regular Session, or a similar joint resolution having substantially the same specific intent and purpose, is adopted by both houses of the Legislature.

========== 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 a special election; providing for a special election to be held August 30, 2016, pursuant to Section 5 of Article XI of the State Constitution, for the approval or rejection by the electors of this state of amendments to the State Constitution,

573552

proposed by joint resolution, relating to an exemption from the tangible personal property tax for solar or renewable energy source devices, a limitation on the assessed value of real property used for nonresidential purposes for the installation of such devices, and an effective date if such amendments are adopted; providing for publication of notice and for procedures; providing an appropriation; providing a contingent effective date.

838060

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/02/2016	.	
	.	
	.	
	.	

The Committee on Appropriations (Negron) recommended the following:

Senate Amendment to Amendment (573552)

Delete lines 18 - 20
and insert:
Section 3. The sum of $356,241 in nonrecurring funds from the General Revenue Fund is appropriated to the Department of State for the 2016-2017 fiscal year for the purpose of advertising the

604082

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/02/2016	.	
	.	
	.	
	.	

The Committee on Appropriations (Negron) recommended the following:

Senate Substitute for Amendment (838060) (with title amendment)

Delete lines 18 - 22
and insert:

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

604082

Delete line 47

and insert:

and insert: procedures; providing a

158306

LEGISLATIVE ACTION

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

The Committee on Appropriations (Negron) recommended the following:

Senate Amendment to Amendment (573552) (with title amendment)

Delete lines 18 - 22

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

And the title is amended as follows:

Delete line 47

and insert:

procedures; providing a

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

593-02010-16 2016172c2

A bill to be entitled

An act relating to renewable energy source devices; amending s. 193.624, F.S.; redefining the term "renewable energy source device"; specifying a period during which a property appraiser is prohibited from considering an increase in the just value of real property used for residential purposes which is attributable to the installation of a renewable energy source device; prohibiting consideration by a property appraiser of an increase in the just value of real property used for any purpose which is attributable to the installation of a renewable energy source device on or after a specified date; creating s. 196.182, F.S.; exempting a renewable energy source device from the tangible personal property tax; reenacting ss. 193.155(4)(a) and 193.1554(6)(a), F.S., relating to homestead assessments and nonhomestead residential property assessments, respectively, to incorporate the amendment made to s. 193.624, F.S., in references thereto; providing that specified provisions of the act expire on a certain date; providing a contingent effective date.

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

Section 1. Section 193.624, Florida Statutes, is amended to read:

193.624 Assessment of real ~~residential~~ property.—

(1) As used in this section, the term "renewable energy source device" means any of the following equipment that collects, transmits, stores, or uses solar energy, wind energy,

593-02010-16 2016172c2

or energy derived from geothermal deposits:

(a) Solar energy collectors, photovoltaic modules, and inverters.

(b) Storage tanks and other storage systems, excluding swimming pools used as storage tanks.

(c) Rockbeds.

(d) Thermostats and other control devices.

(e) Heat exchange devices.

(f) Pumps and fans.

(g) Roof ponds.

(h) Freestanding thermal containers.

(i) Pipes, ducts, refrigerant handling systems, wiring, structural supports, and other components ~~equipment~~ used as integral parts of ~~to interconnect~~ such systems; however, such equipment does not include conventional backup systems of any type or any equipment or structures that would be required in the absence of the renewable energy source device.

(j) Windmills and wind turbines.

(k) Wind-driven generators.

(l) Power conditioning and storage devices that store or use solar energy, wind energy, or energy derived from geothermal deposits to generate electricity or mechanical forms of energy.

(m) Pipes and other equipment used to transmit hot geothermal water to a dwelling or structure from a geothermal deposit.

(2) In determining the assessed value of new and existing real property used for:

(a) Residential purposes, an increase in the just value of the property attributable to the installation of a renewable

energy source device between January 1, 2013, and December 31, 2016, may not be considered.

(b) ~~(3)~~ Any purpose, an increase in the just value of the property attributable ~~This section applies~~ to the installation of a renewable energy source device ~~installed~~ on or after January 1, 2017, may not be considered ~~January 1, 2013, to new and existing residential real property~~.

Section 2. Section 196.182, Florida Statutes, is created to read:

196.182 Exemption of renewable energy source devices.—A renewable energy source device, as defined in s. 193.624, is exempt from the tangible personal property tax.

Section 3. For the purpose of incorporating the amendment made by this act to section 193.624, Florida Statutes, in a reference thereto, paragraph (a) of subsection (4) of section 193.155, Florida Statutes, is reenacted to read:

193.155 Homestead assessments.—Homestead property shall be assessed at just value as of January 1, 1994. Property receiving the homestead exemption after January 1, 1994, shall be assessed at just value as of January 1 of the year in which the property receives the exemption unless the provisions of subsection (8) apply.

(4)(a) Except as provided in paragraph (b) and s. 193.624, changes, additions, or improvements to homestead property shall be assessed at just value as of the first January 1 after the changes, additions, or improvements are substantially completed.

Section 4. For the purpose of incorporating the amendment made by this act to section 193.624, Florida Statutes, in a reference thereto, paragraph (a) of subsection (6) of section

193.1554, Florida Statutes, is reenacted to read:

193.1554 Assessment of nonhomestead residential property.—

(6)(a) Except as provided in paragraph (b) and s. 193.624, changes, additions, or improvements to nonhomestead residential property shall be assessed at just value as of the first January 1 after the changes, additions, or improvements are substantially completed.

Section 5. The amendment made by this act to s. 193.624, Florida Statutes, expires December 31, 2036, and the text of that section shall revert to that in existence on December 31, 2016, except that any amendments to such text enacted other than by this act shall be preserved and continue to operate to the extent that such amendments are not dependent upon the portion of text which expires pursuant to this section.

Section 6. Section 196.182, Florida Statutes, as created by this act, expires December 31, 2036, and shall be repealed on that date.

Section 7. This act shall take effect January 1, 2017, if SJR 170, or a similar joint resolution having substantially the same specific intent and purpose, is approved by the electors at the general election to be held in November 2016 or at an earlier special election specifically authorized by law for that purpose.

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Committee

BILL:	SB 314
INTRODUCER:	Senator Diaz de la Portilla and others
SUBJECT:	Juvenile Justice
DATE:	March 2, 2016
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dugger	Cannon	CJ	**Favorable**
2.	Sadberry	Sadberry	ACJ	**Recommend: Favorable**
3.	Sadberry	Kynoch	AP	**Favorable**

I. Summary:

SB 314 substantially amends two of Florida's current methods for transferring a juvenile to adult court for criminal prosecution. These transfer methods are indictment and direct file. It also amends current provisions requiring the court to impose juvenile and adult sanctions upon juveniles transferred to adult court.

The bill amends the indictment transfer statute, s. 985.56, F.S., by limiting the state attorney's authority to convene a grand jury to cases in which the juvenile is 14 years of age or older (currently available for juveniles of any age who are charged with an offense punishable by death or life imprisonment).

The bill also amends the direct file transfer statute, s. 985.557, F.S., by eliminating the mandatory direct file system and modifying the discretionary direct file system to a two-tiered system based on the juvenile's age and enumerated offense.

- In the first tier, the state attorney may direct file a juvenile who is 16 years of age or older and less than 18 years at the time of the alleged offense if he or she committed an enumerated offense.
- In the second tier, the state attorney may direct file a juvenile who is 14 or 15 years of age at the time of the offense if he or she committed murder, manslaughter, or sexual battery.

The bill prohibits a juvenile from being transferred to adult court by indictment or direct file if the juvenile:

- Has a pending competency hearing in juvenile court; or
- Has been previously found to be incompetent and has not been restored to competency by a court.

The bill provides that a juvenile transferred to adult court by direct file who is found to have committed a violation of law or a lesser included offense may be sentenced as an adult, a

youthful offender, or a juvenile. It removes, modifies, and adds criteria that the court must consider when determining whether these sanctions are appropriate. The court must include specific findings of fact and reasons for its decision to impose adult sanctions under the bill.

The bill provides a reverse waiver process that allows a juvenile who is transferred to adult court by direct file to request a court hearing to determine whether he or she will remain in adult court. The adult court, after considering certain factors, can waive the case back to juvenile court.

Finally, the bill requires the Department of Juvenile Justice (DJJ) to collect and annually report direct file data to the Legislature.

The DJJ estimates that the bill would increase its operating costs by a minimum of $35.8 million in the first year and $44.5 million each year thereafter. In addition, the DJJ expects that the bill would require $2.3 million to retrofit existing facilities for non-secure beds and as much as $100 million in new construction to provide bed space sufficient for high-risk and maximum-risk residential programs. Operating costs for the Department of Corrections (DOC) would be reduced by diversion of juveniles from the adult correctional system. The Criminal Justice Impact Conference (CJIC) has determined that the bill would result in a reduction in the need for prison beds, but the amount of the reduction cannot be quantified. For purposes of comparison with the DJJ estimate, the maximum cost savings for the DOC would be $12.5 million if all of the juveniles included in the DJJ estimate were diverted from sentences to prison.

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

II. Present Situation:

Transferring Juveniles to Adult Court

There are three methods of transferring a juvenile to adult court for prosecution: judicial waiver, indictment by a grand jury, or direct filing of an information by a prosecutor.

Judicial Waiver of Juvenile Court Jurisdiction

The judicial waiver process allows juvenile courts to waive jurisdiction to adult court on a case-by-case basis. Section 985.556, F.S., creates three types of judicial waivers:

- Voluntary Waiver - the juvenile requests to have his or her case transferred to adult court;[1]
- Involuntary Discretionary Waiver - the state attorney may file a motion requesting the court to transfer any case where the juvenile is 14 years of age or older;[2] and
- Involuntary Mandatory Waiver - the state attorney must request the transfer of a juvenile 14 years of age or older if the juvenile:
  - Has been previously adjudicated delinquent for an enumerated felony[3] and the juvenile is currently charged with a second or subsequent violent crime against a person; or

[1] Section 985.556(1), F.S.
[2] Section 985.556(2), F.S.
[3] The enumerated felonies listed in this subsection include the commission of, attempt to commit, or conspiracy to commit: murder; sexual battery; armed or strong-armed robbery; carjacking; home-invasion robbery; aggravated battery; aggravated assault; or burglary with an assault or battery.

- Was 14 years of age or older at the time of commission of a fourth or subsequent felony offense and the juvenile was previously adjudicated delinquent or had adjudication withheld for three felony offenses, and one or more of such felony offenses involved the use or possession of a firearm or violence against a person.[4]

If the state attorney files a motion to transfer a juvenile to adult court, the court must hold a hearing to determine whether the juvenile should be transferred.[5] The court must consider a variety of statutorily articulated factors when determining whether transfer is appropriate (including, in part, the seriousness of the offense, the sophistication and maturity of the juvenile, the record and previous history of the juvenile, and whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner).[6] The court must also provide an order specifying the reasons for its decision to impose adult sanctions.[7]

If a juvenile transferred to adult court by a voluntary or involuntary discretionary waiver is found to have committed the offense or a lesser included offense, the court may sentence the juvenile as an adult, a youthful offender, or a juvenile.[8] If the transfer was by an involuntary mandatory waiver, the court must impose adult sanctions.[9]

Indictment by Grand Jury

Section 985.56, F.S., specifies that a juvenile of any age who is charged with an offense punishable by death or life imprisonment is subject to the jurisdiction of the juvenile courts unless and until an indictment is returned on the charge by a grand jury. If the grand jury returns an indictment on the charge, the juvenile must be transferred to adult court and be handled as an adult in every respect.[10]

If the juvenile is found to have committed the offense punishable by death or life imprisonment, the court must sentence the juvenile as an adult.[11] If the juvenile is found not to have committed the indictable offense, but is found to have committed a lesser included offense or any other offense for which he or she was indicted as part of the criminal episode, the court may sentence the juvenile as an adult, as a youthful offender, or as a juvenile.[12]

[4] Section 985.556(3), F.S.
[5] Section 985.556(4), F.S.
[6] Section 985.556(4)(c), F.S.
[7] Section 985.556(4)(e), F.S.
[8] Section 985.565(4)(a)2., F.S.
[9] Section 985.565(4)(a)3., F.S.
[10] Section 985.56(1), F.S. The charge punishable by death or life imprisonment must be transferred, as well as all other felonies or misdemeanors charged in the indictment which are based on the same act or transaction as the offense punishable by death or life imprisonment.
[11] Section 985.565(4)(a)1., F.S.
[12] *Id*.

Direct Filing an Information by the State Attorney

Direct file transfer under s. 985.557, F.S., can either be discretionary or mandatory. Direct file is the predominant transfer method, according to the Department of Juvenile Justice (DJJ).[13]

Discretionary Direct File

Section 985.557(1), F.S., allows the state attorney to file an information[14] on certain juvenile cases when, in the state attorney's judgment and discretion, the offense requires that adult sanctions be considered or imposed. Specifically, the state attorney may file an information in adult court when a juvenile is:

- 14 or 15 years old and charged with one of the following felony offenses:
  - Arson; sexual battery; robbery; kidnapping; aggravated child abuse; aggravated assault; aggravated stalking; murder; manslaughter; unlawful throwing, placing, or discharging of a destructive device or bomb; armed burglary; specified burglary of a dwelling or structure; burglary with an assault or battery; aggravated battery; any lewd or lascivious offense committed upon or in the presence of a person less than 16; carrying, displaying, using, threatening, or attempting to use a weapon or firearm during the commission of a felony; grand theft; possessing or discharging any weapon or firearm on school property; home invasion robbery; carjacking; grand theft of a motor vehicle; or grand theft of a motor vehicle valued at $20,000 or more if the child has a previous adjudication for grand theft of a motor vehicle.[15]
- 16 or 17 years old and charged with any felony offense;[16] or
- 16 or 17 years old and charged with any misdemeanor, provided the juvenile has had at least two previous adjudications or adjudications withheld for delinquent acts, one of which is a felony.[17]

If a juvenile transferred to adult court by discretionary direct file is found to have committed the offense or a lesser included offense, the court may sentence the juvenile as an adult, as a youthful offender, or as a juvenile.[18]

Mandatory Direct File

Section 985.557(2), F.S., requires the state attorney to file a case in adult court when the juvenile is:

- 16 or 17 years old at the time of the alleged offense and:

[13] In Fiscal Year 2014-2015, 1,282 juveniles were transferred to the adult system. Approximately 98% of those were transferred by direct file. Department of Juvenile Justice, *2015 Bill Analysis for SB* 314 (2015) (on file with the Senate Criminal Justice Committee).
[14] An "information" is the charging document that initiates prosecution. Section 985.557(4), F.S., provides that any information filed pursuant to the direct file statute may include all charges that are based on the same act, criminal episode, or transaction as the primary offenses.
[15] Section 985.557(1)(a), F.S.
[16] Section 985.557(1)(b), F.S.
[17] *Id*.
[18] Section 985.565(4)(a)2. and (b), F.S.

- Has been previously adjudicated delinquent for an enumerated felony[19] and is currently charged with a second or subsequent violent crime against a person;
- Is currently charged with a forcible felony[20] and has been previously adjudicated delinquent or had adjudication withheld for three felonies that each occurred within 45 days of each other;[21] or
- Is charged with committing or attempting to commit an offense listed in s. 775.087(2)(a)1.a.-q., F.S.,[22] and during the commission of the offense the juvenile actually possessed or discharged a firearm or destructive device;[23] or

- Any age and is alleged to have committed an act that involves stealing a vehicle in which the juvenile, while possessing the vehicle, caused serious bodily injury or death to a person who was not involved in the underlying offense.[24]

The court may sentence the following juveniles who are transferred to adult court by mandatory direct file as an adult, a youthful offender, or a juvenile:

- Juveniles found to have committed the offense or a lesser included offense who:
  - Are 16 or 17 years old at the time of the offense, the offense was listed in s. 775.087(2)(a)1.a.-q., F.S., and during the commission of the offense the juvenile actually possessed or discharged a firearm or destructive device; and
  - Are any age and the offense involved stealing a vehicle in which the juvenile, while possessing the vehicle, caused serious bodily injury or death to a person who was not involved in the underlying offense.[25]

The court must impose adult sanctions on the following juveniles who are transferred to adult court by mandatory direct file and who are found to have committed the offense or a lesser included offense:

- Juveniles 16 or 17 years old at the time of the offense who:
  - Have been previously adjudicated delinquent for an enumerated felony and the juvenile has been found to have committed a second or subsequent violent crime against a person; or

[19] The enumerated felonies listed in this subsection include the commission of, attempt to commit, or conspiracy to commit: murder; sexual battery; armed or strong-armed robbery; carjacking; home-invasion robbery; aggravated battery; or aggravated assault.
[20] Section 776.08, F.S., defines "forcible felony" to mean: treason; murder; manslaughter; sexual battery; carjacking; home-invasion robbery; robbery; burglary; arson; kidnapping; aggravated assault; aggravated battery; aggravated stalking; aircraft piracy; unlawful throwing, placing, or discharging of a destructive device or bomb; and any other felony which involves the use or threat of physical force or violence against any individual.
[21] Section 985.557(2)(b), F.S., also states that this paragraph does not apply when the state attorney has good cause to believe that exceptional circumstances exist which preclude the just prosecution of the juvenile in adult court.
[22] This list includes: murder; sexual battery; robbery; burglary; arson; aggravated assault; aggravated battery; kidnapping; escape; aircraft piracy; aggravated child abuse; aggravated abuse of an elderly person or disabled adult; unlawful throwing, placing, or discharging of a destructive device or bomb; carjacking; home-invasion robbery; aggravated stalking; trafficking in cannabis, trafficking in cocaine, capital importation of cocaine, trafficking in illegal drugs, capital importation of illegal drugs, trafficking in phencyclidine, capital importation of phencyclidine, trafficking in methaqualone, capital importation of methaqualone, trafficking in amphetamine, capital importation of amphetamine, trafficking in flunitrazepam, trafficking in gamma-hydroxybutyric acid (GHB), trafficking in 1,4-Butanediol, trafficking in Phenethylamines, or other violation of s. 893.135(1), F.S.
[23] The terms "firearm" and "destructive device" are defined in s. 790.001, F.S.
[24] Section 985.557(2)(c), F.S.
[25] Section 985.565(4)(a)2., F.S.

- Have been found to have committed a forcible felony and have been previously adjudicated delinquent or had adjudication withheld for three felonies that each occurred within 45 days of each other.[26]

Imposing Adult or Juvenile Sanctions

Judges often have discretion to impose adult or juvenile sanctions when a juvenile is transferred to adult court and is found to have committed the offense. In such instances, the judge must consider specified factors to determine whether adult or juvenile sanctions are appropriate. These include:

- The seriousness of the offense to the community and whether the community would best be protected by juvenile or adult sanctions;
- Whether the offense was committed in an aggressive, violent, premeditated, or willful manner;
- Whether the offense was against persons or against property;[27]
- The sophistication and maturity of the offender;
- The record and previous history of the offender, including:
  - Previous contacts with the Department of Corrections (DOC), the DJJ, the former Department of Health and Rehabilitative Services (HRS), the Department of Children and Families (DCF), law enforcement agencies, and the courts;
  - Prior periods of probation;
  - Prior adjudications that the offender committed a delinquent act or violation of law as a child;
  - Prior commitments to the DJJ, the former HRS, the DCF, or other facilities or institutions;
- The prospects for adequate protection of the public and the likelihood of deterrence and reasonable rehabilitation of the offender if assigned to the DJJ services and facilities;
- Whether the DJJ has appropriate programs, facilities, and services immediately available; and
- Whether adult sanctions would provide more appropriate punishment and deterrence to further violations of law than juvenile sanctions.[28]

The court is required to consider a presentence investigation (PSI) report prepared by the DOC regarding the suitability of a juvenile for disposition as an adult or juvenile.[29] The PSI report must include a comments section prepared by the DJJ, with its recommendations as to disposition.[30] The court must give all parties[31] present at the disposition hearing an opportunity

[26] Section 985.565(4)(a)3., F.S.
[27] Greater weight is given to offenses against persons, especially if personal injury resulted.
[28] Section 985.565(1)(b), F.S.
[29] Section 985.565(3), F.S. This report requirement may be waived by the offender.
[30] *Id*.
[31] *Id.* This includes the parent, guardian, or legal custodian of the offender; the offender's counsel; the state attorney; representatives of DOC and DJJ; the victim or victim's representative; representatives of the school system; and law enforcement involved in the case.

to comment on the issue of sentence and any proposed rehabilitative plan, and may receive and consider any other relevant and material evidence.[32]

If juvenile sentences are imposed, the court must adjudge the juvenile to have committed a delinquent act.[33] Upon adjudicating a juvenile delinquent, the court may:

- Place the juvenile in a probation program under the supervision of the DJJ for an indeterminate period of time until he or she reaches the age of 19 years or sooner if discharged by order of the court;
- Commit the juvenile to the DJJ for treatment in an appropriate program for an indeterminate period of time until he or she is 21 or sooner if discharged by the DJJ;[34] or
- Order disposition under ss. 985.435,[35] 985.437,[36] 985.439,[37] 985.441,[38] 985.45,[39] and 985.455[40], F.S., as an alternative to youthful offender or adult sentencing if the court determines not to impose youthful offender or adult sanctions.[41]

If the court imposes a juvenile sanction and the DJJ determines that the sanction is unsuitable for the juvenile, the DJJ must return custody of the juvenile to the sentencing court for further proceedings, including the imposition of adult sanctions.[42]

Any sentence imposing adult sanctions is presumed appropriate, and the court is not required to set forth specific findings or list the criteria used as any basis for its decision to impose adult sanctions.[43]

The court may not sentence the juvenile to a combination of adult and juvenile punishments.[44]

Effect of Transferring a Juvenile to Adult Court

If a juvenile transferred to adult court for prosecution is found to have committed the offense or a lesser included offense, the juvenile must have any subsequent violations of law handled

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[32] *Id*. Other relevant evidence may include other reports, written or oral, in its effort to determine the action to be taken with regard to the child. This evidence may be relied upon by the court to the extent of its probative value even if the evidence would not be competent in an adjudicatory hearing.
[33] Section 985.565(4)(b), F.S. Adjudication of delinquency is not deemed a conviction, nor does it operate to impose any of the civil disabilities ordinarily resulting from a conviction.
[34] The DJJ must notify the court of its intent to discharge the juvenile from the commitment program no later than 14 days prior to discharge. Failure of the court to timely respond to the department's notice shall be considered approval for discharge.
[35] Probation and postcommitment probation or community service.
[36] Restitution.
[37] Violation of probation or postcommitment probation.
[38] Commitment.
[39] Work program liability and remuneration.
[40] Other dispositional issues.
[41] Section 985.565(4)(b), F.S.
[42] *Id*. The DJJ also has recourse if the judge imposes a juvenile sanction and the juvenile proves not to be suitable to the sanction. In such instances, the DJJ must provide the sentencing court a written report outlining the basis for its objections to the juvenile sanction and schedule a hearing. Upon hearing, the court may revoke the previous adjudication, impose an adjudication of guilt, and impose any adult sanction it may have originally lawfully imposed, s. 985.565(4)(c), F.S.
[43] Section 985.565(4)(a)4., F.S.
[44] Section 985.565(4)(b), F.S.

thereafter in every respect as an adult.[45] The court must also immediately transfer and certify all unresolved[46] felony cases pertaining to the juvenile to adult court for prosecution.[47]

If the juvenile is acquitted of all charged offenses (or lesser included offenses) contained in the original direct filed case, all felony cases transferred to adult court as a result of the direct file case must be subject to juvenile sanctions.[48]

Juvenile Transfer Statistics from the DJJ

Statistics made available by the DJJ's Office of Research and Data Integrity show a downward trend in adult court transfers between FY 2010-2011 and FY 2014-2015, which exceeded the decline in felony arrests. Transfers declined 46 percent over the five-year period, while felony arrests declined 20 percent.[49]

During FY 2014-2015, a total of 1,282 individual youths were transferred to the adult court in Florida.[50] The majority of them were 16 or 17 years of age.[51] These youths had a total of 1,607 arrests that resulted in transfer to the adult court. For this population, the most common offenses that resulted in transfer included the following:

- Burglary (430 arrests-26.8%);
- Armed robbery (258 arrests-16.1%);
- Aggravated assault or battery (198 arrests-12.3%);
- Weapon/Firearm offenses (117 arrests-7.3%);
- Auto theft (77 arrests-4.8%)
- Other robbery (72 arrests-4.5%)
- Sexual battery (68 arrests-4.2%);
- Drug-related felonies (55 arrests-3.4%);
- Murder/manslaughter (49 arrests-3.0%); and
- Grand larceny (42 arrests-2.6%).[52]

III. Effect of Proposed Changes:

The bill substantially amends two of Florida's current methods for transferring a juvenile to adult court for criminal prosecution. These transfer methods are indictment and direct file. It also

[45] Sections 985.556(5), 985.56(4), and 985.557(3), F.S. This provision does not apply if the adult court imposes juvenile sanctions under s. 985.565, F.S.
[46] Unresolved cases include those which have not yet resulted in a plea of guilty or nolo contendere or in which a finding of guilt has not been made. *See* s. 985.557(3), F.S.
[47] Sections 985.556(5), 985.56(4), and 985.557(3), F.S
[48] *Id*.
[49] Department of Juvenile Justice, *2015 Bill Analysis for SB 314* (2016) (on file with Senate Criminal Justice Committee).
[50] *Id*.
[51] 331 youths were 16 years old (25.8%) and 674 youths (52.6%) were 17 years old. There were also 123 (9.6%) 15 year olds, 103 (8.0%) 18 year olds, 25 (2.0%) 14 year olds, 12 (0.9%) 19 year olds, 6 (.5%) 21 year olds, 4 (.3%) 20 year olds, 3 (.2%) 13 year olds, and 1 (.1%) 12 year old. Email from Department of Juvenile Justice (October 29, 2015) (on file with Senate Criminal Justice Committee).
[52] Email from Department of Juvenile Justice (October 29, 2015) (on file with Senate Criminal Justice Committee).

amends current provisions requiring the court to impose juvenile or adult sanctions upon juveniles transferred to the adult court.

Direct Filing an Information by the State Attorney

The bill amends s. 985.557, F.S., by eliminating the mandatory direct file system and modifying the discretionary direct file system to a two-tiered system based on the juvenile's age and enumerated offense.

Tier One

The bill permits the state attorney to file an information in adult court when, in his or her judgment and discretion, the public interest requires that adult sanctions be considered and:

- The juvenile is 16 years of age or older and less than 18 years of age at the time of the alleged offense; and
- The juvenile committed, or attempted to commit, one of the following enumerated offenses:
  - Murder;
  - Manslaughter;
  - Sexual battery as defined in s. 794.011(3), F.S.;
  - Armed robbery;
  - Aggravated assault with a firearm;
  - Aggravated child abuse;
  - Aggravated stalking;
  - Kidnapping;
  - Unlawful throwing, placing, or discharging of a destructive device or bomb;
  - Aggravated battery resulting in great bodily harm, permanent disability, or permanent disfigurement to a person;
  - Carrying, displaying, using, or threatening or attempting to use a weapon or firearm in furtherance of the commission of a felony, provided the use or threatened use does not include the mere acquisition of a deadly weapon or firearm during the felony;
  - Possessing or discharging a firearm on school property in violation of s. 790.115, F.S.;
  - Home invasion robbery;
  - Carjacking;
  - Aggravated animal cruelty by intentional acts;
  - Driving under the influence or boating under the influence resulting in fatality, great bodily harm, permanent disability, or permanent disfigurement to a person; or
  - Arson in violation of s. 806.031, F.S.

Tier Two

The bill allows the state attorney to file an information in adult court when, in his or her judgment and discretion, the public interest requires adult sanctions be considered and:

- The juvenile is 14 or 15 years of age at the time of the alleged offense; and
- The juvenile committed, or attempted to commit, one of the following enumerated offenses:
  - Murder;
  - Manslaughter; or
  - Sexual battery in violation of s. 794.011(3), F.S.

A juvenile eligible for direct file cannot be transferred if he or she has:

- A pending competency hearing in juvenile court; or
- Been previously found to be incompetent to proceed and has not been restored to competency by a court.

The bill allows, rather than requires, the court to transfer any unresolved felony cases when the transfer is by direct file.

The bill allows a juvenile who is transferred by direct file to request a court hearing, in writing, to determine whether he or she will remain in adult court. The adult court, after considering certain factors, can waive the case back to juvenile court under the bill. These factors include the seriousness of the offense, the extent of the juvenile's alleged participation or role in the offense, the sophistication and maturity of the juvenile, and any prior offenses. This process is called a reverse waiver under the bill.

The bill also requires the Department of Juvenile Justice (DJJ) to collect and annually report data to the President of the Senate and Speaker of the House of Representatives relating to juveniles who qualify for transfer by direct file. This data includes, but is not limited to the following:

- Age;
- Race and ethnicity;
- Gender;
- Circuit and county of residence;
- Circuit and county of offense;
- Prior adjudicated offenses;
- Prior periods of probation;
- Previous contacts with law enforcement agencies or the courts;
- Initial charges;
- Charges at disposition;
- Whether adult codefendants were involved;
- Whether child codefendants were involved who were transferred to adult court;
- Whether the child was represented by counsel;
- Whether the child had waived counsel;
- Risk assessment instrument score;
- The child's medical, mental health, substance abuse, or trauma history;
- The child's history of physical or mental impairment or disability-related accommodations;
- The child's history of abuse or neglect;
- The child's history of foster care placements, including the number of prior placements;
- Whether the child has experienced a failed adoption;
- Whether the child has fetal alcohol syndrome or was exposed to controlled substances at birth;
- Whether the child has below-average intellectual functioning or is eligible for exceptional student education services;
- Whether the child has received mental health services or treatment;
- Whether the child has been the subject of a Children in Need of Services or Family in Need of Services (CINS/FINS) petition or a dependency petition;

- Plea offers made by the state and the outcome of any plea offers;
- Whether the child was transferred for criminal prosecution as an adult;
- The case resolution in juvenile court;
- The case resolution in adult court; and
- Disposition data, including, but not limited to, whether the child received adult sanctions, juvenile sanctions, or diversion, and, if sentenced to prison, length of prison sentence or enhanced sentence.

Indictment by Grand Jury

The bill amends s. 985.56, F.S., by:
- Limiting the state attorney's authority to convene a grand jury to apply to juveniles who are 14 years of age or older (currently available for juveniles of any age charged with an offense punishable by death or life imprisonment).
- Allowing, rather than requiring, the court to transfer any unresolved felony cases upon a returned indictment; and
- Prohibiting a juvenile who is eligible for indictment from being transferred to adult court for criminal prosecution if the juvenile is pending a competency hearing in juvenile court or has been previously found to be incompetent and has not been restored to competency by a court.

Imposing Adult or Juvenile Sanctions

Unlike current law, the bill does not require the court to impose adult sanctions. It amends s. 985.565, F.S., to provide that a juvenile who is transferred by direct file or judicial waiver and is found to have committed a violation of law or a lesser included offense may be sentenced as:
- An adult;
- A youthful offender under ch. 958, F.S.; or
- A juvenile.

It also amends this section by modifying existing criteria and adding additional criteria the court must consider when determining whether juvenile sanctions or adult sanctions are appropriate. The bill includes the following additional criteria for courts to consider:
- The extent of the juvenile's participation or role in the offense;
- The effect, if any, of familial or peer pressure on the juvenile's actions; and
- Whether the Department of Corrections (DOC) has appropriate programs, facilities, and services immediately available for the juvenile.

The bill modifies the following existing criteria that a court considers:
- The sophistication and maturity of the juvenile, specifically adding consideration of:
  - The juvenile's age, maturity, intellectual capacity, and mental and emotional health at the time of the offense;
  - The juvenile's background, including his or her family, home, and community environment;
  - The effect, if any, of immaturity, impetuosity, or failure to appreciate the risks and consequences on the juvenile's participation in the offense; and

  - The effect, if any, of characteristics attributable to the juvenile's age on his or her judgment.
- The record and previous history of the juvenile, including:
  - Previous contacts with the DOC, the DJJ, the former Department of Health and Rehabilitative Services (HRS), or the Department of Children and Families (DCF), adding consideration of the adequacy and appropriateness of any services provided to address the juvenile's needs;
  - Prior commitments to the DJJ, the former HRS, the DCF, or other facilities or institutions, adding consideration of the adequacy and appropriateness of any services provided to address the juvenile's needs;
  - Previous contacts with law enforcement agencies and the courts (added);
  - Consideration of history of abuse, abandonment, or neglect; foster care placements, failed adoption, fetal alcohol syndrome, exposure to controlled substances at birth, and below-average intellectual functioning (added);
  - Identification of the juvenile as having a mental, physical, or intellectual or developmental disability or having previously received mental health services or treatment (added).

The bill removes the provision of current law allowing the court to consider whether adult sanctions would provide more appropriate punishment and deterrence to further violations of law than the imposition of juvenile sanctions.

The bill requires the court to render an order including specific findings of fact and the reasons for its decisions to impose adult sanctions. The order is reviewable on appeal under s. 985.534, F.S., and the Florida Rules of Appellate Procedure.

The bill requires the court to consider any reports that may assist the court in its decision to impose juvenile or adult sanctions. These include, but are not limited to: prior predisposition reports; psychosocial assessments; individual education plans; developmental assessments; school records; abuse or neglect reports; home studies; protective investigations; and psychological or psychiatric evaluations.

Under the bill, the juvenile, state attorney, and defense counsel have the right to examine these reports, and to question the parties responsible for them at the hearing.

The bill amends this section by removing the prohibition on imposing both adult and juvenile sanctions. It also removes the requirement that the DJJ return the juvenile to the sentencing court for further proceedings if the department determines that the juvenile sanction is unsuitable for the juvenile. (Current law still requires the DJJ to provide the sentencing court with written reasons upon determining that a juvenile is not suitable to a commitment program, juvenile probation program, or a treatment program within the department. If that occurs, the court must then determine whether to resentence the juvenile.)

The effective date of the bill is July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

SB 314 has the effect of increasing the number of juveniles committed to the Department of Juvenile Justice (DJJ) and reducing the number of juveniles in the Department of Corrections' (DOC) custody (community supervision or state prison).

Impact to DJJ (need for additional beds)

According to the DJJ, the bill is likely to reduce the number of juveniles transferred to the adult system and increase the number of juveniles within the juvenile justice system. The DJJ estimates that this will result in at least 644 additional youths remaining in the juvenile system who would be diverted into the adult system under current practice. Based on the population of youths recently transferred to the adult system, the DJJ estimates that 17.7% of these youths (114) would be placed in probation, 17.7% (114) would be placed in non-secure commitment, 34.18% (220) would be placed in high-risk secure commitment and 30.38% (196) would be placed in maximum-risk secure commitment. Based upon these estimates and using the average per diem rates and average cost per youth supervision rates for Fiscal Year 2014-2015, the DJJ estimates the fiscal impact to be a minimum of $35.8 million in the first year and $44.5 million annually in subsequent years.[53]

According to the department, this fiscal impact estimate does not take into consideration the need to procure additional programs, staff needed to monitor or administer additional

[53] Department of Juvenile Justice, *2015 Bill Analysis for SB 314* (2016) (on file with Senate Criminal Justice Committee).

programs, or the need to build or procure facilities to accommodate this additional population. The DJJ currently has an operating capacity of just over 2,100 residential beds and has a current utilization rate of 92%. If sufficient beds are not made available, youths awaiting placement in a residential program would be housed in secure detention or in their home communities, creating a significant back log of youths awaiting placement. Alternately, the department would require funding to procure additional programs and to retrofit current facilities, build or procure new facilities to house these youths in addition to the per diem fiscal addressed previously. The department could address the need for non-secure beds by retrofitting current facilities for use, which would require nearly $2.3 million. Construction costs could exceed $100 million to provide bed space sufficient for the high-risk and maximum-risk residential programs. The per diem rates used are based on per diems for programs that utilize the DJJ (state-owned) facilities. Per diem rates for programs that do not utilize state-owned facilities are potentially higher.[54]

The bill also requires the DJJ to collect and report on specific data that will require modification of the Juvenile Justice Information (JJIS) System, which the DJJ estimates will cost $93,600.[55]

Impact to DOC (cost savings)

The Criminal Justice Impact Conference (CJIC) met on January 29, 2016, and determined that this bill would have a negative indeterminate prison bed impact on the DOC (i.e., an unquantifiable reduction in the need for prison beds).

Although there are too many variables to determine how many youths would be diverted from prison, diversion of all 644 juveniles in the DJJ estimate from prison would result in as much as $12.5 million in cost savings to the DOC.[56] It is likely that actual cost savings would be lower because of several factors, including the probability that some juveniles would have been sentenced to community supervision rather than prison.

VI. Technical Deficiencies:

The bill appears to delete language that mandates how the court must sentence a juvenile who has been transferred to adult court by indictment. The word "indictment" may need to be added on line 352 to ensure that the court has authority to sentence such a juvenile as an adult, a youthful offender, or a juvenile.

[54] *Id.*
[55] *Id.*
[56] This is based on the CJIC estimate of $18,852 annual operating costs per inmate for Fiscal Year 2016-2017.

VII. Related Issues:

The DJJ indicates that the reconfiguration of the Juvenile Justice Information System that will be required to capture the pertinent data elements under the bill may take up to 6 months to complete, making implementation by the effective date (July 1, 2016) difficult.[57]

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 985.557, 985.56, and 985.565.

This bill makes technical and conforming changes to the following sections of the Florida Statutes: 985.556, 985.04, 985.15, 985.265, and 985.514.

IX. Additional Information:

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

None.

B. Amendments:

None.

[57] Department of Juvenile Justice, *2015 Bill Analysis for SB 314* (2016) (on file with Senate Criminal Justice Committee). Additional items required by the bill that the DJJ does not currently capture include whether adult codefendants were involved, whether child codefendants were involved who were transferred to adult court, whether the child was represented by counsel, whether the child waived counsel, whether the child has fetal alcohol syndrome or was exposed to controlled substances at birth, whether the child has below-average intellectual functioning or is eligible for exceptional student education services, any plea offers and resulting outcomes, and length of prison sentence or enhanced sentence. *Id.*

By Senator Diaz de la Portilla

40-00398-16 2016314__

A bill to be entitled

An act relating to juvenile justice; amending s. 985.557, F.S.; revising the circumstances under which a state attorney may file an information when a child of a certain age range commits or attempts to commit specified crimes; deleting a requirement that a state attorney file an information under certain circumstances; deleting a provision that prohibits physical contact with adult offenders under certain circumstances; revising the effects of the direct filing of a child; prohibiting the transfer of a child under certain circumstances based on the child's competency; authorizing a child to request a hearing to determine whether he or she must remain in adult court; requiring the court to consider certain factors after a written request is made for a hearing; authorizing the court to waive the case back to juvenile court; requiring the Department of Juvenile Justice to collect specified data under certain circumstances; requiring the department to provide an annual report to the Legislature; amending s. 985.56, F.S.; revising the crimes and the age of a child who is subject to the jurisdiction of a circuit court; prohibiting the transfer of a child under certain circumstances based on the child's competency; removing provisions regarding sentencing of a child; authorizing, rather than requiring, a court to transfer a child indicted under certain circumstances; making technical changes; amending s. 985.565, F.S.;

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revising the criteria to be used in determining whether to impose juvenile or adult sanctions; requiring the adult court to render an order including specific findings of fact and the reasons for its decision; providing that the order is reviewable on appeal; requiring the court to consider any reports that may assist in the sentencing of a child; providing for the examination of the reports; removing a provision that requires a court to impose adult sanctions under certain circumstances; revising how a child may be sanctioned under certain circumstances; requiring the court to explain the basis for imposing adult sanctions; revising when juvenile sanctions may be imposed; amending s. 985.556, F.S.; conforming a cross-reference; amending s. 985.04, F.S.; conforming provisions to changes made by the act; reenacting ss. 985.15(1), 985.265(5), and 985.556(3), F.S., relating to filing decisions; detention transfer and release, education, and adult jails; and waiver of juvenile court jurisdiction and hearings, respectively, to incorporate the amendment made to s. 985.557, F.S., in references thereto; reenacting ss. 985.514(3) and 985.556(5)(a), F.S., relating to responsibility for cost of care and fees, and waiver of juvenile court jurisdiction and hearings, respectively, to incorporate the amendment made to s. 985.565, F.S., in references thereto; providing an effective date.

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

Section 1. Section 985.557, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 985.557, F.S., for present text.)

985.557 Direct filing of an information.—

(1) DIRECT FILE.—

(a) With respect to a child who was 16 years of age or older or less than 18 years of age at the time the alleged offense was committed, the state attorney may file an information if, in the state attorney's judgment and discretion, the public interest requires that adult sanctions be considered and the offense charged is for the commission of or attempt to commit:

1. Murder;

2. Manslaughter;

3. Sexual battery in violation of s. 794.011(3);

4. Armed robbery;

5. Aggravated assault with a firearm;

6. Aggravated child abuse;

7. Arson in violation of s. 806.031;

8. Kidnapping;

9. Unlawful throwing, placing, or discharging of a destructive device or bomb;

10. Aggravated battery resulting in great bodily harm, permanent disability, or permanent disfigurement to a person;

11. Carrying, displaying, using, or threatening or attempting to use a weapon or firearm in furtherance of the commission of a felony, if the use or threatened use does not

include the mere acquisition of a deadly weapon or firearm during the felony;

12. Possessing or discharging a firearm on school property in violation of s. 790.115;

13. Home invasion robbery;

14. Aggravated stalking;

15. Carjacking;

16. Aggravated animal cruelty by intentional acts; or

17. DUI or BUI resulting in fatality, great bodily harm, permanent disability, or permanent disfigurement to a person.

(b) With respect to a child who was 14 or 15 years of age at the time the alleged offense was committed, the state attorney may file an information if, in the state attorney's judgment and discretion, the public interest requires that adult sanctions be considered and the offense charged is for the commission of or attempt to commit:

1. Murder;

2. Manslaughter; or

3. Sexual battery in violation of s. 794.011(3).

(2) EFFECT OF DIRECT FILE.—

(a) If a child is transferred for criminal prosecution as an adult, the court may transfer and certify to the adult circuit court for prosecution of the child as an adult all related felony cases pertaining to the child which have not yet resulted in a plea of guilty or nolo contendere or in which a finding of guilt has not been made. If the child is acquitted of all charged offenses or lesser included offenses contained in the original case transferred to adult court, any felony cases that were transferred to adult court under this subsection are

subject to the same penalties they were subject to before their transfer.

(b) If a child has been convicted and sentenced to adult sanctions pursuant to this section, he or she shall be handled as an adult for any subsequent violation of state law, unless the court imposes juvenile sanctions under s. 985.565.

(3) TRANSFER PROHIBITION.—Notwithstanding any other law, a child who is eligible for direct file and who is pending a competency hearing in juvenile court or who has previously been found to be incompetent and has not been restored to competency by a court may not be transferred to adult court for criminal prosecution.

(4) REVERSE WAIVER.—A child who is transferred to adult court pursuant to this section may request, in writing, a hearing to determine whether he or she shall remain in adult court. The adult court, in determining whether public safety would be best served by retaining jurisdiction, shall consider the seriousness of the offense, the extent of the child's alleged participation or role in the offense, the sophistication and maturity of the child, and any prior offenses the child has committed. The adult court may, based on these considerations, waive the case back to juvenile court.

(5) DATA COLLECTION RELATING TO DIRECT FILE.—

(a) The department shall collect data regarding children who qualify for direct file under subsection (1), including, but not limited to:

1. Age.

2. Race and ethnicity.

3. Gender.

4. Circuit and county of residence.

5. Circuit and county of offense.

6. Prior adjudicated offenses.

7. Prior periods of probation.

8. Previous contacts with law enforcement agencies or the courts.

9. Initial charges.

10. Charges at disposition.

11. Whether adult codefendants were involved.

12. Whether child codefendants were involved who were transferred to adult court.

13. Whether the child was represented by counsel.

14. Whether the child has waived counsel.

15. Risk assessment instrument score.

16. The child's medical, mental health, substance abuse, or trauma history.

17. The child's history of physical or mental impairment or disability-related accommodations.

18. The child's history of abuse or neglect.

19. The child's history of foster care placements, including the number of prior placements.

20. Whether the child has fetal alcohol syndrome or was exposed to controlled substances at birth.

21. Whether the child has below-average intellectual functioning or is eligible for exceptional student education services.

22. Whether the child has received mental health services or treatment.

23. Whether the child has been the subject of a Children in

Need of Services or Family in Need of Services (CINS/FINS) petition or a dependency petition.

24. Plea offers made by the state and the outcome of any plea offers.

25. Whether the child was transferred for criminal prosecution as an adult.

26. The case resolution in juvenile court.

27. The case resolution in adult court.

(b) If a child is transferred for criminal prosecution as an adult, the department shall also collect disposition data, including, but not limited to, whether the child received adult sanctions, juvenile sanctions, or diversion, and, if sentenced to prison, length of prison sentence or enhanced sentence.

(c) The department shall annually provide a report analyzing this aggregated data to the President of the Senate and the Speaker of the House of Representatives.

Section 2. Section 985.56, Florida Statutes, is amended to read:

985.56 Indictment of a juvenile.—

(1) A child 14 years of age or older ~~of any age~~ who is charged with a violation of state law punishable by death or by life imprisonment is subject to the jurisdiction of the court as set forth in s. 985.0301(2) unless and until an indictment on the charge is returned by the grand jury. When such indictment is returned, the petition for delinquency, if any, must be dismissed and the child must be tried ~~and handled in every respect~~ as an adult:

(a) On the indicting offense ~~punishable by death or by life imprisonment~~; and

(b) On all other felonies or misdemeanors charged in the indictment which are based on the same act or transaction as the indicting offense ~~punishable by death or by life imprisonment or on one or more acts or transactions connected with the offense punishable by death or by life imprisonment~~.

(2) An adjudicatory hearing may not be held until 21 days after the child is taken into custody and charged with having committed an indictable offense ~~punishable by death or by life imprisonment~~, unless the state attorney advises the court in writing that he or she does not intend to present the case to the grand jury, or has presented the case to the grand jury and the grand jury has not returned an indictment. If the court receives such a notice from the state attorney, or if the grand jury fails to act within the 21-day period, the court may proceed as otherwise authorized under this part.

(3) Notwithstanding any other law, a child who is eligible for indictment and who is pending a competency hearing in juvenile court or who has been previously found to be incompetent and has not been restored to competency by a court may not be transferred to adult court for criminal prosecution ~~If the child is found to have committed the offense punishable by death or by life imprisonment, the child shall be sentenced as an adult. If the juvenile is not found to have committed the indictable offense but is found to have committed a lesser included offense or any other offense for which he or she was indicted as a part of the criminal episode, the court may sentence under s. 985.565~~.

(4)(a) If ~~Once~~ a child has been indicted pursuant to this section and has been found to have committed any offense for

which he or she was indicted as a part of the criminal episode, the child shall be handled thereafter ~~in every respect~~ as ~~if~~ an adult for any subsequent violation of state law, unless the court imposes juvenile sanctions under s. 985.565.

(b) If ~~When~~ a child has been indicted pursuant to this section, the court may ~~shall immediately~~ transfer and certify to the adult circuit court all related felony cases pertaining to the child, for prosecution of the child as an adult, which have not yet resulted in a plea of guilty or nolo contendere or in which a finding of guilt has not been made. If the child is acquitted of all charged offenses or lesser included offenses contained in the indictment case, any ~~all~~ felony cases that were transferred to adult court pursuant to this paragraph shall be subject to the same penalties such cases were subject to before being transferred to adult court.

Section 3. Subsection (1), paragraph (c) of subsection (3), and subsection (4) of section 985.565, Florida Statutes, are amended to read:

985.565 Sentencing powers; procedures; alternatives for juveniles prosecuted as adults.—

(1) POWERS OF DISPOSITION.—

(a) A child who is found to have committed a violation of law may, as an alternative to adult dispositions, be committed to the department for treatment in an appropriate program for children outside the adult correctional system or be placed on juvenile probation.

(b) In determining whether to impose juvenile or ~~sanctions instead of~~ adult sanctions, the court shall consider the following criteria:

1. The seriousness of the offense to the community and whether the protection of the community would be best served ~~be protected~~ by juvenile or adult sanctions.

2. The extent of the child's participation in the offense.

3. The effect, if any, of familial or peer pressure on the child's actions.

4.~~2.~~ Whether the offense was committed in an aggressive, violent, premeditated, or willful manner.

5.~~3.~~ Whether the offense was against persons or against property, with greater weight being given to offenses against persons, especially if personal injury resulted.

6.~~4.~~ The sophistication and maturity of the child, including: ~~offender~~

a. The child's age, maturity, intellectual capacity, and mental and emotional health at the time of the offense.

b. The child's background, including his or her family, home, and community environment.

c. The effect, if any, of immaturity, impetuosity, or failure to appreciate the risks and consequences on the child's participation in the offense.

d. The effect, if any, of characteristics attributable to the child's age on the child's judgment.

7.~~5.~~ The record and previous history of the child ~~offender~~, including:

a. Previous contacts with the Department of Corrections, the Department of Juvenile Justice, the former Department of Health and Rehabilitative Services, or the Department of Children and Families, and the adequacy and appropriateness of the services provided to address the child's needs ~~law~~

~~enforcement agencies, and the courts~~.

b. Prior periods of probation.

c. Prior adjudications that the offender committed a delinquent act or violation of law as a child.

d. Prior commitments to the Department of Juvenile Justice, the former Department of Health and Rehabilitative Services, the Department of Children and Families, or other facilities or institutions, and the adequacy and appropriateness of the services provided to address the child's needs.

e. Previous contacts with law enforcement agencies and the courts.

f. History of abuse, abandonment or neglect, foster care placements, failed adoption, fetal alcohol syndrome, exposure to controlled substances at birth, and below-average intellectual functioning.

g. Identification of the child as having a disability or having previously received mental health services or treatment.

8.~~6.~~ The prospects for adequate protection of the public and the likelihood of deterrence and reasonable rehabilitation of the offender if assigned to services and facilities of the Department of Juvenile Justice.

9.~~7.~~ Whether the Department of Juvenile Justice has appropriate programs, facilities, and services immediately available.

~~8. Whether adult sanctions would provide more appropriate punishment and deterrence to further violations of law than the imposition of juvenile sanctions.~~

10. Whether the Department of Corrections has appropriate programs, facilities, and services immediately available.

(c) The adult court shall render an order including specific findings of fact and the reasons for its decision. The order shall be reviewable on appeal under s. 985.534 and the Florida Rules of Appellate Procedure.

(3) SENTENCING HEARING.—

(c) The court may receive and consider any other relevant and material evidence, including other reports, written or oral, in its effort to determine the action to be taken with regard to the child, and may rely upon such evidence to the extent of its probative value even if the evidence would not be competent in an adjudicatory hearing. The court shall consider any reports that may assist it, including prior predisposition reports, psychosocial assessments, individualized educational programs, developmental assessments, school records, abuse or neglect reports, home studies, protective investigations, and psychological and psychiatric evaluations. The child, the child's defense counsel, and the state attorney have the right to examine these reports and to question the parties responsible for them at the hearing.

(4) SENTENCING ALTERNATIVES.—

(a) ~~*Adult*~~ *Sanctions.*—

~~1. Cases prosecuted on indictment.—If the child is found to have committed the offense punishable by death or life imprisonment, the child shall be sentenced as an adult. If the juvenile is not found to have committed the indictable offense but is found to have committed a lesser included offense or any other offense for which he or she was indicted as a part of the criminal episode, the court may sentence as follows:~~

~~a. As an adult;~~

~~b. Under chapter 958; or~~

~~c. As a juvenile under this section.~~

~~2. Other cases.—~~If a child who has been transferred for criminal prosecution pursuant to information or waiver of juvenile court jurisdiction is found to have committed a violation of state law or a lesser included offense for which he or she was charged as a part of the criminal episode, the court may sentence as follows:

1.~~a.~~ As an adult;

2.~~b.~~ As a youthful offender under chapter 958; or

3.~~c.~~ As a juvenile under this section.

~~3. Notwithstanding any other provision to the contrary, if the state attorney is required to file a motion to transfer and certify the juvenile for prosecution as an adult under s. 985.556(3) and that motion is granted, or if the state attorney is required to file an information under s. 985.557(2)(a) or (b), the court must impose adult sanctions.~~

(b)~~4.~~ *Findings*.—The court must ~~Any sentence imposing adult sanctions is presumed appropriate, and the court is not required to~~ set forth specific findings or enumerate the criteria in this subsection as any basis for its decision to impose adult sanctions.

(c)~~5.~~ *Restitution.*—When a child has been transferred for criminal prosecution as an adult and has been found to have committed a violation of state law, the disposition of the case may include the enforcement of any restitution ordered in any juvenile proceeding.

(d)~~(b)~~ *Juvenile sanctions*.—If a juvenile sentence is ~~For juveniles transferred to adult court but who do not qualify for~~

~~such transfer under s. 985.556(3) or s. 985.557(2)(a) or (b), the court may impose juvenile sanctions under this paragraph. If juvenile sentences are~~ imposed, the court shall, under this paragraph, adjudge the child to have committed a delinquent act. Adjudication of delinquency shall not be deemed a conviction, nor shall it operate to impose any of the civil disabilities ordinarily resulting from a conviction. ~~The court shall impose an adult sanction or a juvenile sanction and may not sentence the child to a combination of adult and juvenile punishments.~~ An adult sanction or a juvenile sanction may include enforcement of an order of restitution or probation previously ordered in any juvenile proceeding. ~~However, if the court imposes a juvenile sanction and the department determines that the sanction is unsuitable for the child, the department shall return custody of the child to the sentencing court for further proceedings, including the imposition of adult sanctions.~~ Upon adjudicating a child delinquent under subsection (1), the court may:

1. Place the child in a probation program under the supervision of the department for an indeterminate period of time until the child reaches the age of 19 years or sooner if discharged by order of the court.

2. Commit the child to the department for treatment in an appropriate program for children for an indeterminate period of time until the child is 21 or sooner if discharged by the department. The department shall notify the court of its intent to discharge no later than 14 days prior to discharge. Failure of the court to timely respond to the department's notice shall be considered approval for discharge.

3. Order disposition under ss. 985.435, 985.437, 985.439,

985.441, 985.45, and 985.455 as an alternative to youthful offender or adult sentencing if the court determines not to impose youthful offender or adult sanctions.

(e)~~(c)~~ *Adult sanctions upon failure of juvenile sanctions.*—If a child proves not to be suitable to a commitment program, juvenile probation program, or treatment program under paragraph (d) ~~(b)~~, the department shall provide the sentencing court with a written report outlining the basis for its objections to the juvenile sanction and shall simultaneously provide a copy of the report to the state attorney and the defense counsel. The department shall schedule a hearing within 30 days. Upon hearing, the court may revoke the previous adjudication, impose an adjudication of guilt, and impose any sentence which it may lawfully impose, giving credit for all time spent by the child in the department. The court may also classify the child as a youthful offender under s. 958.04, if appropriate. For purposes of this paragraph, a child may be found not suitable to a commitment program, community control program, or treatment program under paragraph (d) ~~(b)~~ if the child commits a new violation of law while under juvenile sanctions, if the child commits any other violation of the conditions of juvenile sanctions, or if the child's actions are otherwise determined by the court to demonstrate a failure of juvenile sanctions.

(f)~~(d)~~ *Further proceedings heard in adult court.*—When a child is sentenced to juvenile sanctions, further proceedings involving those sanctions shall continue to be heard in the adult court.

(g)~~(e)~~ *School attendance.*—If the child is attending or is eligible to attend public school and the court finds that the

victim or a sibling of the victim in the case is attending or may attend the same school as the child, the court placement order shall include a finding pursuant to the proceeding described in s. 985.455(2), regardless of whether adjudication is withheld.

It is the intent of the Legislature that the criteria and guidelines in this subsection are mandatory and that a determination of disposition under this subsection is subject to the right of the child to appellate review under s. 985.534.

Section 4. Subsection (1) of section 985.556, Florida Statutes, is amended to read:

985.556 Waiver of juvenile court jurisdiction; hearing.—

(1) VOLUNTARY WAIVER.—The court shall transfer and certify a child's criminal case for trial as an adult if the child is alleged to have committed a violation of law and, before ~~prior to~~ the commencement of an adjudicatory hearing, the child, joined by a parent or, in the absence of a parent, by the guardian or guardian ad litem, demands in writing to be tried as an adult. Once a child has been transferred for criminal prosecution pursuant to a voluntary waiver hearing and has been found to have committed the presenting offense or a lesser included offense, the child shall be handled thereafter in every respect as an adult for any subsequent violation of state law, unless the court imposes juvenile sanctions under s. 985.565(4)(d) ~~s. 985.565(4)(b)~~.

Section 5. Subsection (2) of section 985.04, Florida Statutes, is amended to read:

985.04 Oaths; records; confidential information.—

(2) Notwithstanding any other provisions of this chapter, the name, photograph, address, and crime or arrest report of a child:

(a) Taken into custody if the child has been taken into custody by a law enforcement officer for a violation of law which, if committed by an adult, would be a felony;

(b) Found by a court to have committed three or more violations of law which, if committed by an adult, would be misdemeanors;

(c) Transferred to the adult system under s. 985.557, indicted under s. 985.56, or waived under s. 985.556; or

~~(d) Taken into custody by a law enforcement officer for a violation of law subject to s. 985.557(2)(b) or (d); or~~

(d)~~(c)~~ Transferred to the adult system but sentenced to the juvenile system under s. 985.565

shall not be considered confidential and exempt from s. 119.07(1) solely because of the child's age.

Section 6. For the purpose of incorporating the amendment made by this act to section 985.557, Florida Statutes, in a reference thereto, subsection (1) of section 985.15, Florida Statutes, is reenacted to read:

985.15 Filing decisions.—

(1) The state attorney may in all cases take action independent of the action or lack of action of the juvenile probation officer and shall determine the action that is in the best interest of the public and the child. If the child meets the criteria requiring prosecution as an adult under s. 985.556, the state attorney shall request the court to transfer and

certify the child for prosecution as an adult or shall provide written reasons to the court for not making such a request. In all other cases, the state attorney may:

(a) File a petition for dependency;

(b) File a petition under chapter 984;

(c) File a petition for delinquency;

(d) File a petition for delinquency with a motion to transfer and certify the child for prosecution as an adult;

(e) File an information under s. 985.557;

(f) Refer the case to a grand jury;

(g) Refer the child to a diversionary, pretrial intervention, arbitration, or mediation program, or to some other treatment or care program if such program commitment is voluntarily accepted by the child or the child's parents or legal guardian; or

(h) Decline to file.

Section 7. For the purpose of incorporating the amendment made by this act to section 985.557, Florida Statutes, in a reference thereto, subsection (5) of section 985.265, Florida Statutes, is reenacted to read:

985.265 Detention transfer and release; education; adult jails.—

(5) The court shall order the delivery of a child to a jail or other facility intended or used for the detention of adults:

(a) When the child has been transferred or indicted for criminal prosecution as an adult under part X, except that the court may not order or allow a child alleged to have committed a misdemeanor who is being transferred for criminal prosecution pursuant to either s. 985.556 or s. 985.557 to be detained or

held in a jail or other facility intended or used for the detention of adults; however, such child may be held temporarily in a detention facility; or

(b) When a child taken into custody in this state is wanted by another jurisdiction for prosecution as an adult.

The child shall be housed separately from adult inmates to prohibit a child from having regular contact with incarcerated adults, including trusties. "Regular contact" means sight and sound contact. Separation of children from adults shall permit no more than haphazard or accidental contact. The receiving jail or other facility shall contain a separate section for children and shall have an adequate staff to supervise and monitor the child's activities at all times. Supervision and monitoring of children includes physical observation and documented checks by jail or receiving facility supervisory personnel at intervals not to exceed 10 minutes. This subsection does not prohibit placing two or more children in the same cell. Under no circumstances shall a child be placed in the same cell with an adult.

Section 8. For the purpose of incorporating the amendment made by this act to section 985.557, Florida Statutes, in a reference thereto, subsection (3) of section 985.556, Florida Statutes, is reenacted to read:

985.556 Waiver of juvenile court jurisdiction; hearing.—

(3) INVOLUNTARY MANDATORY WAIVER.—

(a) If the child was 14 years of age or older, and if the child has been previously adjudicated delinquent for an act classified as a felony, which adjudication was for the

commission of, attempt to commit, or conspiracy to commit murder, sexual battery, armed or strong-armed robbery, carjacking, home-invasion robbery, aggravated battery, aggravated assault, or burglary with an assault or battery, and the child is currently charged with a second or subsequent violent crime against a person; or

(b) If the child was 14 years of age or older at the time of commission of a fourth or subsequent alleged felony offense and the child was previously adjudicated delinquent or had adjudication withheld for or was found to have committed, or to have attempted or conspired to commit, three offenses that are felony offenses if committed by an adult, and one or more of such felony offenses involved the use or possession of a firearm or violence against a person;

the state attorney shall request the court to transfer and certify the child for prosecution as an adult or shall provide written reasons to the court for not making such request, or proceed under s. 985.557(1). Upon the state attorney's request, the court shall either enter an order transferring the case and certifying the case for trial as if the child were an adult or provide written reasons for not issuing such an order.

Section 9. For the purpose of incorporating the amendment made by this act to section 985.565, Florida Statutes, in a reference thereto, subsection (3) of section 985.514, Florida Statutes, is reenacted to read:

985.514 Responsibility for cost of care; fees.—

(3) When the court under s. 985.565 orders any child prosecuted as an adult to be supervised by or committed to the

department for treatment in any of the department's programs for children, the court shall order the child's parents to pay fees as provided in s. 985.039.

Section 10. For the purpose of incorporating the amendment made by this act to section 985.565, Florida Statutes, in a reference thereto, paragraph (a) of subsection (5) of section 985.556, Florida Statutes, is reenacted to read:

985.556 Waiver of juvenile court jurisdiction; hearing.—

(5) EFFECT OF ORDER WAIVING JURISDICTION.—

(a) Once a child has been transferred for criminal prosecution pursuant to an involuntary waiver hearing and has been found to have committed the presenting offense or a lesser included offense, the child shall thereafter be handled in every respect as an adult for any subsequent violation of state law, unless the court imposes juvenile sanctions under s. 985.565.

Section 11. This act shall take effect July 1, 2016.

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	PCS/CS/SB 326 (189108)
INTRODUCER:	Appropriations Committee (Recommended by Appropriations Subcommittee on General Government); Governmental Oversight and Accountability Committee; and Senator Brandes
SUBJECT:	State-owned Motor Vehicles
DATE:	March 2, 2016
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peacock	McVaney	GO	**Fav/CS**
2.	Davis	DeLoach	AGG	**Recommend: Fav/CS**
3.	Davis	Kynoch	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 326 requires the Department of Management Services (DMS) to prepare a plan regarding the centralized management of state-owned motor vehicles. The bill requires the DMS to submit the plan to the Governor, the President of the Senate, and the Speaker of the House of Representatives by November 1, 2017.

The DMS must evaluate the costs and benefits of operating and maintaining a centralized motor vehicle fleet compared to the costs and benefits of contracting with a third-party vendor for the operation and maintenance of a centralized motor vehicle fleet.

The bill has an indeterminate fiscal impact.

The bill takes effect upon becoming a law.

II. Present Situation:

Department of Management Services

One of the duties of the Department of Management Services (DMS) is to obtain the most effective and efficient use of motor vehicles, watercraft, and aircraft for state purposes.[1] Chapter 287, F.S., Part II: Means of Transport (ss. 287.14 – 297.20) governs the purchase or lease of motor vehicles.[2] Chapter 287, F.S., Part II, applies to motor vehicles, watercraft, and aircraft owned leased, or acquired in any manner by any state agency, or the judicial branch.[3] It is unlawful for a state officer or employee to authorize the purchase or continuous lease of any motor vehicle to be paid out of state funds or any agency funds unless such funds have been appropriated by the Legislature.[4] All motor vehicles purchased or leased must be in the subcompact class, with exceptions for law enforcement, towing, transportation of more than three adults or bulk material, and vehicles operated on unpaved roads.[5] Motor vehicles needed for an emergency or to meet unforeseen or emergency situations are allowed, if approved by the Executive Office of the Governor after consulting with the legislative appropriations committees.[6] Vehicles for which replacement funds have been appropriated may not be retained in service unless an emergency or major unforeseen need exits.[7] Any motor vehicle retained for this purpose must be reported to the Legislature in subsequent agency budget request documents that detail the specific justification for retention of each vehicle.[8] Motor vehicles may not be acquired on a deferred payment contract that requires payment of interest or its equivalent except when specifically approved by the Governor's Office in consultation with the legislative appropriations committees.[9]

A state agency must obtain prior approval from the DMS for purchasing, leasing, or acquiring any motor vehicle, watercraft, or aircraft of any type.[10] The DMS approval is not required for casual (short-term) lease of motor vehicles by state agencies.[11] Funding in the General Appropriations Act is not allowed for purchases of vehicles in excess of prices negotiated by the DMS.[12] Also, with the DMS approval, special authorization is given to the Department of Children and Families, the Agency for Persons with Disabilities, the Department of Health, the Department of Juvenile Justice, and the Department of Corrections to secure automobiles, trucks, tractors, and other automotive equipment for use at institutions, centers, residential facilities and county health departments under their respective jurisdictions.[13]

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[1] Section 287.16, F.S.
[2] Section 287.14(2), F.S., defines the term "motor vehicle" as any automobile or light truck. Motor vehicle also includes any airplane or other vehicle designed primarily for transporting persons.
[3] Section 287.20, F.S.
[4] Section 287.14(3), F.S.
[5] Section 287.151(1), F.S.
[6] Section 287.14(3), F.S.
[7] Section 287.14(4), F.S.
[8] *Id*.
[9] Section 287.14(5), F.S.
[10] Section 287.15, F.S.
[11] *Id*.
[12] Section 287.151(2), F.S.
[13] Section 287.155, F.S.

Use of state-owned or leased vehicles or aircraft is limited to travel necessary to carry out employee job assignments, official state business, security and emergency activity.[14] State employees whose duties are those of law enforcement[15] have more latitude in their use of state owned or leased motor vehicles for official state business.[16] Use of a state owned or leased motor vehicle for commuting is prohibited unless special assignment is authorized as a prerequisite by the DMS, the vehicle is required after hours to perform position duties, or an employee's home is his or her official base of operations.[17] A state agency head may assign a motor vehicle to a state officer or employee only if the officer of employee is projected to drive the motor vehicle a minimum of 10,000 miles annually on state business, unless the agency head provides written justification for the need of the assignment of the motor vehicle.[18] Priority for vehicle assignment is given to those state employees who drive over 15,000 miles annually on state business.[19]

Bureau of Fleet Management

The Bureau of Fleet Management and Federal Property Assistance within the DMS provides oversight responsibility for the state's fleet of motor vehicles and mobile equipment, along with the federal surplus property program.[20] The Bureau of Fleet Management manages the purchase, operation, maintenance and disposal of the state's fleet of motor vehicles and watercraft.[21] The state's fleet includes approximately 25,000 units, consisting of automobiles and light trucks, medium and heavy trucks, aircraft, construction and industrial equipment, marine equipment (e.g., boats, airboats, boat engines, etc.), trailers, tractors and mowers, small utility, motorcycles and all-terrain vehicles.[22] The Division of Fleet Management determines the motor vehicles and watercraft included on state contracts, develops technical bid specifications and assists in evaluating contracts.

The Division of Fleet Management operates the Florida Equipment Electronic Tracking (FLEET) system, which provides the management, reporting and cost information required to

[14] Section 287.17(2)(a)-(d), F.S.
[15] Section 943.10(1), F.S., defines the term "law enforcement officer" as any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.
[16] Section 287.17(3)(b), F.S., provides that the term "official state business" shall be construed to permit the use of the vehicle during normal duty hours to and from lunch or meal breaks and incidental stops for personal errands, but not substantial deviations from official state business, if such use is at the direction of or with the permission of the agency head.
[17] Section 287.17(3)(a), F.S.
[18] Section 287.17(4)(a), F.S.
[19] *Id*.
[20] *See* http://www.dms.myflorida.com/business_operations/fleet_management_and_federal_property_assistance (last visited on Oct. 26, 2015).
[21] *See* http://www.dms.myflorida.com/business_operations/fleet_management_and_federal_property_assistance/fleet_management (last visited on Oct. 26, 2015). *Also*, *see* Chapters 60B-1(Motor Vehicles and Watercraft Acquisition, Assignment and Use) and 60B-3(Disposal of Motor Vehicles, Watercraft, and Aircraft), F.A.C.
[22] *See* http://www.dms.myflorida.com/business_operations/fleet_management_and_federal_property_assistance (last visited on Dec. 14, 2015).

effectively and efficiently manage the state's fleet and to account for equipment use and expenditures. The FLEET Online System:[23]

- Requires agencies to keep records and make reports regarding the effective and efficient use, operation, maintenance, repair and replacement of automobiles, light trucks, small and large (greater than 1 ton) vehicles and equipment designed primarily for transporting people and legal to operate on public roads, watercraft and aircraft; and
- Assures the efficient and safe use of motor vehicles and that they are used only for official state business.

The goals of the Division of Fleet Management are to:[24]

- Ensure the state purchases quality and energy efficient motor vehicles, equipment and watercraft;
- Achieve maximum feasible return from disposal of used and surplus equipment;
- Return surplus equipment to governmental service when practical;
- Restrict use of state equipment to official state business;
- Provide management reports and data required to properly manage state fleet; and
- Provide reports to assure accountability of equipment expenditures and use.

Climate-Friendly Public Business Provisions

Section 286.29, F.S., outlines climate-friendly public business provisions required by state agencies. Some of these practices include requiring all state agencies to ensure that all maintained vehicles meet minimum maintenance schedules shown to reduce fuel consumption.[25] Each agency must measure and report compliance to the DMS through the Equipment Management Information System database.[26] Also, state agencies, universities, community colleges, and local governments that purchase motor vehicles under a state purchasing plan are required to define the intended purpose of vehicle and use class for which vehicle is being procured.[27] Additionally, all state agencies must use ethanol and biodiesel blended fuels when available.[28] State agencies with central fueling operations for state-owned vehicles must procure biofuels for fleet needs to the greatest extent practicable.[29]

State Agency Fleets

Table 1 shows the various fleets of state agencies. Some state agencies report heavy equipment in the FLEET system, but the DMS cannot state definitively that this data accurately reflects all heavy equipment owned or leased by state agencies.[30] The list of aircraft in Table 1 also is not complete as some agencies with aircraft do not document this data in the FLEET system.[31] The

[23] *Id*.
[24] *Id*.
[25] Section 286.26(3), F.S.
[26] *Id*.
[27] Section 286.29(4), F.S.
[28] Section 286.29(5), F.S.
[29] *Id*.
[30] E-mail from Ricky Moulton, Deputy Director of Legislative Affairs, DMS, dated November 5, 2015 (copy of e-mail on file with the Governmental and Accountability Committee).
[31] *Id*.

DMS is in the process of requiring all state agencies to report their inventory of aircraft in the FLEET system.[32] Table 2 shows the funds appropriated to the various agencies for the purchase of vehicles during the last five fiscal years.

Table 1. Agency Fleets

Agency	Vehicles	Aircraft	Water-craft	Heavy Equipment	Other*
First District Court of Appeals	1	-	-	-	-
Agriculture and Consumer Services	2,694	26	32	539	1,121
Agency for Health Care Administration	1	-	-	-	-
Agency for Persons with Disabilities	333	-	1	-	-
Business and Professional Regulation	510	-	-	-	-
Citrus Commission	1	-	-	-	-
Children and Families	511	-	-	-	-
Economic Opportunities	5	-	-	-	-
Environmental Protection	1,148	-	84	10	256
Financial Services	522	-	-	7	55
Juvenile Justice	557	-	-	-	14
Law Enforcement	662	3	-	-	-
Military Affairs	110	-	-	-	-
Management Services	74	-	-	-	3
Education	43	-	-	-	-
Health	379	-	-	-	-
Lottery	204	-	-	2	-
Revenue	15	-	-	2	-
State	24	-	3	-	-
Transportation	3,249	1	51	888	712
Veterans' Affairs	19	-	-	-	-
Executive Office of the Governor	26	-	-	-	-
Florida Commission on Offender Review	2	-	-	-	-
Corrections	2,932	-	-	22	158
Fish and Wildlife Conservation Commission	1,821	-	827	43	158
Highway Safety and Motor Vehicles	2,921	9	-	29	129
Justice Administration Commission	604	-	-	-	-
Northwood State Resource Center	1	-	-	-	-
Office of the Attorney General	135	-	-	-	-
Public Service Commission	25	-	-	-	-
School for the Deaf and Blind	45	-	-	-	-
TOTALS	**19,574**	**39**	**998**	**1,542**	**2,606**

[32] *Id*.

Agency	Vehicles	Aircraft	Water-craft	Heavy Equipment	Other*
*Other includes tractors, trailers, mowers, all-terrain vehicles, etc.					

Table 2. Five year history of appropriations relating to vehicle acquisition and replacement.

Agency	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16
First District Court of Appeals	-	-	-	-	-
Agriculture and Consumer Services	100,000	606,500	1,042,758	1,521,286	2,791,165
Agency for Health Care Administration	-	-	-	-	-
Agency for Persons with Disabilities	-	-	-	-	-
Business and Professional Regulation	892,346	990,346	1,011,346	917,346	1,373,768
Citrus Commission	-	-	-	-	-
Children and Families	20,000	20,000	20,000	20,000	20,000
Economic Opportunities	-	-	-	21,000	-
Environmental Protection	141,135	141,135	301,135	141,135	515,288
Financial Services	790,217	869,417	790,217	1,833,523	1,240,217
Juvenile Justice	459,285	459,285	459,285	459,285	459,285
Law Enforcement	973,173	973,173	973,173	1,120,173	1,569,369
Military Affairs	253,678	849,678	897,178	743,809	363,678
Management Services	-	-	-	-	-
Education	100,000	100,000	100,000	100,000	100,000
Health	3,033,109	3,033,109	3,033,109	2,077,641	2,041,109
Lottery	177,070	340,000	340,000	1,205,000	340,000
Revenue	-	-	-	57,988	-
State	-	-	-	21,000	56,132
Transportation	4,210,602	4,270,602	4,210,602	4,210,602	4,245,602
Veterans' Affairs	-	-	391,299	-	23,750
Executive Office of the Governor	73,648	175,000	120,000	65,000	65,000
Florida Commission on Offender Review	-	-	-	-	-
Corrections	4,653	454,653	504,653	504,653	2,254,653
Fish and Wildlife Conservation Commission	12,500	600,177	438,707	12,500	12,500

Agency	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16
Highway Safety and Motor Vehicles	9,400,130	11,136,314	12,487,111	10,959,291	12,228,311
Justice Administration Commission	440,733	3,138,258	1,833,586	1,784,242	1,546,578
Northwood State Resource Center	-	-	-	-	-
Office of the Attorney General	257,478	257,478	257,478	257,478	300,000
Public Service Commission	72,055	72,055	-	50,538	-
School for the Deaf and Blind	-	-	-	-	-
TOTALS	**$21,411,812**	**$28,487,180**	**$29,211,637**	**$28,083,490**	**$31,546,405**

FLEET Management Business Case

The Fiscal Year 2013-2014 General Appropriations Act included $224,000 to fund a FLEET Management Business Case (Business Case). The DMS contracted with Mercury Associates, Inc., in July 2013 to identify the best options for managing the state's fleet and to document recommendations in a formal business case.[33] The Business Case presents a strategic review of fleet management activities in the state and contains an analysis report and recommendations for improving the performance and cost effectiveness of Florida's state-wide fleet operations. The program areas of focus included:

- Business Case
  - Background information;
  - Evaluation of options;
  - Information or recommended options; and
  - Cost benefit analysis.
- Review and recommend fleet options, management tools, policies and performance measure to support agency travel needs.
- Develop business and functional requirements for a Quality Assurance Program including a system for tracking key performance measures and controlling costs through accountability.
- Review and recommend the target size for the state fleet.[34]

The Business Case was completed in December 2013 and concluded that the FLEET system is the least capable system we [Mercury Associates, Inc.] have encountered in any of the 34 states they have reviewed.[35] As a consequence, much of the detailed data Mercury required to conduct this study was either not available or was only available at a summary level.[36] In addition, the Business Case identified 43 detailed recommendations. These recommendations were

[33] *See* https://www.justiceadmin.org/jac/Fleet_Management_Business_Case_Final.pdf (last visited December 17, 2015).
[34] Contract Between Florida Department of Management Services and Mercury Associates, Inc., Contract No.: DMS-12/13-008, FLEET Management Consulting Services, Attachment B-Scope of Work. *See* https://facts.fldfs.com/Search/ContractDetail.aspx?AgencyId=720000&ContractId=MP004
[35] *See* https://www.justiceadmin.org/jac/Fleet_Management_Business_Case_Final.pdf (last visited December 15, 2015).
[36] *Id.*

summarized into areas in the DMS's Legislative Budget Request, Schedule IV-B, and are summarized below:

- Fleet Administration - Expand the DMS role and increase staff resources to provide increased and centralized oversight, analysis, and services to manage the state's fleet.
- Fleet Management Information System - Replace the existing in-house developed system (FLEET) with a more robust, fully featured and user friendly, intuitive Commercial Off the Shelf (COTS) application that allows easy distribution of information to all fleet users, customers, and management in a real-time environment.
- Fleet Replacement and Financing - Centralize fleet replacement planning and budgeting in the DMS, identify optimal replacement cycles for key types of vehicles, develop a long-term fleet replacement planning program, and adopt leasing as the primary means of financing fleet renewal.
- Fleet Size and Utilization - Conduct a study to reduce the size of the fleet by eliminating low use vehicles, study the feasibility of establishing shared-use motor pool locations in Tallahassee, develop and implement an ongoing fleet utilization monitoring system, and mandate the use of charge-back rates as a financial incentive for agencies to maintain an optimized fleet size.
- Fleet Acquisition - Develop, formalize and document a policy and process for vehicle specification, solicitation and selection that incorporates best practice elements.
- Fleet Disposal - Conduct an analysis of the cost and benefits of employing various resale methods to dispose of vehicles. Use the results to establish core methods for various types of equipment. Formalize and document a policy and process for vehicle disposal that incorporates the best practice elements, including minimizing days to sale and return of funds to the agency fleet. Establish performance metrics to actively monitor and manage disposal outcomes.
- Fleet Maintenance and Repair - Open shops to all agencies; develop standards and consistent shop procedures; consolidate shops; outsource large shops and outsource all sublet repair to a maintenance service provider.
- Fleet Fueling - Review the current state contract for bulk fuel; complete a justification audit of all current sites; develop uniform pricing, chargeback and processing methods; develop and implement a fuel management program; establish electronic interface for fuel, mileage and repair data.[37]

III. Effect of Proposed Changes:

Section 1 requires the Department of Management Services (DMS) to prepare a plan for the creation, administration, and maintenance of a centralized fleet of state-owned motor vehicles. The DMS must submit the plan to the Governor, the President of the Senate, and the Speaker of the House of Representatives by November 1, 2017.

The plan must provide a method for:

[37] Fiscal Year 2016-2017, DMS LBR Manual Exhibits, Issue 4400600 Schedule IV-B page 204, document available on the Florida Fiscal portal at http://floridafiscalportal.state.fl.us/Document.aspx?ID=13920&DocType=PDF

- Using break-even mileage[38] in the assignment and administration of motor vehicles to state agencies and employees to determine when it becomes cost effective to the state to provide assigned motor vehicles to employees;
- Managing a fleet of motor vehicles for short-term use and shared-use motor vehicle pools;
- Developing a motor vehicle replacement plan and budget, which must take into account operating and maintenance costs of the centralized fleet;
- Purchasing motor vehicles necessary for the operation of the centralized fleet;
- Repairing and maintaining motor vehicles;
- Monitoring the use of motor vehicles and enforcing regulations regarding proper use;
- Maintaining records related to the operation and maintenance of motor vehicles and the administration of the fleet;
- Disposing of motor vehicles that are no longer needed or the use of which is not cost effective;
- Monitoring and managing motor vehicle disposal outcomes to determine the most cost-effective method of disposing fleet vehicles;
- Implementing a fuel management program and a standardized methodology for reporting fuel data;
- Determining when it would be cost-efficient to lease a motor vehicle from a third-party vendor instead of using a state-owned motor vehicle;
- Determining when it would be cost-efficient to use alternative fuel vehicles, electric vehicles, or extended-range electric vehicles or to lease or purchase such vehicles for fleet use; and
- Equipping fleet motor vehicles with real-time locational monitoring systems.

The DMS must evaluate the costs and benefits of operating and maintaining a centralized motor vehicle fleet compared to the costs and benefits of contracting with a third-party vendor for the operation and maintenance of a centralized motor vehicle fleet.

Section 2 provides that the bill shall take effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of a state tax shares with counties and municipalities.

[38] A breakeven analysis identifies the mileage at which vehicles should be purchased as opposed to the state agency reimbursing employees for work mileage in their personal vehicles. *See* http://www.dms.myflorida.com/content/download/98763/571269/Fleet_Management_Business_Case_Final.pdf (last visited Oct. 26, 2015). *Also, see* Office of Program Policy Analysis & Governmental Accountability, The Florida Legislature, *Centralizing Vehicle Fleet Operations and Implementing Cost-Saving Strategies Could Reduce State Spending, Report No. 11-16* (April 2011) (copy on file with the Governmental Oversight and Accountability Committee). DMS calculated that the breakeven point for assignment of a state-owned vehicle at 7,448 miles driven for a 2010 Ford Fusion, the type of vehicle most state employees require.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The fiscal impact of PCS/CS/SB 326 is indeterminate. It is unknown at this time if the DMS would utilize contract services or agency staff to develop the plan required in the bill.

C. Government Sector Impact:

The fiscal impact of the bill is indeterminate. The Legislature appropriated $224,000 during the 2013 Session for the FLEET Management Business Case (Business Case), which provided recommendations, a plan, costs and benefits, and implementation timelines. The plan required of the DMS by the bill may have a similar fiscal impact.

The plan required of the DMS, if implemented, may identify significant indeterminate cost-savings to the state comparable to costs and benefits provided in the Business Case. Based on the Business Case, opportunities to achieve cost savings include a five year cumulative benefit of implementing the operating best practice recommendations (estimated at $8.8 million annually) and right sizing recommendations (estimated at $2.1 million annually) that total $26.8 million in projected savings.[39]

According to the DMS, a thorough fiscal analysis of the costs associated with this bill cannot be conducted with the current Florida Equipment Electronic Tracking (FLEET) system.[40] The current FLEET system does not provide the granularity in data to assign costs to specific activities.[41] A new Fleet Management Information system is needed to extract key data elements, track performance, identify costs and provide reports[42] and has been requested in the agency's Fiscal Year 2016-2017 Legislative Budget Request for $1,761,243. The DMS has stated that it would need at least two years to collect the data

[39] *See* https://www.justiceadmin.org/jac/Fleet_Management_Business_Case_Final.pdf (last visited December 17, 2015).
[40] *See 2016 Department of Management Services Legislative Bill Analysis for SB 326*, September 24, 2015 (on file with Senate Appropriation Subcommittee on General Government) at 4.
[41] *Id.*
[42] *Id.*

necessary to provide the information requested in the plan, including the time necessary to complete the new system.[43]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates a new section of law that most likely will not be codified in the Florida Statutes because of its time-limited application.

IX. Additional Information:

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

Recommended CS/CS by Appropriations Subcommittee on General Government on February 11, 2016:
The committee substitute changes the date that the plan is to be submitted from November 1, 2016, to November 1, 2017, which allows the DMS an additional year to prepare the plan.

CS by Governmental Oversight and Accountability on November 17, 2015:
CS/SB 326 differs from SB 326 in the following way:

- The DMS centralized fleet management plan must provide methods for determining when it would be cost effective to use alternative fuel vehicles, electric vehicles, or extended-range electric vehicles or to lease or purchase such vehicles for fleet use rather than providing methods for determining when it would be cost effective to use alternative fuels or to lease or purchase alternative energy motor vehicles for fleet use.

B. Amendments:

None.

[43] FLEET Management Briefing with DMS staff on December 15, 2015.

474634

LEGISLATIVE ACTION

Senate . House

. . . . .

The Committee on Appropriations (Gaetz) recommended the following:

Senate Amendment (with title amendment)

Between lines 60 and 61
insert:
(4) For the 2016-2017 fiscal year, the sum of $225,000 in nonrecurring funds from the General Revenue Fund is appropriated to the Department of Management Services to implement the provisions of this act.

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

474634

And the title is amended as follows:

Delete line 9

and insert:

evaluations while developing the plan; providing an appropriation; providing an

576-03412-16

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on General Government)

A bill to be entitled

An act relating to state-owned motor vehicles; requiring the Department of Management Services to prepare a plan regarding the centralized management of state-owned motor vehicles; requiring the department to submit the plan to the Governor and the Legislature by a specified date; prescribing requirements for the plan; requiring the department to conduct certain evaluations while developing the plan; providing an effective date.

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

Section 1. Centralized fleet management plan.—

(1) The Department of Management Services shall prepare a plan regarding the creation, administration, and maintenance of a centralized fleet of state-owned motor vehicles. By November 1, 2017, the department shall submit the plan to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(2) The plan for centralizing all state-owned motor vehicles must provide a method for:

(a) Using break-even mileage in the assignment and administration of motor vehicles to state agencies and employees to determine when it becomes cost effective to the state to provide assigned motor vehicles to employees.

(b) Managing a fleet of motor vehicles for short-term use

576-03412-16

and shared-use motor vehicle pools.

(c) Developing a motor vehicle replacement plan and budget, which must take into account operating and maintenance costs of the centralized fleet.

(d) Purchasing motor vehicles necessary for the operation of the centralized fleet.

(e) Repairing and maintaining motor vehicles.

(f) Monitoring the use of motor vehicles and enforcing regulations regarding proper use.

(g) Maintaining records related to the operation and maintenance of motor vehicles and the administration of the fleet.

(h) Disposing of motor vehicles that are no longer needed or the use of which is not cost effective.

(i) Monitoring and managing motor vehicle disposal outcomes to determine the most cost-effective method of disposing fleet vehicles.

(j) Implementing a fuel management program and a standardized methodology for reporting fuel data.

(k) Determining when it would be cost-efficient to lease a motor vehicle from a third-party vendor instead of using a state-owned motor vehicle.

(l) Determining when it would be cost-efficient to use alternative fuel vehicles, electric vehicles, or extended-range electric vehicles or to lease or purchase such vehicles for fleet use.

(m) Equipping fleet motor vehicles with real-time locational monitoring systems.

(3) In developing the plan, the department shall evaluate

the costs and benefits of operating and maintaining a centralized motor vehicle fleet compared to the costs and benefits of contracting with a third-party vendor for the operation and maintenance of a centralized motor vehicle fleet.

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

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	CS/SB 326
INTRODUCER:	Governmental Oversight and Accountability Committee and Senator Brandes
SUBJECT:	State-owned Motor Vehicles
DATE:	March 2, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peacock	McVaney	GO	**Fav/CS**
2.	Davis	DeLoach	AGG	**Recommend: Fav/CS**
3.	Davis	Kynoch	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 326 requires the Department of Management Services (DMS) to prepare a plan regarding the centralized management of state-owned motor vehicles. The bill requires the DMS to submit the plan to the Governor, the President of the Senate, and the Speaker of the House of Representatives by November 1, 2016.

The DMS must evaluate the costs and benefits of operating and maintaining a centralized motor vehicle fleet compared to the costs and benefits of contracting with a third-party vendor for the operation and maintenance of a centralized motor vehicle fleet.

The bill has an indeterminate fiscal impact.

The bill takes effect upon becoming a law.

II. Present Situation:

Department of Management Services

One of the duties of the Department of Management Services (DMS) is to obtain the most effective and efficient use of motor vehicles, watercraft, and aircraft for state purposes.[1] Chapter 287, F.S., Part II: Means of Transport (ss. 287.14 – 297.20) governs the purchase or

[1] Section 287.16, F.S.

lease of motor vehicles.[2] Chapter 287, F.S., Part II, applies to motor vehicles, watercraft, and aircraft owned leased, or acquired in any manner by any state agency, or the judicial branch.[3] It is unlawful for a state officer or employee to authorize the purchase or continuous lease of any motor vehicle to be paid out of state funds or any agency funds unless such funds have been appropriated by the Legislature.[4] All motor vehicles purchased or leased must be in the subcompact class, with exceptions for law enforcement, towing, transportation of more than three adults or bulk material, and vehicles operated on unpaved roads.[5] Motor vehicles needed for an emergency or to meet unforeseen or emergency situations are allowed, if approved by the Executive Office of the Governor after consulting with the legislative appropriations committees.[6] Vehicles for which replacement funds have been appropriated may not be retained in service unless an emergency or major unforeseen need exits.[7] Any motor vehicle retained for this purpose must be reported to the Legislature in subsequent agency budget request documents that detail the specific justification for retention of each vehicle.[8] Motor vehicles may not be acquired on a deferred payment contract that requires payment of interest or its equivalent except when specifically approved by the Governor's Office in consultation with the legislative appropriations committees.[9]

A state agency must obtain prior approval from the DMS for purchasing, leasing, or acquiring any motor vehicle, watercraft, or aircraft of any type.[10] The DMS approval is not required for casual (short-term) lease of motor vehicles by state agencies.[11] Funding in the General Appropriations Act is not allowed for purchases of vehicles in excess of prices negotiated by the DMS.[12] Also, with the DMS approval, special authorization is given to the Department of Children and Families, the Agency for Persons with Disabilities, the Department of Health, the Department of Juvenile Justice, and the Department of Corrections to secure automobiles, trucks, tractors, and other automotive equipment for use at institutions, centers, residential facilities and county health departments under their respective jurisdictions.[13]

Use of state-owned or leased vehicles or aircraft is limited to travel necessary to carry out employee job assignments, official state business, security and emergency activity.[14] State employees whose duties are those of law enforcement[15] have more latitude in their use of state

[2] Section 287.14(2), F.S., defines the term "motor vehicle" as any automobile or light truck. Motor vehicle also includes any airplane or other vehicle designed primarily for transporting persons.
[3] Section 287.20, F.S.
[4] Section 287.14(3), F.S.
[5] Section 287.151(1), F.S.
[6] Section 287.14(3), F.S.
[7] Section 287.14(4), F.S.
[8] *Id*.
[9] Section 287.14(5), F.S.
[10] Section 287.15, F.S.
[11] *Id*.
[12] Section 287.151(2), F.S.
[13] Section 287.155, F.S.
[14] Section 287.17(2)(a)-(d), F.S.
[15] Section 943.10(1), F.S., defines the term "law enforcement officer" as any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time

owned or leased motor vehicles for official state business.[16] Use of a state owned or leased motor vehicle for commuting is prohibited unless special assignment is authorized as a prerequisite by the DMS, the vehicle is required after hours to perform position duties, or an employee's home is his or her official base of operations.[17] A state agency head may assign a motor vehicle to a state officer or employee only if the officer of employee is projected to drive the motor vehicle a minimum of 10,000 miles annually on state business, unless the agency head provides written justification for the need of the assignment of the motor vehicle.[18] Priority for vehicle assignment is given to those state employees who drive over 15,000 miles annually on state business.[19]

Bureau of Fleet Management

The Bureau of Fleet Management and Federal Property Assistance within the DMS provides oversight responsibility for the state's fleet of motor vehicles and mobile equipment, along with the federal surplus property program.[20] The Bureau of Fleet Management manages the purchase, operation, maintenance and disposal of the state's fleet of motor vehicles and watercraft.[21] The state's fleet includes approximately 25,000 units, consisting of automobiles and light trucks, medium and heavy trucks, aircraft, construction and industrial equipment, marine equipment (e.g., boats, airboats, boat engines, etc.), trailers, tractors and mowers, small utility, motorcycles and all-terrain vehicles.[22] The Division of Fleet Management determines the motor vehicles and watercraft included on state contracts, develops technical bid specifications and assists in evaluating contracts.

The Division of Fleet Management operates the Florida Equipment Electronic Tracking (FLEET) system, which provides the management, reporting and cost information required to effectively and efficiently manage the state's fleet and to account for equipment use and expenditures. The FLEET Online System:[23]

- Requires agencies to keep records and make reports regarding the effective and efficient use, operation, maintenance, repair and replacement of automobiles, light trucks, small and large (greater than 1 ton) vehicles and equipment designed primarily for transporting people and legal to operate on public roads, watercraft and aircraft; and
- Assures the efficient and safe use of motor vehicles and that they are used only for official state business.

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law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.

[16] Section 287.17(3)(b), F.S., provides that the term "official state business" shall be construed to permit the use of the vehicle during normal duty hours to and from lunch or meal breaks and incidental stops for personal errands, but not substantial deviations from official state business, if such use is at the direction of or with the permission of the agency head.

[17] Section 287.17(3)(a), F.S.

[18] Section 287.17(4)(a), F.S.

[19] *Id*.

[20] *See* http://www.dms.myflorida.com/business_operations/fleet_management_and_federal_property_assistance (last visited on Oct. 26, 2015).

[21] *See* http://www.dms.myflorida.com/business_operations/fleet_management_and_federal_property_assistance/fleet_management (last visited on Oct. 26, 2015). *Also, see* Chapters 60B-1(Motor Vehicles and Watercraft Acquisition, Assignment and Use) and 60B-3(Disposal of Motor Vehicles, Watercraft, and Aircraft), F.A.C.

[22] *See* http://www.dms.myflorida.com/business_operations/fleet_management_and_federal_property_assistance (last visited on Dec. 14, 2015).

[23] *Id*.

The goals of the Division of Fleet Management are to:[24]

- Ensure the state purchases quality and energy efficient motor vehicles, equipment and watercraft;
- Achieve maximum feasible return from disposal of used and surplus equipment;
- Return surplus equipment to governmental service when practical;
- Restrict use of state equipment to official state business;
- Provide management reports and data required to properly manage state fleet; and
- Provide reports to assure accountability of equipment expenditures and use.

Climate-Friendly Public Business Provisions

Section 286.29, F.S., outlines climate-friendly public business provisions required by state agencies. Some of these practices include requiring all state agencies to ensure that all maintained vehicles meet minimum maintenance schedules shown to reduce fuel consumption.[25] Each agency must measure and report compliance to the DMS through the Equipment Management Information System database.[26] Also, state agencies, universities, community colleges, and local governments that purchase motor vehicles under a state purchasing plan are required to define the intended purpose of vehicle and use class for which vehicle is being procured.[27] Additionally, all state agencies must use ethanol and biodiesel blended fuels when available.[28] State agencies with central fueling operations for state-owned vehicles must procure biofuels for fleet needs to the greatest extent practicable.[29]

State Agency Fleets

Table 1 shows the various fleets of state agencies. Some state agencies report heavy equipment in the FLEET system, but the DMS cannot state definitively that this data accurately reflects all heavy equipment owned or leased by state agencies.[30] The list of aircraft in Table 1 also is not complete as some agencies with aircraft do not document this data in the FLEET system.[31] The DMS is in the process of requiring all state agencies to report their inventory of aircraft in the FLEET system.[32] Table 2 shows the funds appropriated to the various agencies for the purchase of vehicles during the last five fiscal years.

[24] *Id*.
[25] Section 286.26(3), F.S.
[26] *Id*.
[27] Section 286.29(4), F.S.
[28] Section 286.29(5), F.S.
[29] *Id*.
[30] E-mail from Ricky Moulton, Deputy Director of Legislative Affairs, DMS, dated November 5, 2015 (copy of e-mail on file with the Governmental and Accountability Committee).
[31] *Id*.
[32] *Id*.

Table 1. Agency Fleets

Agency	Vehicles	Aircraft	Water-craft	Heavy Equipment	Other*
First District Court of Appeals	1	-	-	-	-
Agriculture and Consumer Services	2,694	26	32	539	1,121
Agency for Health Care Administration	1	-	-	-	-
Agency for Persons with Disabilities	333	-	1	-	-
Business and Professional Regulation	510	-	-	-	-
Citrus Commission	1	-	-	-	-
Children and Families	511	-	-	-	-
Economic Opportunities	5	-	-	-	-
Environmental Protection	1,148	-	84	10	256
Financial Services	522	-	-	7	55
Juvenile Justice	557	-	-	-	14
Law Enforcement	662	3	-	-	-
Military Affairs	110	-	-	-	-
Management Services	74	-	-	-	3
Education	43	-	-	-	-
Health	379	-	-	-	-
Lottery	204	-	-	2	-
Revenue	15	-	-	2	-
State	24	-	3	-	-
Transportation	3,249	1	51	888	712
Veterans' Affairs	19	-	-	-	-
Executive Office of the Governor	26	-	-	-	-
Florida Commission on Offender Review	2	-	-	-	-
Corrections	2,932	-	-	22	158
Fish and Wildlife Conservation Commission	1,821	-	827	43	158
Highway Safety and Motor Vehicles	2,921	9	-	29	129
Justice Administration Commission	604	-	-	-	-
Northwood State Resource Center	1	-	-	-	-
Office of the Attorney General	135	-	-	-	-
Public Service Commission	25	-	-	-	-
School for the Deaf and Blind	45	-	-	-	-
TOTALS	**19,574**	**39**	**998**	**1,542**	**2,606**
*Other includes tractors, trailers, mowers, all-terrain vehicles, etc.					

Table 2. Five year history of appropriations relating to vehicle acquisition and replacement.

Agency	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16
First District Court of Appeals	-	-	-	-	-
Agriculture and Consumer Services	100,000	606,500	1,042,758	1,521,286	2,791,165
Agency for Health Care Administration	-	-	-	-	-
Agency for Persons with Disabilities	-	-	-	-	-
Business and Professional Regulation	892,346	990,346	1,011,346	917,346	1,373,768
Citrus Commission	-	-	-	-	-
Children and Families	20,000	20,000	20,000	20,000	20,000
Economic Opportunities	-	-	-	21,000	-
Environmental Protection	141,135	141,135	301,135	141,135	515,288
Financial Services	790,217	869,417	790,217	1,833,523	1,240,217
Juvenile Justice	459,285	459,285	459,285	459,285	459,285
Law Enforcement	973,173	973,173	973,173	1,120,173	1,569,369
Military Affairs	253,678	849,678	897,178	743,809	363,678
Management Services	-	-	-	-	-
Education	100,000	100,000	100,000	100,000	100,000
Health	3,033,109	3,033,109	3,033,109	2,077,641	2,041,109
Lottery	177,070	340,000	340,000	1,205,000	340,000
Revenue	-	-	-	57,988	-
State	-	-	-	21,000	56,132
Transportation	4,210,602	4,270,602	4,210,602	4,210,602	4,245,602
Veterans' Affairs	-	-	391,299	-	23,750
Executive Office of the Governor	73,648	175,000	120,000	65,000	65,000
Florida Commission on Offender Review	-	-	-	-	-
Corrections	4,653	454,653	504,653	504,653	2,254,653
Fish and Wildlife Conservation Commission	12,500	600,177	438,707	12,500	12,500
Highway Safety and Motor Vehicles	9,400,130	11,136,314	12,487,111	10,959,291	12,228,311
Justice Administration Commission	440,733	3,138,258	1,833,586	1,784,242	1,546,578

Agency	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16
Northwood State Resource Center	-	-	-	-	-
Office of the Attorney General	257,478	257,478	257,478	257,478	300,000
Public Service Commission	72,055	72,055	-	50,538	-
School for the Deaf and Blind	-	-	-	-	-
TOTALS	**$21,411,812**	**$28,487,180**	**$29,211,637**	**$28,083,490**	**$31,546,405**

FLEET Management Business Case

The Fiscal Year 2013-2014 General Appropriations Act included $224,000 to fund a FLEET Management Business Case (Business Case). The DMS contracted with Mercury Associates, Inc., in July 2013 to identify the best options for managing the state's fleet and to document recommendations in a formal business case.[33] The Business Case presents a strategic review of fleet management activities in the state and contains an analysis report and recommendations for improving the performance and cost effectiveness of Florida's state-wide fleet operations. The program areas of focus included:

- Business Case
  - Background information;
  - Evaluation of options;
  - Information or recommended options; and
  - Cost benefit analysis.
- Review and recommend fleet options, management tools, policies and performance measure to support agency travel needs.
- Develop business and functional requirements for a Quality Assurance Program including a system for tracking key performance measures and controlling costs through accountability.
- Review and recommend the target size for the state fleet.[34]

The Business Case was completed in December 2013 and concluded that the FLEET system is the least capable system we [Mercury Associates, Inc.] have encountered in any of the 34 states they have reviewed.[35] As a consequence, much of the detailed data Mercury required to conduct this study was either not available or was only available at a summary level.[36] In addition, the Business Case identified 43 detailed recommendations. These recommendations were summarized into areas in the DMS's Legislative Budget Request, Schedule IV-B, and are summarized below:

- Fleet Administration - Expand the DMS role and increase staff resources to provide increased and centralized oversight, analysis, and services to manage the state's fleet.

[33] *See* https://www.justiceadmin.org/jac/Fleet_Management_Business_Case_Final.pdf (last visited December 17, 2015).
[34] Contract Between Florida Department of Management Services and Mercury Associates, Inc., Contract No.: DMS-12/13-008, FLEET Management Consulting Services, Attachment B-Scope of Work. *See* https://facts.fldfs.com/Search/ContractDetail.aspx?AgencyId=720000&ContractId=MP004
[35] *See* https://www.justiceadmin.org/jac/Fleet_Management_Business_Case_Final.pdf (last visited December 15, 2015).
[36] *Id.*

- Fleet Management Information System - Replace the existing in-house developed system (FLEET) with a more robust, fully featured and user friendly, intuitive Commercial Off the Shelf (COTS) application that allows easy distribution of information to all fleet users, customers, and management in a real-time environment.
- Fleet Replacement and Financing - Centralize fleet replacement planning and budgeting in the DMS, identify optimal replacement cycles for key types of vehicles, develop a long-term fleet replacement planning program, and adopt leasing as the primary means of financing fleet renewal.
- Fleet Size and Utilization - Conduct a study to reduce the size of the fleet by eliminating low use vehicles, study the feasibility of establishing shared-use motor pool locations in Tallahassee, develop and implement an ongoing fleet utilization monitoring system, and mandate the use of charge-back rates as a financial incentive for agencies to maintain an optimized fleet size.
- Fleet Acquisition - Develop, formalize and document a policy and process for vehicle specification, solicitation and selection that incorporates best practice elements.
- Fleet Disposal - Conduct an analysis of the cost and benefits of employing various resale methods to dispose of vehicles. Use the results to establish core methods for various types of equipment. Formalize and document a policy and process for vehicle disposal that incorporates the best practice elements, including minimizing days to sale and return of funds to the agency fleet. Establish performance metrics to actively monitor and manage disposal outcomes.
- Fleet Maintenance and Repair - Open shops to all agencies; develop standards and consistent shop procedures; consolidate shops; outsource large shops and outsource all sublet repair to a maintenance service provider.
- Fleet Fueling - Review the current state contract for bulk fuel; complete a justification audit of all current sites; develop uniform pricing, chargeback and processing methods; develop and implement a fuel management program; establish electronic interface for fuel, mileage and repair data.[37]

III. Effect of Proposed Changes:

Section 1 requires the Department of Management Services (DMS) to prepare a plan for the creation, administration, and maintenance of a centralized fleet of state-owned motor vehicles. The DMS must submit the plan to the Governor, the President of the Senate, and the Speaker of the House of Representatives by November 1, 2016.

The plan must provide a method for:

- Using break-even mileage[38] in the assignment and administration of motor vehicles to state agencies and employees to determine when it becomes cost effective to the state to provide assigned motor vehicles to employees;

[37] Fiscal Year 2016-2017, DMS LBR Manual Exhibits, Issue 4400600 Schedule IV-B page 204, document available on the Florida Fiscal portal at http://floridafiscalportal.state.fl.us/Document.aspx?ID=13920&DocType=PDF

[38] A breakeven analysis identifies the mileage at which vehicles should be purchased as opposed to the state agency reimbursing employees for work mileage in their personal vehicles. *See* http://www.dms.myflorida.com/content/download/98763/571269/Fleet_Management_Business_Case_Final.pdf (last visited Oct. 26, 2015). *Also, see* Office of Program Policy Analysis & Governmental Accountability, The Florida Legislature, *Centralizing Vehicle Fleet Operations and Implementing Cost-Saving Strategies Could Reduce State Spending, Report No.*

- Managing a fleet of motor vehicles for short-term use and shared-use motor vehicle pools;
- Developing a motor vehicle replacement plan and budget, which must take into account operating and maintenance costs of the centralized fleet;
- Purchasing motor vehicles necessary for the operation of the centralized fleet;
- Repairing and maintaining motor vehicles;
- Monitoring the use of motor vehicles and enforcing regulations regarding proper use;
- Maintaining records related to the operation and maintenance of motor vehicles and the administration of the fleet;
- Disposing of motor vehicles that are no longer needed or the use of which is not cost effective;
- Monitoring and managing motor vehicle disposal outcomes to determine the most cost-effective method of disposing fleet vehicles;
- Implementing a fuel management program and a standardized methodology for reporting fuel data;
- Determining when it would be cost-efficient to lease a motor vehicle from a third-party vendor instead of using a state-owned motor vehicle;
- Determining when it would be cost-efficient to use alternative fuel vehicles, electric vehicles, or extended-range electric vehicles or to lease or purchase such vehicles for fleet use; and
- Equipping fleet motor vehicles with real-time locational monitoring systems.

The DMS must evaluate the costs and benefits of operating and maintaining a centralized motor vehicle fleet compared to the costs and benefits of contracting with a third-party vendor for the operation and maintenance of a centralized motor vehicle fleet.

Section 2 provides that the bill shall take effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of a state tax shares with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

11-16 (April 2011) (copy on file with the Governmental Oversight and Accountability Committee). DMS calculated that the breakeven point for assignment of a state-owned vehicle at 7,448 miles driven for a 2010 Ford Fusion, the type of vehicle most state employees require.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The fiscal impact of CS/SB 326 is indeterminate. It is unknown at this time if the DMS would utilize contract services or agency staff to develop the plan required in the bill.

C. Government Sector Impact:

The fiscal impact of the bill is indeterminate. The Legislature appropriated $224,000 during the 2013 Session for the FLEET Management Business Case (Business Case), which provided recommendations, a plan, costs and benefits, and implementation timelines. The plan required of the DMS by the bill may have a similar fiscal impact.

The plan required of the DMS, if implemented, may identify significant indeterminate cost-savings to the state comparable to costs and benefits provided in the Business Case. Based on the Business Case, opportunities to achieve cost savings include a five year cumulative benefit of implementing the operating best practice recommendations (estimated at $8.8 million annually) and right sizing recommendations (estimated at $2.1 million annually) that total $26.8 million in projected savings.[39]

According to the DMS, a thorough fiscal analysis of the costs associated with this bill cannot be conducted with the current Florida Equipment Electronic Tracking (FLEET) system.[40] The current FLEET system does not provide the granularity in data to assign costs to specific activities.[41] A new Fleet Management Information system is needed to extract key data elements, track performance, identify costs and provide reports[42] and has been requested in the agency's Fiscal Year 2016-2017 Legislative Budget Request for $1,761,242. The DMS has stated that it would need at least two years to collect the data necessary to provide the information requested in the plan, including the time necessary to complete the new system.[43]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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[39] *See* https://www.justiceadmin.org/jac/Fleet_Management_Business_Case_Final.pdf (last visited December 17, 2015).
[40] *See 2016 Department of Management Services Legislative Bill Analysis for SB 326,* September 24, 2015 (on file with Senate Appropriation Subcommittee on General Government) at 4.
[41] *Id.*
[42] *Id.*
[43] FLEET Management Briefing with DMS staff on December 15, 2015.

VIII. Statutes Affected:

This bill creates a new section of law that most likely will not be codified in the Florida Statutes because of its time-limited application.

IX. Additional Information:

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

CS by Governmental Oversight and Accountability on November 17, 2015:
CS/SB 326 differs from SB 326 in the following way:

- The DMS centralized fleet management plan must provide methods for determining when it would be cost effective to use alternative fuel vehicles, electric vehicles, or extended-range electric vehicles or to lease or purchase such vehicles for fleet use rather than providing methods for determining when it would be cost effective to use alternative fuels or to lease or purchase alternative energy motor vehicles for fleet use.

B. Amendments:

None.

467238

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/02/2016	.	
	.	
	.	
	.	

The Committee on Appropriations (Gaetz) recommended the following:

Senate Amendment (with title amendment)

Between lines 60 and 61
insert:
(4) For the 2016-2017 fiscal year, the sum of $225,000 in nonrecurring funds from the General Revenue Fund is appropriated to the Department of Management Services to implement the provisions of this act.

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

467238

And the title is amended as follows:

Delete line 9

and insert:

evaluations while developing the plan; providing an appropriation; providing an

By the Committee on Governmental Oversight and Accountability; and Senator Brandes

585-01304-16 2016326c1

A bill to be entitled

An act relating to state-owned motor vehicles; requiring the Department of Management Services to prepare a plan regarding the centralized management of state-owned motor vehicles; requiring the department to submit the plan to the Governor and the Legislature by a specified date; prescribing requirements for the plan; requiring the department to conduct certain evaluations while developing the plan; providing an effective date.

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

Section 1. Centralized fleet management plan.—

(1) The Department of Management Services shall prepare a plan regarding the creation, administration, and maintenance of a centralized fleet of state-owned motor vehicles. By November 1, 2016, the department shall submit the plan to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(2) The plan for centralizing all state-owned motor vehicles must provide a method for:

(a) Using break-even mileage in the assignment and administration of motor vehicles to state agencies and employees to determine when it becomes cost effective to the state to provide assigned motor vehicles to employees.

(b) Managing a fleet of motor vehicles for short-term use and shared-use motor vehicle pools.

(c) Developing a motor vehicle replacement plan and budget,

585-01304-16 2016326c1

which must take into account operating and maintenance costs of the centralized fleet.

(d) Purchasing motor vehicles necessary for the operation of the centralized fleet.

(e) Repairing and maintaining motor vehicles.

(f) Monitoring the use of motor vehicles and enforcing regulations regarding proper use.

(g) Maintaining records related to the operation and maintenance of motor vehicles and the administration of the fleet.

(h) Disposing of motor vehicles that are no longer needed or the use of which is not cost effective.

(i) Monitoring and managing motor vehicle disposal outcomes to determine the most cost-effective method of disposing fleet vehicles.

(j) Implementing a fuel management program and a standardized methodology for reporting fuel data.

(k) Determining when it would be cost-efficient to lease a motor vehicle from a third-party vendor instead of using a state-owned motor vehicle.

(l) Determining when it would be cost-efficient to use alternative fuel vehicles, electric vehicles, or extended-range electric vehicles or to lease or purchase such vehicles for fleet use.

(m) Equipping fleet motor vehicles with real-time locational monitoring systems.

(3) In developing the plan, the department shall evaluate the costs and benefits of operating and maintaining a centralized motor vehicle fleet compared to the costs and

benefits of contracting with a third-party vendor for the operation and maintenance of a centralized motor vehicle fleet.

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

The Florida Senate

Committee Agenda Request

To: Senator Tom Lee, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 11, 2016

I respectfully request that **Senate Bill #326**, relating to **State-owned Motor Vehicles**, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Senator Jeff Brandes
Florida Senate, District 22

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/2016
Meeting Date

Topic _____ Bill Number SB 326 *(if applicable)*

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

Job Title TRUSTEE

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

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

Speaking: ☑ For (in part) ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

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

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

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

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	PCS/CS/SB 604 (907278)
INTRODUCER:	Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services); Judiciary Committee; and Senator Diaz de la Portilla and others
SUBJECT:	Mental Health Services in the Criminal Justice System
DATE:	March 2, 2016 REVISED: 3/3/16

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	C. Brown	Cibula	JU	**Fav/CS**
2.	A. Brown	Pigott	AHS	**Recommend: Fav/CS**
3.	A. Brown	Kynoch	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 604 expands the authority of courts to use treatment-based mental health and substance abuse treatment programs and specifies minimum requirements of those programs. Among the changes in the bill, the bill expands the eligibility criteria for these programs to enable the participation of children in delinquency court and veterans who were released under a general discharge. The bill authorizes dependency courts to require persons having or seeking custody of a child to participate in certain mental health programs. Other provisions of the bill address the designation of some county courts as "criminal county courts" for certain functions, county-funded mental health court programs and a forensic hospital diversion pilot program.

The bill encourages counties to establish and fund treatment-based mental health court programs. The bill also authorizes courts to admit defendants, on a voluntary basis, at both the pretrial intervention and post-adjudicatory level into the programs. The bill further encourages coordination among various state agencies, local government, and law enforcement agencies to facilitate these programs.

Contingent upon an appropriation by the Legislature, each judicial circuit must establish at least one coordinator position for treatment-based mental health court programs. Each judicial circuit must annually report data on the program to the Office of the State Courts Administrator (OSCA) for purposes of program evaluation.

The bill creates the Forensic Hospital Diversion Pilot Program, which replicates the model of the Miami-Dade Forensic Alternative Center in three additional counties. In addition to Miami-Dade, the Department of Children and Families (DCF) may implement the program in Escambia, Hillsborough, and Okaloosa counties. The purpose of the program is to divert incarcerated defendants found mentally incompetent to proceed, or not guilty by reason of insanity, into a therapeutic setting that offers beds and community outpatient treatment.

Implementation of some components of the bill are contingent upon appropriations or sufficient existing resources. The cost to implement the pilot program is $6.4 million, but the bill specifies that the pilot program may be implemented if existing resources are available on a recurring basis. Additionally, the cost of employing at least one mental health coordinator in each county, as authorized by the bill, would require significant funding, but this provision is contingent on an annual appropriation by the Legislature. See Section V.

The bill is effective on July 1, 2016.

II. Present Situation:

Problem-solving Courts

A problem-solving court is a type of specialty court designed to address specific needs of a defendant, including:

- Drug courts;
- Veterans' courts; and
- Mental health courts.[1]

A veteran is defined as a person who served in the active military, naval, or air service and who was discharged or released under honorable conditions only, or who later received an upgraded discharge under honorable conditions.[2]

Both pretrial intervention and post-adjudicatory cases may be referred to a problem-solving court.[3] A defendant who is eligible to participate in a problem-solving court may request that the court transfer the case to another county to receive treatment.[4]

Across the state:

- 17 counties operate felony veterans' courts;
- 38 counties operate felony drug courts; and
- 18 counties operate mental health courts.[5]

Offenders sentenced in problem-solving courts to felony probation are supervised by Department of Corrections' probation officers.

[1] Section 910.035(5)(a), F.S.
[2] Section 1.01(14), F.S.
[3] Section 910.35(5)(d)1. and 2., F.S.
[4] Section 910.35(5)(b), F.S.
[5] Department of Corrections, *2016 Agency Legislative Bill Analysis* (Nov. 12, 2015) (on file with the Senate Committee on Judiciary).

Pre-trial Intervention in Criminal Cases

The Department of Corrections (DOC) supervises pretrial intervention programs for defendants who have criminal charges pending. Pretrial intervention is available to defendants who are charged with a misdemeanor or third degree felony as a first offense or who have previously committed one nonviolent misdemeanor.[6]

Before a case may be transferred to another county, the following is required:
- Approval from the administrator of the pretrial intervention program, a victim, the state attorney, and the judge who presided at the initial first appearance of the defendant;
- Voluntary and written agreement from the defendant; and
- Knowing and intelligent waiver of speedy trial rights from the defendant during the term of diversion.[7]

While a defendant is in the program, criminal charges remain pending. If the defendant fails to successfully complete the program, the program administrator may recommend further supervision or the state attorney may resume prosecution of the case. The defendant does not have the right to a public defender unless the defendant is subject to incarceration if convicted.[8] If the defendant successfully completes the program, the program administrator may recommend that charges be dismissed without prejudice.[9]

The purpose of pretrial intervention is to offer eligible defendants a sentencing alternative in the form of counseling, education, supervision, and medical and psychological treatment as appropriate.[10]

Veterans Programs and Courts for Criminal Offenders

The Use of Veterans' Courts Nationally

A 2012 national survey found that 71 percent of participants in veterans' courts had experienced trauma while serving in the military.[11] More recently in 2014, a veterans' court report found that 46 percent of participants were diagnosed with substance abuse and mental health problems.

Veterans' courts are modeled after other specialty courts, such as drug courts and mental health courts. The goal of specialty courts is to provide treatment interventions to resolve underlying causes of criminal behavior to "reintegrate court participants into society, reduce future involvement with the criminal justice system, and promote public safety."[12]

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[6] A misdemeanor is punishable by up to a 1 year term in a county jail and a $500 to a $1,000 fine. Sections 775.08(2) and 775.083(1)(d) and (e), F.S. A felony is punishable by a minimum of more than a 1 year term of imprisonment in a state penitentiary and fines that range from $5,000 to $15,000. Sections 775.08(1) and 775.083(1)(a) through (d), F.S.
[7] Section 948.08 (2), F.S.
[8] Section 948.08(3) and (4), F.S.
[9] Section 948.08(5), F.S. If a case is dismissed without prejudice, the case can be refiled at a later time.
[10] Section 948.08(1), F.S.
[11] Office of Program Policy Analysis & Government Accountability, Research Memorandum, *State-Funded Veterans' Courts in Florida*, pg. 1 (Jan. 30, 2015).
[12] *Id*.

Like other specialty courts, veterans' courts require the defendant to appear before the court over a specified period of time. On average, it takes 12 to 18 months for a veterans' court to dispose of a case.[13]

Veterans' Courts in Florida Law

The 2012 Florida Legislature placed into law the "T. Patt Maney Veterans' Treatment Intervention Act."[14] The law:

- Recognizes veterans' courts;
- Requires courts to hold a pre-sentencing hearing if a combat veteran alleges military-related injury, to determine if the defendant suffers from certain conditions, such as post-traumatic stress disorder, a traumatic brain injury, or a substance abuse disorder due to military service;
- Establishes pretrial and post-adjudication intervention programs for combat veterans having pending criminal charges or convictions; and
- Enables counties to establish programs to divert eligible defendants who are veterans into treatment programs.

Veterans' Courts

The chief judge of a judicial circuit may establish a Military Veterans and Service Members Court Program to serve the special needs of veterans and service members who are convicted of criminal offenses.[15] In sentencing defendants, these specialty courts will consider whether military-related conditions, such as mental illness, traumatic brain injury, or substance abuse can be addressed through programs designed to serve the specific needs of the participant.[16]

Pre-trial Intervention Programs

Veterans charged with misdemeanors[17] or felonies[18] may be eligible to participate in diversion programs. However, veterans must not be charged with a disqualifying felony offense. Disqualifying offenses are serious felony offenses and include:

- Kidnapping and attempted kidnapping;
- Murder or attempted murder;
- Aggravated battery or attempted aggravated battery;
- Sexual battery or attempted sexual battery;
- Lewd or lascivious battery and certain other sexual offenses against children;
- Robbery or attempted robbery;
- Burglary or attempted burglary;
- Aggravated assault;

[13] *Id.*
[14] Senate Bill 138 (ch. 2012-159, Laws of Fla.).
[15] Section 1.01(14), F.S., defines a veteran as a person who served in active military, naval, or air service who was discharged or released under honorable conditions or who later received an upgraded discharge under honorable conditions. A servicemember is defined as a person serving as a member of the United States Armed Forces on active duty or state active duty and members of the Florida National Guard and United States Reserve Forces. Section 250.01(19), F.S.
[16] The authority for Veterans' Courts Programs is in ch. 394, F.S., which addresses mental health. Section 394.47891, F.S.
[17] Section 948.16 (2)(a), F.S., establishes the misdemeanor pretrial veterans' treatment intervention program.
[18] Section 948.08(7)(a), F.S., authorizes courts to consider veterans charged with non-disqualifying felonies for pretrial veterans' treatment intervention programs.

- Aggravated stalking; and
- Treason.[19]

Prior to a veteran's placement in a program, a veterans' treatment intervention team must develop an individualized coordinated strategy for the veteran. The team must present the coordinated strategy to the veteran in writing before he or she agrees to enter the program. The strategy is modeled after the 10 therapeutic jurisprudence principles and key components for treatment-based drug court programs.[20]

During the time that the defendant is allotted participation in the treatment program, the court retains jurisdiction in the case. At the end of the program, the court considers recommendations for disposition by the state attorney and the program administrator. If the veteran successfully completes the treatment program, the court must dismiss the criminal charges. If the court finds that the veteran did not successfully complete the program, the court can either order the veteran to continue in education and treatment or authorize the state attorney to proceed with prosecution.

Eligible veterans who successfully complete the diversion program may petition the court to order the expunction of the arrest record and the plea.

Post-adjudication Treatment Programs

Veterans and service members[21] on probation or community control who committed a crime on or after July 1, 2012, and who suffer from a military-related mental illness, a traumatic brain injury, or a substance abuse disorder, may also qualify for treatment programs. A court may impose, as a condition of probation or community control, successful completion of a mental health or substance abuse treatment program.[22]

Forensic Facilities and Mental Health Treatment for Criminal Defendants

State Forensic System

Chapter 916, F.S., governs secure forensic facilities that are under the jurisdiction of the Department of Children and Families (DCF). The state forensic system is a network of state facilities and community services for persons who have mental health issues and who are involved with the criminal justice system.

[19] Section 948.06(8)(c), F.S.
[20] Section 948.08(7)(b), F.S., requires a coordinated strategy for veterans charged with felonies who are participating in pretrial intervention programs. Section 948.16(2)(b), F.S., requires a coordinated strategy for veterans charged with misdemeanors. Section 397.334(4), F.S., requires treatment based court programs to include therapeutic jurisprudence principles and components recognized by the United States Department of Justice and adopted by the Florida Supreme Court Treatment-based Drug Court Steering Committee.
[21] Section 1.01(14), F.S., defines a veteran as a person who served in active military, naval, or air service who was discharged or released under honorable conditions or who later received an upgraded discharge under honorable conditions. A servicemember is defined as a person serving as a member of the United States Armed Forces on active duty or state active duty and members of the Florida National Guard and United States Reserve Forces. (Section 250.01(19), F.S.).
[22] Section 948.21, F.S.

Two types of mentally ill defendants charged with felonies are eligible for involuntary commitment:

- Persons found incompetent to proceed[23] to trial or the entry of a plea; and
- Persons found not guilty by reason of insanity.[24]

Forensic treatment is provided in the following settings:

- Separate and secure forensic facilities;
- Civil facilities; and
- Community residential programs or other community settings.

Circuit courts have the option of committing a person to a facility or releasing the person on conditional release.[25] Conditional release is release into the community, accompanied by outpatient care and treatment.[26] The committing court retains jurisdiction over the defendant while the defendant is either under involuntary commitment or conditional release.[27]

The DCF oversees two state-operated facilities, Florida State Hospital and North Florida Evaluation and Treatment Center, and two privately-operated, maximum-security forensic treatment facilities, South Florida Evaluation and Treatment Center and Treasure Coast Treatment Center. In the 2011-2012 fiscal year, the appropriation for state forensic facilities was $139 million from the General Revenue Fund.[28]

Miami-Dade Forensic Alternative Center

The Miami-Dade Forensic Alternative Center (MDFAC) opened in 2009 as a community-based, forensic commitment program. The MDFAC serves adults who have lesser felony offenses and are not a danger to the community.[29] The MDFAC provides competency restoration and a continuum of care during commitment and after reentry into the community.[30] The MDFAC currently operates a 16-bed facility at a daily cost of $284.81 per bed.[31]

III. Effect of Proposed Changes:

This bill expands the authority of courts to use treatment-based mental health and substance abuse treatment programs and specifies minimum requirements of those programs. The premise of the bill is that some who become involved with the criminal justice system are less likely to become involved in the future if they receive treatment for mental health or substance abuse issues.

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[23] Mental incompetence to proceed is defined in s. 916.12(1), F.S.
[24] Section 916.105(1), F.S.; The Florida Rules of Criminal Procedure define what is meant by "not guilty by reason of insanity," rather than the statutes. Section 916.15(1), F.S.
[25] Section 916.17(1), F.S.
[26] *Id*.
[27] Section 916.16(1), F.S.
[28] Budget Subcommittee on Health and Human Services Appropriations, The Florida Senate, *Interim Report 2012-108, The Forensic Mental Health System* (Sept. 2011).
[29] Department of Children and Families (DCF), *2016 Agency Legislative Bill Analysis* (Nov. 13, 2015) (on file with the Senate Committee on Judiciary).
[30] The Florida Senate, *supra* note 28.
[31] DCF, *supra* note 29, at 2.

Judicial Proceedings Relating to Children

The bill amends legislative findings and intent under s. 39.001, F.S., for mental health treatment to be included in dependency court services and for the state to contract with mental health service providers for such services.

The bill amends s. 39.507, F.S., to allow a dependency court to:
- Order a person requesting custody of a child to submit to a mental health or substance abuse disorder assessment or evaluation;
- Require participation of such person in a mental health court program or a treatment-based drug court program; and
- Oversee the progress and compliance with treatment by the person who has custody or is requesting custody of a child.

The bill amends s. 39.521, F.S., to authorize a court, with jurisdiction over a child that has been adjudicated dependent, to:
- Require the person who has custody or is requesting custody of the child to submit to a mental health or substance abuse disorder assessment or evaluation;
- Require the person to participate in and comply with a mental health court program or drug court program, and
- Oversee the progress and compliance by the person who has custody or is requesting custody of a child.

Involuntary Outpatient Placement

The bill amends s. 394.4655, F.S., relating to involuntary outpatient placement for mental health services, to define "court" to mean a circuit court or a criminal county court. The bill also defines "criminal county court" to mean a county court exercising its original jurisdiction in a misdemeanor case under s. 34.01, F.S.

Under the bill, if a person has been ordered into involuntary outpatient placement and continues to meet the criteria for such placement, the mental health service provider with which the person has been placed must file a petition for continued involuntary outpatient placement in the court that issued the order for placement, and hearings on those petitions will be held by the court that issued the order for placement. Under current law, such petitions must be filed in circuit court and the hearings must be held by the circuit court.

The bill amends ss. 394.4599, 394.463, 394.455, 394.4615, and 790.065, F.S., to conform those sections to the functions of a criminal county court versus a circuit court or to update cross-references to changes made in the bill.

Eligibility for Participation in a Problem-Solving Court

The bill expands the population who may be served through a problem-solving court to include children who are enrolled in delinquency pretrial intervention programs.

The bill clarifies that:
- Service members are eligible to participate in problem-solving courts; and
- Veterans and service members may participate in a Military Veterans and Service Members Court Program as part of a pretrial intervention program.

Under current law, a veterans' court serves veterans who have been released from military service through an honorable discharge. The bill makes veterans who have been discharged or released under a less than honorable discharge also eligible to participate in veterans' court.

Treatment-based Mental Health Court Programs

Creation of the Treatment-based Mental Health Court Program

This bill authorizes counties to establish and fund treatment-based mental health court programs. The program facilitates the provision of therapeutic mental health treatment for persons who have mental health issues who are in the criminal justice system. Participation by defendants is voluntary.

The program may apply to:
- Pretrial intervention programs;
- Post-adjudicatory treatment-based mental health court programs; and
- Court review of the status of compliance or noncompliance of sentenced defendants.

In determining the suitability of a post-adjudicatory treatment-based mental health court program, for a particular defendant, the court must review the defendant's:
- Criminal history;
- Mental health screening outcome;
- Amenability to services of the program;
- Total sentence points; and
- Agreement to enter the program.

The court must also consider the recommendation of the state attorney and the victim.

If a defendant sentenced to a post-adjudicatory mental health court program is charged with a violation of probation or community control while in the program, the judge of the program will hear the violation of probation or community control case.

This bill encourages coordination among various state agencies, local government, and law enforcement agencies to establish and support these programs.

Contingent upon an appropriation by the Legislature, each judicial circuit is required to establish at least one coordinator position for the treatment-based mental health court program to coordinate responsibilities of participating agencies and service providers. The bill requires mental health court programs to collect client-level data and programmatic information to evaluate the program. Of the information collected, each mental health court program must then report programmatic information and aggregate data to the Office of the State Courts Administrator (OSCA).

If a county establishes a treatment-based mental health court program, the county must secure funding from sources other than the state for costs not otherwise required under the state constitution for state court system funding.[32] Agencies of the state executive branch may provide funding for the program and counties may enter into inter-local agreements for the collective funding of these programs.

The bill authorizes the chief judge of each judicial circuit to appoint an advisory committee for the treatment-based mental health court program. Members of the committee are:

- The chief judge or his or her designee serving as chair;
- The judge of the treatment-based mental health court program, unless otherwise designated by the chief judge or his or her designee;
- The state attorney and the public defender;
- Treatment-based mental health program coordinators;
- Community representatives and treatment representatives; and
- Any other person whom the chair deems appropriate.

Pretrial Intervention Mental Health Court Programs

Current law authorizes courts to establish specialty pretrial intervention programs for persons charged with misdemeanor or felony crimes.

Misdemeanor Program for Adults

Under the bill, a misdemeanor pretrial mental health court program is included as a type of pretrial intervention program. A defendant who is charged with a misdemeanor and identified as having a mental illness is eligible to participate in the program.

Felony Program for Adults

Current law authorizes a court to voluntarily admit a defendant who is a veteran released from military service under an honorable discharge into a pretrial veterans' treatment intervention program. This bill authorizes veterans who were released from military service under a less than honorable discharge to participate in a pretrial intervention program.

The bill specifies how a veteran charged with a felony qualifies to participate in a pretrial mental health program. To be eligible to participate, the defendant:

- Must be identified as having a mental illness;
- Must not have been convicted of a felony; and

[32] Section 29.004, F.S., provides that pursuant to s. 14, Art. V of the State Constitution, state revenue funding for the state court system includes funding for appointed and elected judges; juror compensation and expenses; reasonable court reporting and transcription services; court administration; and case management, including the initial review and evaluation of cases, case monitoring, tracking, and coordination; and service referral, coordination, monitoring, and tracking for treatment-based drug court programs.

- Must be charged with a nonviolent felony[33] or certain violent felonies if the state attorney and the victim consent.[34]

The court retains jurisdiction over the disposition of the pending charges. If the court finds in writing that the defendant has successfully completed the program, the court shall order the dismissal of the criminal charges. If the court finds that the defendant has failed to successfully complete the program, the case may proceed to prosecution.

Delinquency Pretrial Intervention Program for Children

The bill establishes a pretrial intervention program for children who have been identified as having a mental illness. Treatment under the program is to be based on the clinical needs of the child and participation in the program is voluntarily. To qualify:

- The child must not have been previously adjudicated for a felony; and
- The criminal charge that is currently pending is limited to a misdemeanor, a nonviolent felony,[35] or certain forcible felonies, with victim consent.[36]

At the end of the pretrial intervention period, the court will determine how to proceed with the case, based on the recommendation of the state attorney and the program administrator and whether the child has successfully completed the program. If the court dismisses the charges after a child successfully completes a mental health court program, and if the child otherwise qualifies, he or she may have his or her arrest record and plea of no lo contendere expunged.

Post-conviction Treatment-based Mental Health Court Program

Regardless of how a defendant would rank under the Criminal Punishment Code, a court is authorized to place a defendant convicted of a felony or a felony violation of probation or community control into a post-adjudicatory treatment-based mental health court program if:

- The offense is a nonviolent felony;[37]
- The defendant is amenable to mental health treatment, including taking prescribed medication; and
- The court determines the defendant is suitable for placement, based on criteria identical to that required for assessments into the program of other defendants.

A court may also consider a defendant for the program for the offenses of certain forcible felonies after the court has considered a victim statement or testimony, if provided by the victim.[38]

[33] A nonviolent felony is defined in the bill as an offense of burglary or trespass listed under ch. 810, F.S., which is charged as a third-degree felony or a non-forcible felony.
[34] These offenses are resisting arrest of an officer with violence; battery on a law enforcement officer; or aggravated assault.
[35] A nonviolent felony is defined in the bill as an offense of burglary or trespass listed under ch. 810, F.S., which is charged as a third-degree felony or a non-forcible felony.
[36] These offenses are resisting arrest of an officer with violence; battery on a law enforcement officer; or aggravated assault.
[37] A nonviolent felony is defined in the bill as an offense of burglary or trespass listed under ch. 810, F.S., which is charged as a third-degree felony or a non-forcible felony.
[38] These offenses are resisting arrest of an officer with violence; battery on a law enforcement officer; or aggravated assault.

After a court orders placement of a defendant into a treatment-based mental health program, jurisdiction of the case transfers from the sentencing court to the post-adjudicatory treatment-based mental health court program for the interim that the defendant is in the program. Satisfactory completion of the program is a condition of the defendant's probation or community control.

The court may impose specialized treatment for probationers or community controllees who are veterans or service members and whose crime is committed after July 1, 2016 (the effective date of this bill). Specialized treatment will address a defendants' mental illness, traumatic brain injury, substance abuse disorder, or psychological problem, as appropriate.

The bill provides a definition of "mental health probation" and authorizes the DOC to establish designated and trained mental health probation officers to support individuals under supervision of the mental health court program. Under the bill, "mental health probation" means a form of specialized supervision that emphasizes mental health treatment and working with treatment providers to focus on the underlying mental health disorders and compliance with a prescribed psychotropic medication regimen in accordance with individualized treatment plans. Mental health probation must be supervised by officers with restricted caseloads who are sensitized to the unique needs of individuals with mental health disorders, and who will work in tandem with community mental health case managers assigned to the defendant. The bill provides that caseloads of such officers should be restricted to a maximum of 50 cases per officer in order to ensure an adequate level of staffing and supervision.

Forensic Services

Forensic Hospital Diversion Pilot Program

This bill authorizes the DCF to create the Forensic Hospital Diversion Pilot Program (pilot program). The pilot program would divert incarcerated defendants who are found mentally incompetent to proceed at trial or not guilty by reason of insanity from state forensic mental health treatment facilities to community outpatient treatment. The goals of the pilot program are to provide competency-restoration and community-reintegration services. Services would be provided in either a locked residential treatment facility or a community-based facility, based on public safety, the needs of the individual, and available resources.

Under the bill, if DCF decides to implement the pilot program, it will be implemented in Escambia, Hillsborough, Miami-Dade, and Okaloosa counties. The model for the pilot program is the Miami-Dade Forensic Alternative Center (MDFAC), currently in operation.

The bill specifies that the DCF may implement the pilot program if existing resources are available on a recurring basis. The bill authorizes the DCF to request budget amendments under ch. 216, F.S., to realign funds between mental health services and community substance abuse and mental health services in order to implement the pilot program.

Participation in the pilot program is limited to persons who are:
- 18 years of age and older;
- Charged with a second or third degree felony;

- Do not have a significant history of violent criminal offenses;
- Have been adjudicated either incompetent to proceed to trial or not guilty by reason of insanity;
- Meet safety and treatment criteria established by the DCF for placement in the community; and
- Would otherwise be admitted to a state mental health treatment facility.

The bill encourages the Florida Supreme Court, in conjunction with the Florida Supreme Court Task Force on Substance Abuse and Mental Health Issues in the Courts, to develop educational training for judges in the pilot program counties regarding the community forensic system.

The DCF is authorized to adopt rules to facilitate the provisions of the bill relating to the pilot program.

The bill takes effect July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill does not appear to contain a mandate because the bill authorizes but does not require counties to spend funds.

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:

Judicial Proceedings Relating to Children

The Office of the State Courts Administrator (OSCA) advises that changes made by PCS/CS/SB 604 to ch. 39, F.S., to authorize dependency courts to require persons seeking custody of a child to submit to a mental health assessment and participation in a mental health court program, may increase the workload of the state courts system by

increasing the number of mental health court cases. However, the OSCA cannot determine how many additional mental health court cases, if any, would result.[39]

Involuntary Outpatient Placement

The bill's designation of "criminal county courts" and the authorization of criminal county courts to order involuntary outpatient placement could impact judicial workload. A criminal county court would have to hold hearings on the petitions filed for involuntary outpatient placement. Further, the criminal county court would have to hold hearings for cases where continued outplacement placement is sought. However, the OSCA cannot determine how many additional outpatient placement petitions and cases, if any, would result from allowing criminal county courts to order outpatient placement.[40]

Forensic Hospital Diversion Pilot Program

The bill authorizes the Department of Children and Families (DCF) to replicate the Miami-Dade Forensic Alternative Center (MDFAC) as a pilot program in Escambia, Hillsborough, Miami-Dade, and Okaloosa counties. However, the authorization is contingent on the availability of existing resources on a recurring basis.

The DCF's current contract with the MDFAC costs almost $1.6 million annually. Funding this model for the pilot program in three counties will require funding of almost $6.4 million. The DCF anticipates that the redirection of $6.4 million from the department's budget could impact or decrease the provision of services to other DCF clients. Therefore, the DCF would be unable to absorb the additional costs and would need additional funding for the pilot program.[41]

Cost savings may be realized, however, based on the success of the pilot program. The MDFAC is able to keep individuals whose competency has been restored in the program rather than in jail while awaiting trial. Doing so may shorten the process, as defendants are less likely to decompensate in the MDFAC compared to a jail setting and are more likely lose competency again in a jail setting due to the stress and the less-than-optimal treatment provided.[42] Commitment bed and court cost savings are expected through this bill. The experience of the MDFAC indicates that competency is restored more quickly through the pilot program, which requires 100 days on average, than at state facilities, which require 125 days on average.[43]

[39] Email from OSCA staff, Feb. 11, 2016, on file with staff of the Senate Appropriations Subcommittee on Health and Human Services.
[40] *Id.*
[41] DCF, *supra* note 29.
[42] *Id.*
[43] *Id.*

In Fiscal Year 2011-2012, the average cost for a secure forensic bed was $333 per day. A bed at the MDFAC cost much less; $229 a day in 2011-12.[44] However, the current cost per bed per day at the MDFAC is $285 a day.[45]

County Expenses for Treatment-Based Mental Health Court Programs

The bill encourages, but does not require, counties to create and fund treatment-based mental health court programs. The bill also, contingent upon appropriations, requires each judicial circuit to establish at least one coordinator for the treatment-based mental health programs within the circuit.

Problem-solving Courts

The OSCA anticipates additional judicial and court workload from:

- Creating mental health courts, as problem-solving court cases require more extensive hearings and time monitoring than traditional criminal cases. However, cost savings may be realized from lower recidivism and costs of incarceration.
- Expanding the eligibility criteria for veterans. Like other problem-solving courts, veterans' courts require more judicial time than traditional criminal cases.

The bill's fiscal impact on the state courts system is indeterminate, due to the lack of data needed to gauge the impact on judicial workload.[46]

The DOC expects the bill to have a minimal impact on its supervised offender population, as felony offenders are already being referred by pretrial intervention drug courts or are sentenced to probation or community control by felony circuit courts and problem-solving courts. Some of these referrals include special conditions to address mental health or substance abuse treatment.[47]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 39.001, 39.507, 39.521, 394.4655, 394.4599, 394.463, 394.455, 394.4615, 394.47891, 790.065, 910.035, 948.001, 948.01, 948.06, 948.08, 948.16, 948.21, and 985.345.

[44] The Florida Senate, *supra* note 28.
[45] DCF, *supra* note 29, at 2.
[46] Office of the State Courts Administrator, *2015 Judicial Impact Statement* (Nov. 13, 2015) (on file with the Senate Committee on Judiciary).
[47] Department of Corrections, *supra* note 5, at 4.

This bill creates the following sections of the Florida Statutes: 394.48792 and 916.185.

This bill reenacts the following sections of the Florida Statutes: 397.334 and 948.012.

IX. Additional Information:

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

Recommended CS/CS by Appropriations Subcommittee on Health and Human Services on February 17, 2016:
The committee substitute:

- Removes provisions allowing county court judges to release misdemeanor defendants on conditional release;
- Adds Okaloosa County to the list of counties in which the Department of Children and Families may implement the Forensic Hospital Diversion Pilot Program;
- Authorizes dependency courts to require persons having or seeking custody of a child to participate in certain mental health programs; and
- Creates a designation for some county courts as "criminal county courts" for involuntary outpatient placement and certain other functions.

CS by Judiciary on November 17, 2015:

- Establishes mental health probation as a form of specialized supervision that emphasizes mental health treatment;
- Clarifies that the mental health court program must collect client-level data but report aggregate data to the Office of the State Courts Administrator; and
- Makes technical clarifying changes.

B. Amendments:

None.

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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Health and Human Services)

A bill to be entitled

An act relating to mental health services in the criminal justice system; amending ss. 39.001, 39.507, and 39.521, F.S.; conforming provisions to changes made by the act; amending s. 394.4655, F.S.; defining the terms "court" and "criminal county court" for purposes of involuntary outpatient placement; conforming provisions to changes made by act; amending ss. 394.4599 and 394.463, F.S.; conforming provisions to changes made by act; conforming cross-references; amending s. 394.455 and 394.4615, F.S.; conforming cross-references; amending s. 394.47891, F.S.; expanding eligibility for military veterans and servicemembers court programs; creating s. 394.47892, F.S.; authorizing the creation of treatment-based mental health court programs; providing for eligibility; providing program requirements; providing for an advisory committee; amending s. 790.065, F.S.; conforming a provision to changes made by this act; amending s. 910.035, F.S.; revising the definition of the term "problem-solving court"; creating s. 916.185, F.S.; creating the Forensic Hospital Diversion Pilot Program; providing legislative findings and intent; providing definitions; authorizing the Department of Children and Families to implement a Forensic Hospital Diversion Pilot Program in specified judicial circuits; authorizing the department to request

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specified budget amendments; providing for eligibility for the program; providing legislative intent concerning training; authorizing rulemaking; amending s. 948.001, F.S.; defining the term "mental health probation"; amending ss. 948.01 and 948.06, F.S.; authorizing courts to order certain offenders on probation or community control to postadjudicatory mental health court programs; amending s. 948.08, F.S.; expanding eligibility requirements for certain pretrial intervention programs; providing for voluntary admission into a pretrial mental health court program; creating s. 916.185, F.S.; creating the Forensic Hospital Diversion Pilot Program; providing legislative findings and intent; providing definitions; requiring the Department of Children and Families to implement a Forensic Hospital Diversion Pilot Program in specified judicial circuits; providing for eligibility for the program; providing legislative intent concerning training; authorizing rulemaking; amending ss. 948.01 and 948.06, F.S.; providing for courts to order certain defendants on probation or community control to postadjudicatory mental health court programs; amending s. 948.08, F.S.; expanding eligibility requirements for certain pretrial intervention programs; providing for voluntary admission into pretrial mental health court program; amending s. 948.16, F.S.; expanding eligibility of veterans for a misdemeanor pretrial veterans' treatment intervention program; providing

eligibility of misdemeanor defendants for a misdemeanor pretrial mental health court program; amending s. 948.21, F.S.; expanding veterans' eligibility for participating in treatment programs while on court-ordered probation or community control; amending s. 985.345, F.S.; authorizing delinquency pretrial mental health court intervention programs for certain juvenile offenders; providing for disposition of pending charges after completion of the program; authorizing expunction of specified criminal history records after successful completion of the program; reenacting s. 397.334(3)(a) and (5), F.S., relating to treatment-based drug court programs, to incorporate the amendments made by the act to ss. 948.01 and 948.06, F.S., in references thereto; reenacting s. 948.012(2)(b), F.S., relating to split sentence probation or community control and imprisonment, to incorporate the amendment made by the act to s. 948.06, F.S., in a reference thereto; providing an effective date.

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

Section 1. Subsection (6) of section 39.001, Florida Statutes, is amended to read:

39.001 Purposes and intent; personnel standards and screening.—

(6) MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES.—

(a) The Legislature recognizes that early referral and

comprehensive treatment can help combat mental illnesses and substance abuse disorders in families and that treatment is cost-effective.

(b) The Legislature establishes the following goals for the state related to mental illness and substance abuse treatment services in the dependency process:

1. To ensure the safety of children.

2. To prevent and remediate the consequences of mental illnesses and substance abuse disorders on families involved in protective supervision or foster care and reduce the occurrences of mental illnesses and substance abuse disorders, including alcohol abuse or related disorders, for families who are at risk of being involved in protective supervision or foster care.

3. To expedite permanency for children and reunify healthy, intact families, when appropriate.

4. To support families in recovery.

(c) The Legislature finds that children in the care of the state's dependency system need appropriate health care services, that the impact of mental illnesses and substance abuse disorders on health indicates the need for health care services to include treatment for mental health and substance abuse disorders for ~~services to~~ children and parents, where appropriate, and that it is in the state's best interest that such children be provided the services they need to enable them to become and remain independent of state care. In order to provide these services, the state's dependency system must have the ability to identify and provide appropriate intervention and treatment for children with personal or family-related mental illness and substance abuse problems.

(d) It is the intent of the Legislature to encourage the use of the mental health court program model established under s. 394.47892 and the drug court program model established under ~~by~~ s. 397.334 and authorize courts to assess children and persons who have custody or are requesting custody of children where good cause is shown to identify and address mental illnesses and substance abuse disorders ~~problems~~ as the court deems appropriate at every stage of the dependency process. Participation in treatment, including a mental health court program or a treatment-based drug court program, may be required by the court following adjudication. Participation in assessment and treatment before ~~prior to~~ adjudication is ~~shall be~~ voluntary, except as provided in s. 39.407(16).

(e) It is therefore the purpose of the Legislature to provide authority for the state to contract with mental health service providers and community substance abuse treatment providers for the development and operation of specialized support and overlay services for the dependency system, which will be fully implemented and used as resources permit.

(f) Participation in a mental health court program or a ~~the~~ treatment-based drug court program does not divest any public or private agency of its responsibility for a child or adult, but is intended to enable these agencies to better meet their needs through shared responsibility and resources.

Section 2. Subsection (10) of section 39.507, Florida Statutes, is amended to read:

39.507 Adjudicatory hearings; orders of adjudication.—

(10) After an adjudication of dependency, or a finding of dependency where adjudication is withheld, the court may order a

person who has custody or is requesting custody of the child to submit to a mental health or substance abuse disorder assessment or evaluation. The assessment or evaluation must be administered by a qualified professional, as defined in s. 397.311. The court may also require such person to participate in and comply with treatment and services identified as necessary, including, when appropriate and available, participation in and compliance with a mental health court program established under s. 394.47892 or a treatment-based drug court program established under s. 397.334. In addition to supervision by the department, the court, including the mental health court program or treatment-based drug court program, may oversee the progress and compliance with treatment by a person who has custody or is requesting custody of the child. The court may impose appropriate available sanctions for noncompliance upon a person who has custody or is requesting custody of the child or make a finding of noncompliance for consideration in determining whether an alternative placement of the child is in the child's best interests. Any order entered under this subsection may be made only upon good cause shown. This subsection does not authorize placement of a child with a person seeking custody, other than the parent or legal custodian, who requires mental health or substance abuse disorder treatment.

Section 3. Paragraph (b) of subsection (1) of section 39.521, Florida Statutes, is amended to read:

39.521 Disposition hearings; powers of disposition.—

(1) A disposition hearing shall be conducted by the court, if the court finds that the facts alleged in the petition for dependency were proven in the adjudicatory hearing, or if the

parents or legal custodians have consented to the finding of dependency or admitted the allegations in the petition, have failed to appear for the arraignment hearing after proper notice, or have not been located despite a diligent search having been conducted.

(b) When any child is adjudicated by a court to be dependent, the court having jurisdiction of the child has the power by order to:

1. Require the parent and, when appropriate, the legal custodian and the child to participate in treatment and services identified as necessary. The court may require the person who has custody or who is requesting custody of the child to submit to a mental health or substance abuse disorder assessment or evaluation. The assessment or evaluation must be administered by a qualified professional, as defined in s. 397.311. The court may also require such person to participate in and comply with treatment and services identified as necessary, including, when appropriate and available, participation in and compliance with a mental health court program established under s. 394.47892 or a treatment-based drug court program established under s. 397.334. In addition to supervision by the department, the court, including the mental health court program or the treatment-based drug court program, may oversee the progress and compliance with treatment by a person who has custody or is requesting custody of the child. The court may impose appropriate available sanctions for noncompliance upon a person who has custody or is requesting custody of the child or make a finding of noncompliance for consideration in determining whether an alternative placement of the child is in the child's

best interests. Any order entered under this subparagraph may be made only upon good cause shown. This subparagraph does not authorize placement of a child with a person seeking custody of the child, other than the child's parent or legal custodian, who requires mental health or substance abuse disorder treatment.

2. Require, if the court deems necessary, the parties to participate in dependency mediation.

3. Require placement of the child either under the protective supervision of an authorized agent of the department in the home of one or both of the child's parents or in the home of a relative of the child or another adult approved by the court, or in the custody of the department. Protective supervision continues until the court terminates it or until the child reaches the age of 18, whichever date is first. Protective supervision shall be terminated by the court whenever the court determines that permanency has been achieved for the child, whether with a parent, another relative, or a legal custodian, and that protective supervision is no longer needed. The termination of supervision may be with or without retaining jurisdiction, at the court's discretion, and shall in either case be considered a permanency option for the child. The order terminating supervision by the department shall set forth the powers of the custodian of the child and shall include the powers ordinarily granted to a guardian of the person of a minor unless otherwise specified. Upon the court's termination of supervision by the department, no further judicial reviews are required, so long as permanency has been established for the child.

Section 4. Subsections (1) through (7) of section 394.4655,

Florida Statutes, are renumbered as subsections (2) through (8), respectively, paragraph (b) of present subsection (3), paragraph (b) of present subsection (6), and paragraphs (a) and (c) of present subsection (7) are amended, and a new subsection (1) is added to that section, to read:

394.4655 Involuntary outpatient placement.—

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

(a) "Court" means a circuit court or a criminal county court.

(b) "Criminal county court" means a county court exercising its original jurisdiction in a misdemeanor case under s. 34.01.

(4) ~~(3)~~ PETITION FOR INVOLUNTARY OUTPATIENT PLACEMENT.—

(b) Each required criterion for involuntary outpatient placement must be alleged and substantiated in the petition for involuntary outpatient placement. A copy of the certificate recommending involuntary outpatient placement completed by a qualified professional specified in subsection (3) ~~(2)~~ must be attached to the petition. A copy of the proposed treatment plan must be attached to the petition. Before the petition is filed, the service provider shall certify that the services in the proposed treatment plan are available. If the necessary services are not available in the patient's local community to respond to the person's individual needs, the petition may not be filed.

(7) ~~(6)~~ HEARING ON INVOLUNTARY OUTPATIENT PLACEMENT.—

(b)1. If the court concludes that the patient meets the criteria for involuntary outpatient placement pursuant to subsection (2) ~~(1)~~, the court shall issue an order for involuntary outpatient placement. The court order shall be for a period of up to 6 months. The order must specify the nature and

extent of the patient's mental illness. The order of the court and the treatment plan shall be made part of the patient's clinical record. The service provider shall discharge a patient from involuntary outpatient placement when the order expires or any time the patient no longer meets the criteria for involuntary placement. Upon discharge, the service provider shall send a certificate of discharge to the court.

2. The court may not order the department or the service provider to provide services if the program or service is not available in the patient's local community, if there is no space available in the program or service for the patient, or if funding is not available for the program or service. A copy of the order must be sent to the Agency for Health Care Administration by the service provider within 1 working day after it is received from the court. After the placement order is issued, the service provider and the patient may modify provisions of the treatment plan. For any material modification of the treatment plan to which the patient or the patient's guardian advocate, if appointed, does agree, the service provider shall send notice of the modification to the court. Any material modifications of the treatment plan which are contested by the patient or the patient's guardian advocate, if appointed, must be approved or disapproved by the court consistent with subsection (3) ~~(2)~~.

3. If, in the clinical judgment of a physician, the patient has failed or has refused to comply with the treatment ordered by the court, and, in the clinical judgment of the physician, efforts were made to solicit compliance and the patient may meet the criteria for involuntary examination, a person may be

brought to a receiving facility pursuant to s. 394.463. If, after examination, the patient does not meet the criteria for involuntary inpatient placement pursuant to s. 394.467, the patient must be discharged from the receiving facility. The involuntary outpatient placement order shall remain in effect unless the service provider determines that the patient no longer meets the criteria for involuntary outpatient placement or until the order expires. The service provider must determine whether modifications should be made to the existing treatment plan and must attempt to continue to engage the patient in treatment. For any material modification of the treatment plan to which the patient or the patient's guardian advocate, if appointed, does agree, the service provider shall send notice of the modification to the court. Any material modifications of the treatment plan which are contested by the patient or the patient's guardian advocate, if appointed, must be approved or disapproved by the court consistent with subsection (3) ~~(2)~~.

(8) ~~(7)~~ PROCEDURE FOR CONTINUED INVOLUNTARY OUTPATIENT PLACEMENT.—

(a)1. If the person continues to meet the criteria for involuntary outpatient placement, the service provider shall, before the expiration of the period during which the treatment is ordered for the person, file in the ~~circuit~~ court that issued the order for involuntary outpatient treatment a petition for continued involuntary outpatient placement.

2. The existing involuntary outpatient placement order remains in effect until disposition on the petition for continued involuntary outpatient placement.

3. A certificate shall be attached to the petition which

includes a statement from the person's physician or clinical psychologist justifying the request, a brief description of the patient's treatment during the time he or she was involuntarily placed, and an individualized plan of continued treatment.

4. The service provider shall develop the individualized plan of continued treatment in consultation with the patient or the patient's guardian advocate, if appointed. When the petition has been filed, the clerk of the court shall provide copies of the certificate and the individualized plan of continued treatment to the department, the patient, the patient's guardian advocate, the state attorney, and the patient's private counsel or the public defender.

(c) Hearings on petitions for continued involuntary outpatient placement shall be before the ~~circuit~~ court that issued the order for involuntary outpatient treatment. The court may appoint a master to preside at the hearing. The procedures for obtaining an order pursuant to this paragraph shall be in accordance with subsection (7) ~~(6)~~, except that the time period included in paragraph (2)(e) ~~(1)(c)~~ is not applicable in determining the appropriateness of additional periods of involuntary outpatient placement.

Section 5. Paragraph (d) of subsection (2) of section 394.4599, Florida Statutes, is amended to read:

394.4599 Notice.—

(2) INVOLUNTARY ADMISSION.—

(d) The written notice of the filing of the petition for involuntary placement of an individual being held must contain the following:

1. Notice that the petition for:

a. Involuntary inpatient treatment pursuant to s. 394.467 has been filed with the circuit court in the county in which the individual is hospitalized and the address of such court; or

b. Involuntary outpatient treatment pursuant to s. 394.4655 has been filed with the criminal county court, as defined in s. 394.4655(1), or the circuit court, as applicable, in the county in which the individual is hospitalized and the address of such court.

2. Notice that the office of the public defender has been appointed to represent the individual in the proceeding, if the individual is not otherwise represented by counsel.

3. The date, time, and place of the hearing and the name of each examining expert and every other person expected to testify in support of continued detention.

4. Notice that the individual, the individual's guardian, guardian advocate, health care surrogate or proxy, or representative, or the administrator may apply for a change of venue for the convenience of the parties or witnesses or because of the condition of the individual.

5. Notice that the individual is entitled to an independent expert examination and, if the individual cannot afford such an examination, that the court will provide for one.

Section 6. Paragraphs (g) and (i) of subsection (2) of section 394.463, Florida Statutes, are amended to read:

394.463 Involuntary examination.—

(2) INVOLUNTARY EXAMINATION.—

(g) A person for whom an involuntary examination has been initiated who is being evaluated or treated at a hospital for an emergency medical condition specified in s. 395.002 must be

examined by a receiving facility within 72 hours. The 72-hour period begins when the patient arrives at the hospital and ceases when the attending physician documents that the patient has an emergency medical condition. If the patient is examined at a hospital providing emergency medical services by a professional qualified to perform an involuntary examination and is found as a result of that examination not to meet the criteria for involuntary outpatient placement pursuant to s. 394.4655(2) ~~394.4655(1)~~ or involuntary inpatient placement pursuant to s. 394.467(1), the patient may be offered voluntary placement, if appropriate, or released directly from the hospital providing emergency medical services. The finding by the professional that the patient has been examined and does not meet the criteria for involuntary inpatient placement or involuntary outpatient placement must be entered into the patient's clinical record. Nothing in this paragraph is intended to prevent a hospital providing emergency medical services from appropriately transferring a patient to another hospital prior to stabilization, provided the requirements of s. 395.1041(3)(c) have been met.

(i) Within the 72-hour examination period or, if the 72 hours ends on a weekend or holiday, no later than the next working day thereafter, one of the following actions must be taken, based on the individual needs of the patient:

1. The patient shall be released, unless he or she is charged with a crime, in which case the patient shall be returned to the custody of a law enforcement officer;

2. The patient shall be released, subject to the provisions of subparagraph 1., for voluntary outpatient treatment;

3. The patient, unless he or she is charged with a crime, shall be asked to give express and informed consent to placement as a voluntary patient, and, if such consent is given, the patient shall be admitted as a voluntary patient; or

4. A petition for involuntary placement shall be filed in the circuit court if ~~when outpatient or~~ inpatient treatment is deemed necessary or with the criminal county court, as defined in s. 394.4655(1), as applicable. If ~~When~~ inpatient treatment is deemed necessary, the least restrictive treatment consistent with the optimum improvement of the patient's condition shall be made available. When a petition is to be filed for involuntary outpatient placement, it shall be filed by one of the petitioners specified in s. 394.4655(4)(a) ~~394.4655(3)(a)~~. A petition for involuntary inpatient placement shall be filed by the facility administrator.

Section 7. Subsection (34) of section 394.455, Florida Statutes, is amended to read:

394.455 Definitions.—As used in this part, unless the context clearly requires otherwise, the term:

(34) "Involuntary examination" means an examination performed under s. 394.463 to determine if an individual qualifies for involuntary inpatient treatment under s. 394.467(1) or involuntary outpatient treatment under s. 394.4655(2) ~~394.4655(1)~~.

Section 8. Subsection (3) of section 394.4615, Florida Statutes, is amended to read:

394.4615 Clinical records; confidentiality.—

(3) Information from the clinical record may be released in the following circumstances:

(a) When a patient has declared an intention to harm other persons. When such declaration has been made, the administrator may authorize the release of sufficient information to provide adequate warning to the person threatened with harm by the patient.

(b) When the administrator of the facility or secretary of the department deems release to a qualified researcher as defined in administrative rule, an aftercare treatment provider, or an employee or agent of the department is necessary for treatment of the patient, maintenance of adequate records, compilation of treatment data, aftercare planning, or evaluation of programs.

For the purpose of determining whether a person meets the criteria for involuntary outpatient placement or for preparing the proposed treatment plan pursuant to s. 394.4655, the clinical record may be released to the state attorney, the public defender or the patient's private legal counsel, the court, and to the appropriate mental health professionals, including the service provider identified in s. 394.4655(7)(b)2. ~~394.4655(6)(b)2.~~, in accordance with state and federal law.

Section 9. Section 394.47891, Florida Statutes, is amended to read:

394.47891 Military veterans and servicemembers court programs.—The chief judge of each judicial circuit may establish a Military Veterans and Servicemembers Court Program under which veterans, as defined in s. 1.01, including veterans who were discharged or released under a general discharge, and servicemembers, as defined in s. 250.01, who are charged or

convicted of a criminal offense and who suffer from a military-related mental illness, traumatic brain injury, substance abuse disorder, or psychological problem can be sentenced in accordance with chapter 921 in a manner that appropriately addresses the severity of the mental illness, traumatic brain injury, substance abuse disorder, or psychological problem through services tailored to the individual needs of the participant. Entry into any Military Veterans and Servicemembers Court Program must be based upon the sentencing court's assessment of the defendant's criminal history, military service, substance abuse treatment needs, mental health treatment needs, amenability to the services of the program, the recommendation of the state attorney and the victim, if any, and the defendant's agreement to enter the program.

Section 10. Section 394.47892, Florida Statutes, is created to read:

394.47892 Mental health court programs.—

(1) Each county may fund a mental health court program under which a defendant in the justice system assessed with a mental illness shall be processed in such a manner as to appropriately address the severity of the identified mental illness through treatment services tailored to the individual needs of the participant. The Legislature intends to encourage the department, the Department of Corrections, the Department of Juvenile Justice, the Department of Health, the Department of Law Enforcement, the Department of Education, and other such agencies, local governments, law enforcement agencies, interested public or private entities, and individuals to support the creation and establishment of problem-solving court

programs. Participation in a mental health court program does not relieve a public or private agency of its responsibility for a child or an adult, but enables such agency to better meet the child's or adult's needs through shared responsibility and resources.

(2) Mental health court programs may include pretrial intervention programs as provided in ss. 948.08, 948.16, and 985.345, postadjudicatory mental health court programs as provided in ss. 948.01 and 948.06, and review of the status of compliance or noncompliance of sentenced defendants through a mental health court program.

(3) Entry into a pretrial mental health court program is voluntary.

(4)(a) Entry into a postadjudicatory mental health court program as a condition of probation or community control pursuant to s. 948.01 or s. 948.06 must be based upon the sentencing court's assessment of the defendant's criminal history, mental health screening outcome, amenability to the services of the program, and total sentence points; the recommendation of the state attorney and the victim, if any; and the defendant's agreement to enter the program.

(b) A defendant who is sentenced to a postadjudicatory mental health court program and who, while a mental health court program participant, is the subject of a violation of probation or community control under s. 948.06 shall have the violation of probation or community control heard by the judge presiding over the postadjudicatory mental health court program. After a hearing on or admission of the violation, the judge shall dispose of any such violation as he or she deems appropriate if

the resulting sentence or conditions are lawful.

(5)(a) Contingent upon an annual appropriation by the Legislature, the state courts system shall establish, at a minimum, one coordinator position in each mental health court program to coordinate the responsibilities of the participating agencies and service providers. Each coordinator shall provide direct support to the mental health court program by providing coordination between the multidisciplinary team and the judiciary, providing case management, monitoring compliance of the participants in the mental health court program with court requirements, and managing the collection of data for program evaluation and accountability.

(b) Each mental health court program shall collect sufficient client-level data and programmatic information for purposes of program evaluation. Client-level data includes primary offenses that resulted in the mental health court program referral or sentence, treatment compliance, completion status and reasons for failure to complete, offenses committed during treatment and the sanctions imposed, frequency of court appearances, and units of service. Programmatic information includes referral and screening procedures, eligibility criteria, type and duration of treatment offered, and residential treatment resources. The programmatic information and aggregate data on the number of mental health court program admissions and terminations by type of termination shall be reported annually by each mental health court program to the Office of the State Courts Administrator.

(6) If a county chooses to fund a mental health court program, the county must secure funding from sources other than

the state for those costs not otherwise assumed by the state pursuant to s. 29.004. However, this subsection does not preclude counties from using funds for treatment and other services provided through state executive branch agencies. Counties may provide, by interlocal agreement, for the collective funding of these programs.

(7) The chief judge of each judicial circuit may appoint an advisory committee for the mental health court program. The committee shall be composed of the chief judge, or his or her designee, who shall serve as chair; the judge or judges of the mental health court program, if not otherwise designated by the chief judge as his or her designee; the state attorney, or his or her designee; the public defender, or his or her designee; the mental health court program coordinator or coordinators; community representatives; treatment representatives; and any other persons who the chair deems appropriate.

Section 11. Paragraph (a) of subsection (2) of section 790.065, Florida Statutes, is amended to read:

790.065 Sale and delivery of firearms.—

(2) Upon receipt of a request for a criminal history record check, the Department of Law Enforcement shall, during the licensee’s call or by return call, forthwith:

(a) Review any records available to determine if the potential buyer or transferee:

1. Has been convicted of a felony and is prohibited from receipt or possession of a firearm pursuant to s. 790.23;

2. Has been convicted of a misdemeanor crime of domestic violence, and therefore is prohibited from purchasing a firearm;

3. Has had adjudication of guilt withheld or imposition of

sentence suspended on any felony or misdemeanor crime of domestic violence unless 3 years have elapsed since probation or any other conditions set by the court have been fulfilled or expunction has occurred; or

4. Has been adjudicated mentally defective or has been committed to a mental institution by a court or as provided in sub-sub-subparagraph b.(II), and as a result is prohibited by state or federal law from purchasing a firearm.

a. As used in this subparagraph, "adjudicated mentally defective" means a determination by a court that a person, as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease, is a danger to himself or herself or to others or lacks the mental capacity to contract or manage his or her own affairs. The phrase includes a judicial finding of incapacity under s. 744.331(6)(a), an acquittal by reason of insanity of a person charged with a criminal offense, and a judicial finding that a criminal defendant is not competent to stand trial.

b. As used in this subparagraph, "committed to a mental institution" means:

(I) Involuntary commitment, commitment for mental defectiveness or mental illness, and commitment for substance abuse. The phrase includes involuntary inpatient placement as defined in s. 394.467, involuntary outpatient placement as defined in s. 394.4655, involuntary assessment and stabilization under s. 397.6818, and involuntary substance abuse treatment under s. 397.6957, but does not include a person in a mental institution for observation or discharged from a mental institution based upon the initial review by the physician or a

voluntary admission to a mental institution; or

(II) Notwithstanding sub-sub-subparagraph (I), voluntary admission to a mental institution for outpatient or inpatient treatment of a person who had an involuntary examination under s. 394.463, where each of the following conditions have been met:

(A) An examining physician found that the person is an imminent danger to himself or herself or others.

(B) The examining physician certified that if the person did not agree to voluntary treatment, a petition for involuntary outpatient or inpatient treatment would have been filed under s. 394.463(2)(i)4., or the examining physician certified that a petition was filed and the person subsequently agreed to voluntary treatment prior to a court hearing on the petition.

(C) Before agreeing to voluntary treatment, the person received written notice of that finding and certification, and written notice that as a result of such finding, he or she may be prohibited from purchasing a firearm, and may not be eligible to apply for or retain a concealed weapon or firearms license under s. 790.06 and the person acknowledged such notice in writing, in substantially the following form:

"I understand that the doctor who examined me believes I am a danger to myself or to others. I understand that if I do not agree to voluntary treatment, a petition will be filed in court to require me to receive involuntary treatment. I understand that if that petition is filed, I have the right to contest it. In the event a petition has been filed, I understand that I can subsequently agree to voluntary treatment prior to a court

hearing. I understand that by agreeing to voluntary treatment in either of these situations, I may be prohibited from buying firearms and from applying for or retaining a concealed weapons or firearms license until I apply for and receive relief from that restriction under Florida law."

(D) A judge or a magistrate has, pursuant to sub-sub-subparagraph c.(II), reviewed the record of the finding, certification, notice, and written acknowledgment classifying the person as an imminent danger to himself or herself or others, and ordered that such record be submitted to the department.

c. In order to check for these conditions, the department shall compile and maintain an automated database of persons who are prohibited from purchasing a firearm based on court records of adjudications of mental defectiveness or commitments to mental institutions.

(I) Except as provided in sub-sub-subparagraph (II), clerks of court shall submit these records to the department within 1 month after the rendition of the adjudication or commitment. Reports shall be submitted in an automated format. The reports must, at a minimum, include the name, along with any known alias or former name, the sex, and the date of birth of the subject.

(II) For persons committed to a mental institution pursuant to sub-sub-subparagraph b.(II), within 24 hours after the person's agreement to voluntary admission, a record of the finding, certification, notice, and written acknowledgment must be filed by the administrator of the receiving or treatment facility, as defined in s. 394.455, with the clerk of the court

for the county in which the involuntary examination under s. 394.463 occurred. No fee shall be charged for the filing under this sub-sub-subparagraph. The clerk must present the records to a judge or magistrate within 24 hours after receipt of the records. A judge or magistrate is required and has the lawful authority to review the records ex parte and, if the judge or magistrate determines that the record supports the classifying of the person as an imminent danger to himself or herself or others, to order that the record be submitted to the department. If a judge or magistrate orders the submittal of the record to the department, the record must be submitted to the department within 24 hours.

d. A person who has been adjudicated mentally defective or committed to a mental institution, as those terms are defined in this paragraph, may petition the ~~circuit~~ court that made the adjudication or commitment, or the court that ordered that the record be submitted to the department pursuant to sub-sub-subparagraph c.(II), for relief from the firearm disabilities imposed by such adjudication or commitment. A copy of the petition shall be served on the state attorney for the county in which the person was adjudicated or committed. The state attorney may object to and present evidence relevant to the relief sought by the petition. The hearing on the petition may be open or closed as the petitioner may choose. The petitioner may present evidence and subpoena witnesses to appear at the hearing on the petition. The petitioner may confront and cross-examine witnesses called by the state attorney. A record of the hearing shall be made by a certified court reporter or by court-approved electronic means. The court shall make written findings

of fact and conclusions of law on the issues before it and issue a final order. The court shall grant the relief requested in the petition if the court finds, based on the evidence presented with respect to the petitioner's reputation, the petitioner's mental health record and, if applicable, criminal history record, the circumstances surrounding the firearm disability, and any other evidence in the record, that the petitioner will not be likely to act in a manner that is dangerous to public safety and that granting the relief would not be contrary to the public interest. If the final order denies relief, the petitioner may not petition again for relief from firearm disabilities until 1 year after the date of the final order. The petitioner may seek judicial review of a final order denying relief in the district court of appeal having jurisdiction over the court that issued the order. The review shall be conducted de novo. Relief from a firearm disability granted under this sub-subparagraph has no effect on the loss of civil rights, including firearm rights, for any reason other than the particular adjudication of mental defectiveness or commitment to a mental institution from which relief is granted.

e. Upon receipt of proper notice of relief from firearm disabilities granted under sub-subparagraph d., the department shall delete any mental health record of the person granted relief from the automated database of persons who are prohibited from purchasing a firearm based on court records of adjudications of mental defectiveness or commitments to mental institutions.

f. The department is authorized to disclose data collected pursuant to this subparagraph to agencies of the Federal

Government and other states for use exclusively in determining the lawfulness of a firearm sale or transfer. The department is also authorized to disclose this data to the Department of Agriculture and Consumer Services for purposes of determining eligibility for issuance of a concealed weapons or concealed firearms license and for determining whether a basis exists for revoking or suspending a previously issued license pursuant to s. 790.06(10). When a potential buyer or transferee appeals a nonapproval based on these records, the clerks of court and mental institutions shall, upon request by the department, provide information to help determine whether the potential buyer or transferee is the same person as the subject of the record. Photographs and any other data that could confirm or negate identity must be made available to the department for such purposes, notwithstanding any other provision of state law to the contrary. Any such information that is made confidential or exempt from disclosure by law shall retain such confidential or exempt status when transferred to the department.

Section 12. Paragraph (a) of subsection (5) of section 910.035, Florida Statutes, is amended to read:

910.035 Transfer from county for plea, sentence, or participation in a problem-solving court.—

(5) TRANSFER FOR PARTICIPATION IN A PROBLEM-SOLVING COURT.—

(a) For purposes of this subsection, the term "problem-solving court" means a drug court pursuant to s. 948.01, s. 948.06, s. 948.08, s. 948.16, or s. 948.20; a <u>military</u> veterans' <u>and servicemembers'</u> court pursuant to s. 394.47891, s. 948.08, s. 948.16, or s. 948.21; ~~or~~ a mental health court <u>program pursuant to s. 394.47892, s. 948.01, s. 948.06, s. 948.08, or s.</u>

948.16; or a delinquency pretrial intervention court program pursuant to s. 985.345.

Section 13. Section 916.185, Florida Statutes, is created to read:

916.185 Forensic Hospital Diversion Pilot Program.—

(1) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds that many jail inmates who have serious mental illnesses and who are committed to state forensic mental health treatment facilities for restoration of competency to proceed could be served more effectively and at less cost in community-based alternative programs. The Legislature further finds that many people who have serious mental illnesses and who have been discharged from state forensic mental health treatment facilities could avoid returning to the criminal justice and forensic mental health systems if they received specialized treatment in the community. Therefore, it is the intent of the Legislature to create the Forensic Hospital Diversion Pilot Program to serve offenders who have mental illnesses or co-occurring mental illnesses and substance use disorders and who are involved in or at risk of entering state forensic mental health treatment facilities, prisons, jails, or state civil mental health treatment facilities.

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

(a) "Best practices" means treatment services that incorporate the most effective and acceptable interventions available in the care and treatment of offenders who are diagnosed as having mental illnesses or co-occurring mental illnesses and substance use disorders.

(b) "Community forensic system" means the community mental

health and substance use forensic treatment system, including the comprehensive set of services and supports provided to offenders involved in or at risk of becoming involved in the criminal justice system.

(c) "Evidence-based practices" means interventions and strategies that, based on the best available empirical research, demonstrate effective and efficient outcomes in the care and treatment of offenders who are diagnosed as having mental illnesses or co-occurring mental illnesses and substance use disorders.

(3) CREATION.—There is authorized a Forensic Hospital Diversion Pilot Program to provide competency-restoration and community-reintegration services in either a locked residential treatment facility when appropriate or a community-based facility based on considerations of public safety, the needs of the individual, and available resources.

(a) The department may implement a Forensic Hospital Diversion Pilot Program modeled after the Miami-Dade Forensic Alternative Center, taking into account local needs and resources in Duval County, in conjunction with the Fourth Judicial Circuit in Duval County; in Broward County, in conjunction with the Seventeenth Judicial Circuit in Broward County; in Miami-Dade County, in conjunction with the Eleventh Judicial Circuit in Miami-Dade County; and in Okaloosa County, in conjunction with the First Judicial Circuit in Okaloosa County.

(b) If the department elects to create and implement the program, the department shall include a comprehensive continuum of care and services that use evidence-based practices and best

practices to treat offenders who have mental health and co-occurring substance use disorders.

(c) The department and the corresponding judicial circuits may implement this section if existing resources are available to do so on a recurring basis. The department may request budget amendments pursuant to chapter 216 to realign funds between mental health services and community substance abuse and mental health services in order to implement this pilot program.

(4) ELIGIBILITY.—Participation in the Forensic Hospital Diversion Pilot Program is limited to offenders who:

(a) Are 18 years of age or older.

(b) Are charged with a felony of the second degree or a felony of the third degree.

(c) Do not have a significant history of violent criminal offenses.

(d) Are adjudicated incompetent to proceed to trial or not guilty by reason of insanity pursuant to this part.

(e) Meet public safety and treatment criteria established by the department for placement in a community setting.

(f) Otherwise would be admitted to a state mental health treatment facility.

(5) TRAINING.—The Legislature encourages the Florida Supreme Court, in consultation and cooperation with the Florida Supreme Court Task Force on Substance Abuse and Mental Health Issues in the Courts, to develop educational training for judges in the pilot program areas which focuses on the community forensic system.

(6) RULEMAKING.—The department may adopt rules to administer this section.

Section 14. Subsections (6) through (13) of section 948.001, Florida Statutes, are renumbered as subsections (7) through (14), respectively, and a new subsection (6) is added to that section, to read:

948.001 Definitions.—As used in this chapter, the term:

(6) "Mental health probation" means a form of specialized supervision that emphasizes mental health treatment and working with treatment providers to focus on underlying mental health disorders and compliance with a prescribed psychotropic medication regimen in accordance with individualized treatment plans. Mental health probation shall be supervised by officers with restricted caseloads who are sensitive to the unique needs of individuals with mental health disorders, and who will work in tandem with community mental health case managers assigned to the defendant. Caseloads of such officers should be restricted to a maximum of 50 cases per officer in order to ensure an adequate level of staffing and supervision.

Section 15. Subsection (8) is added to section 948.01, Florida Statutes, to read:

948.01 When court may place defendant on probation or into community control.—

(8)(a) Notwithstanding s. 921.0024 and effective for offenses committed on or after July 1, 2016, the sentencing court may place the defendant into a postadjudicatory mental health court program if the offense is a nonviolent felony, the defendant is amenable to mental health treatment, including taking prescribed medications, and the defendant is otherwise qualified under s. 394.47892(4). The satisfactory completion of the program must be a condition of the defendant's probation or

community control. As used in this subsection, the term "nonviolent felony" means a third degree felony violation under chapter 810 or any other felony offense that is not a forcible felony as defined in s. 776.08. Defendants charged with resisting an officer with violence under s. 843.01, battery on a law enforcement officer under s. 784.07, or aggravated assault may participate in the mental health court program if the court so orders after the victim is given his or her right to provide testimony or written statement to the court as provided in s. 921.143.

(b) The defendant must be fully advised of the purpose of the mental health court program and the defendant must agree to enter the program. The original sentencing court shall relinquish jurisdiction of the defendant's case to the postadjudicatory mental health court program until the defendant is no longer active in the program, the case is returned to the sentencing court due to the defendant's termination from the program for failure to comply with the terms thereof, or the defendant's sentence is completed.

(c) The Department of Corrections may establish designated and trained mental health probation officers to support individuals under supervision of the mental health court program.

Section 16. Paragraph (j) is added to subsection (2) of section 948.06, Florida Statutes, to read:

948.06 Violation of probation or community control; revocation; modification; continuance; failure to pay restitution or cost of supervision.—

(2)

(j)1. Notwithstanding s. 921.0024 and effective for offenses committed on or after July 1, 2016, the court may order the offender to successfully complete a postadjudicatory mental health court program under s. 394.47892 or a military veterans and servicemembers court program under s. 394.47891 if:

a. The court finds or the offender admits that the offender has violated his or her community control or probation;

b. The underlying offense is a nonviolent felony. As used in this subsection, the term "nonviolent felony" means a third degree felony violation under chapter 810 or any other felony offense that is not a forcible felony as defined in s. 776.08. Offenders charged with resisting an officer with violence under s. 843.01, battery on a law enforcement officer under s. 784.07, or aggravated assault may participate in the mental health court program if the court so orders after the victim is given his or her right to provide testimony or written statement to the court as provided in s. 921.143;

c. The court determines that the offender is amenable to the services of a postadjudicatory mental health court program, including taking prescribed medications, or a military veterans and servicemembers court program;

d. The court explains the purpose of the program to the offender and the offender agrees to participate; and

e. The offender is otherwise qualified to participate in a postadjudicatory mental health court program under s. 394.47892(4) or a military veterans and servicemembers court program under s. 394.47891.

2. After the court orders the modification of community control or probation, the original sentencing court shall

relinquish jurisdiction of the offender's case to the postadjudicatory mental health court program until the offender is no longer active in the program, the case is returned to the sentencing court due to the offender's termination from the program for failure to comply with the terms thereof, or the offender's sentence is completed.

Section 17. Subsection (8) of section 948.08, Florida Statutes, is renumbered as subsection (9), paragraph (a) of subsection (7) is amended, and a new subsection (8) is added to that section, to read:

948.08 Pretrial intervention program.—

(7)(a) Notwithstanding any provision of this section, a person who is charged with a felony, other than a felony listed in s. 948.06(8)(c), and identified as a veteran, as defined in s. 1.01, including a veteran who is discharged or released under a general discharge, or servicemember, as defined in s. 250.01, who suffers from a military service-related mental illness, traumatic brain injury, substance abuse disorder, or psychological problem, is eligible for voluntary admission into a pretrial veterans' treatment intervention program approved by the chief judge of the circuit, upon motion of either party or the court's own motion, except:

1. If a defendant was previously offered admission to a pretrial veterans' treatment intervention program at any time before trial and the defendant rejected that offer on the record, the court may deny the defendant's admission to such a program.

2. If a defendant previously entered a court-ordered veterans' treatment program, the court may deny the defendant's

admission into the pretrial veterans' treatment program.

(8)(a) Notwithstanding any provision of this section, a defendant is eligible for voluntary admission into a pretrial mental health court program established pursuant to s. 394.47892 and approved by the chief judge of the circuit for a period to be determined by the court, based on the clinical needs of the defendant, upon motion of either party or the court's own motion if:

1. The defendant is identified as having a mental illness;

2. The defendant has not been convicted of a felony; and

3. The defendant is charged with:

a. A nonviolent felony that includes a third degree felony violation of chapter 810 or any other felony offense that is not a forcible felony as defined in s. 776.08;

b. Resisting an officer with violence under s. 843.01, if the law enforcement officer and state attorney consent to the defendant's participation;

c. Battery on a law enforcement officer under s. 784.07, if the law enforcement officer and state attorney consent to the defendant's participation; or

d. Aggravated assault, if the victim and state attorney consent to the defendant's participation.

(b) At the end of the pretrial intervention period, the court shall consider the recommendation of the program administrator and the recommendation of the state attorney as to disposition of the pending charges. The court shall determine, by written finding, whether the defendant has successfully completed the pretrial intervention program. If the court finds that the defendant has not successfully completed the pretrial


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intervention program, the court may order the person to continue in education and treatment, which may include a mental health program offered by a licensed service provider, as defined in s. 394.455, or order that the charges revert to normal channels for prosecution. The court shall dismiss the charges upon a finding that the defendant has successfully completed the pretrial intervention program.

Section 18. Subsections (3) and (4) of section 948.16, Florida Statutes, are renumbered as subsections (4) and (5), respectively, paragraph (a) of subsection (2) and present subsection (4) of that section are amended, and a new subsection (3) is added to that section, to read:

948.16 Misdemeanor pretrial substance abuse education and treatment intervention program; misdemeanor pretrial veterans' treatment intervention program; misdemeanor pretrial mental health court program.—

(2)(a) A veteran, as defined in s. 1.01, including a veteran who is discharged or released under a general discharge, or servicemember, as defined in s. 250.01, who suffers from a military service-related mental illness, traumatic brain injury, substance abuse disorder, or psychological problem, and who is charged with a misdemeanor is eligible for voluntary admission into a misdemeanor pretrial veterans' treatment intervention program approved by the chief judge of the circuit, for a period based on the program's requirements and the treatment plan for the offender, upon motion of either party or the court's own motion. However, the court may deny the defendant admission into a misdemeanor pretrial veterans' treatment intervention program if the defendant has previously entered a court-ordered


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veterans' treatment program.

(3) A defendant who is charged with a misdemeanor and identified as having a mental illness is eligible for voluntary admission into a misdemeanor pretrial mental health court program established pursuant to s. 394.47892, approved by the chief judge of the circuit, for a period to be determined by the court, based on the clinical needs of the defendant, upon motion of either party or the court's own motion.

(5) ~~(4)~~ Any public or private entity providing a pretrial substance abuse education and treatment program or mental health court program under this section shall contract with the county or appropriate governmental entity. The terms of the contract shall include, but not be limited to, the requirements established for private entities under s. 948.15(3). This requirement does not apply to services provided by the Department of Veterans' Affairs or the United States Department of Veterans Affairs.

Section 19. Section 948.21, Florida Statutes, is amended to read:

948.21 Condition of probation or community control; military servicemembers and veterans.—

(1) Effective for a probationer or community controllee whose crime is ~~was~~ committed on or after July 1, 2012, and who is a veteran, as defined in s. 1.01, or servicemember, as defined in s. 250.01, who suffers from a military service-related mental illness, traumatic brain injury, substance abuse disorder, or psychological problem, the court may, in addition to any other conditions imposed, impose a condition requiring the probationer or community controllee to participate in a

treatment program capable of treating the probationer's ~~probationer~~ or community controllee's mental illness, traumatic brain injury, substance abuse disorder, or psychological problem.

(2) Effective for a probationer or community controllee whose crime is committed on or after July 1, 2016, and who is a veteran, as defined in s. 1.01, including a veteran who is discharged or released under a general discharge, or servicemember, as defined in s. 250.01, who suffers from a military service-related mental illness, traumatic brain injury, substance abuse disorder, or psychological problem, the court may, in addition to any other conditions imposed, impose a condition requiring the probationer or community controllee to participate in a treatment program capable of treating the probationer or community controllee's mental illness, traumatic brain injury, substance abuse disorder, or psychological problem.

(3) The court shall give preference to treatment programs for which the probationer or community controllee is eligible through the United States Department of Veterans Affairs or the Florida Department of Veterans' Affairs. The Department of Corrections is not required to spend state funds to implement this section.

Section 20. Section 985.345, Florida Statutes, is amended to read:

985.345 Delinquency pretrial intervention programs ~~program~~.—

(1)(a) Notwithstanding any other ~~provision of~~ law ~~to the contrary~~, a child who is charged with a felony of the second or

third degree for purchase or possession of a controlled substance under chapter 893; tampering with evidence; solicitation for purchase of a controlled substance; or obtaining a prescription by fraud, and who has not previously been adjudicated for a felony, is eligible for voluntary admission into a delinquency pretrial substance abuse education and treatment intervention program, including a treatment-based drug court program established pursuant to s. 397.334, approved by the chief judge or alternative sanctions coordinator of the circuit to the extent that funded programs are available, for a period based on the program requirements and the treatment services that are suitable for the offender, upon motion of either party or the court's own motion. However, if the state attorney believes that the facts and circumstances of the case suggest the child's involvement in the dealing and selling of controlled substances, the court shall hold a preadmission hearing. If the state attorney establishes by a preponderance of the evidence at such hearing that the child was involved in the dealing and selling of controlled substances, the court shall deny the child's admission into a delinquency pretrial intervention program.

(b) ~~(2)~~ While enrolled in a delinquency pretrial intervention program authorized by this subsection ~~section~~, a child is subject to a coordinated strategy developed by a drug court team under s. 397.334(4). The coordinated strategy may include a protocol of sanctions that may be imposed upon the child for noncompliance with program rules. The protocol of sanctions may include, but is not limited to, placement in a substance abuse treatment program offered by a licensed service

provider as defined in s. 397.311 or serving a period of secure detention under this chapter. The coordinated strategy must be provided in writing to the child before the child agrees to enter the pretrial treatment-based drug court program or other pretrial intervention program. A ~~Any~~ child whose charges are dismissed after successful completion of the treatment-based drug court program, if otherwise eligible, may have his or her arrest record and plea of nolo contendere to the dismissed charges expunged under s. 943.0585.

(c) ~~(3)~~ At the end of the delinquency pretrial intervention period, the court shall consider the recommendation of the state attorney and the program administrator as to disposition of the pending charges. The court shall determine, by written finding, whether the child has successfully completed the delinquency pretrial intervention program. Notwithstanding the coordinated strategy developed by a drug court team pursuant to s. 397.334(4), if the court finds that the child has not successfully completed the delinquency pretrial intervention program, the court may order the child to continue in an education, treatment, or drug testing ~~urine monitoring~~ program if resources and funding are available or order that the charges revert to normal channels for prosecution. The court may dismiss the charges upon a finding that the child has successfully completed the delinquency pretrial intervention program.

(2)(a) Notwithstanding any other law, a child who has been identified as having a mental illness and who has not been previously adjudicated for a felony is eligible for voluntary admission into a delinquency pretrial mental health court intervention program, established pursuant to s. 394.47892,

approved by the chief judge of the circuit, for a period to be determined by the court, based on the clinical needs of the child, upon motion of either party or the court's own motion if the child is charged with:

1. A misdemeanor;

2. A nonviolent felony, as defined in s. 948.01(8);

3. Resisting an officer with violence under s. 843.01, if the law enforcement officer and state attorney consent to the child's participation;

4. Battery on a law enforcement officer under 784.07, if the law enforcement officer and state attorney consent to the child's participation; or

5. Aggravated assault, if the victim and state attorney consent to the child's participation.

(b) At the end of the delinquency pretrial mental health court intervention period, the court shall consider the recommendation of the state attorney and the program administrator as to disposition of the pending charges. The court shall determine, by written finding, whether the child has successfully completed the program. If the court finds that the child has not successfully completed the program, the court may order the child to continue in an education, treatment, or monitoring program if resources and funding are available or order that the charges revert to normal channels for prosecution. The court may dismiss the charges upon a finding that the child has successfully completed the program.

(c) A child whose charges are dismissed after successful completion of the delinquency pretrial mental health court intervention program, if otherwise eligible, may have his or her

criminal history record for such charges expunged under s. 943.0585.

(3) ~~(4)~~ Any entity, whether public or private, providing pretrial substance abuse education, treatment intervention, drug testing, or a mental health court ~~and a urine monitoring~~ program under this section must contract with the county or appropriate governmental entity, and the terms of the contract must include, but need not be limited to, the requirements established for private entities under s. 948.15(3). It is the intent of the Legislature that public or private entities providing substance abuse education and treatment intervention programs involve the active participation of parents, schools, churches, businesses, law enforcement agencies, and the department or its contract providers.

Section 21. For the purpose of incorporating the amendments made by this act to sections 948.01 and 948.06, Florida Statutes, in references thereto, paragraph (a) of subsection (3) and subsection (5) of section 397.334, Florida Statutes, are reenacted to read:

397.334 Treatment-based drug court programs.—

(3)(a) Entry into any postadjudicatory treatment-based drug court program as a condition of probation or community control pursuant to s. 948.01, s. 948.06, or s. 948.20 must be based upon the sentencing court's assessment of the defendant's criminal history, substance abuse screening outcome, amenability to the services of the program, total sentence points, the recommendation of the state attorney and the victim, if any, and the defendant's agreement to enter the program.

(5) Treatment-based drug court programs may include

pretrial intervention programs as provided in ss. 948.08, 948.16, and 985.345, treatment-based drug court programs authorized in chapter 39, postadjudicatory programs as provided in ss. 948.01, 948.06, and 948.20, and review of the status of compliance or noncompliance of sentenced offenders through a treatment-based drug court program. While enrolled in a treatment-based drug court program, the participant is subject to a coordinated strategy developed by a drug court team under subsection (4). The coordinated strategy may include a protocol of sanctions that may be imposed upon the participant for noncompliance with program rules. The protocol of sanctions may include, but is not limited to, placement in a substance abuse treatment program offered by a licensed service provider as defined in s. 397.311 or in a jail-based treatment program or serving a period of secure detention under chapter 985 if a child or a period of incarceration within the time limits established for contempt of court if an adult. The coordinated strategy must be provided in writing to the participant before the participant agrees to enter into a treatment-based drug court program.

Section 22. For the purpose of incorporating the amendment made by this act to section 948.06, Florida Statutes, in a reference thereto, paragraph (b) of subsection (2) of section 948.012, Florida Statutes, is reenacted to read:

948.012 Split sentence of probation or community control and imprisonment.—

(2) The court may also impose a split sentence whereby the defendant is sentenced to a term of probation which may be followed by a period of incarceration or, with respect to a

felony, into community control, as follows:

(b) If the offender does not meet the terms and conditions of probation or community control, the court may revoke, modify, or continue the probation or community control as provided in s. 948.06. If the probation or community control is revoked, the court may impose any sentence that it could have imposed at the time the offender was placed on probation or community control. The court may not provide credit for time served for any portion of a probation or community control term toward a subsequent term of probation or community control. However, the court may not impose a subsequent term of probation or community control which, when combined with any amount of time served on preceding terms of probation or community control for offenses pending before the court for sentencing, would exceed the maximum penalty allowable as provided in s. 775.082. Such term of incarceration shall be served under applicable law or county ordinance governing service of sentences in state or county jurisdiction. This paragraph does not prohibit any other sanction provided by law.

Section 23. This act shall take effect July 1, 2016.

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	CS/CS/SB 604
INTRODUCER:	Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services); Judiciary Committee; and Senator Diaz de la Portilla and others
SUBJECT:	Mental Health Services in the Criminal Justice System
DATE:	March 3, 2016 REVISED: 3/3/16

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	C. Brown	Cibula	JU	**Fav/CS**
2.	A. Brown	Pigott	AHS	**Recommend: Fav/CS**
3.	A. Brown	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 604 expands the authority of courts to use treatment-based mental health and substance abuse treatment programs and specifies minimum requirements of those programs. Among the changes in the bill, the bill expands the eligibility criteria for these programs to enable the participation of children in delinquency court and veterans who were released under a general discharge. The bill authorizes dependency courts to require persons having or seeking custody of a child to participate in certain mental health programs. Other provisions of the bill address the designation of some county courts as "criminal county courts" for certain functions, county-funded mental health court programs and a forensic hospital diversion pilot program.

The bill encourages counties to establish and fund treatment-based mental health court programs. The bill also authorizes courts to admit defendants, on a voluntary basis, at both the pretrial intervention and post-adjudicatory level into the programs. The bill further encourages coordination among various state agencies, local government, and law enforcement agencies to facilitate these programs.

Contingent upon an appropriation by the Legislature, each judicial circuit must establish at least one coordinator position for treatment-based mental health court programs. Each judicial circuit must annually report data on the program to the Office of the State Courts Administrator (OSCA) for purposes of program evaluation.

The bill creates the Forensic Hospital Diversion Pilot Program, which replicates the model of the Miami-Dade Forensic Alternative Center in three additional counties. In addition to Miami-Dade, the Department of Children and Families (DCF) may implement the program in Escambia, Hillsborough, and Okaloosa counties. The purpose of the program is to divert incarcerated defendants found mentally incompetent to proceed, or not guilty by reason of insanity, into a therapeutic setting that offers beds and community outpatient treatment.

Implementation of some components of the bill are contingent upon appropriations or sufficient existing resources. The cost to implement the pilot program is $6.4 million, but the bill specifies that the pilot program may be implemented if existing resources are available on a recurring basis. Additionally, the cost of employing at least one mental health coordinator in each county, as authorized by the bill, would require significant funding, but this provision is contingent on an annual appropriation by the Legislature. See Section V.

The bill is effective on July 1, 2016.

II. Present Situation:

Problem-solving Courts

A problem-solving court is a type of specialty court designed to address specific needs of a defendant, including:

- Drug courts;
- Veterans' courts; and
- Mental health courts.[1]

A veteran is defined as a person who served in the active military, naval, or air service and who was discharged or released under honorable conditions only, or who later received an upgraded discharge under honorable conditions.[2]

Both pretrial intervention and post-adjudicatory cases may be referred to a problem-solving court.[3] A defendant who is eligible to participate in a problem-solving court may request that the court transfer the case to another county to receive treatment.[4]

Across the state:

- 17 counties operate felony veterans' courts;
- 38 counties operate felony drug courts; and
- 18 counties operate mental health courts.[5]

Offenders sentenced in problem-solving courts to felony probation are supervised by Department of Corrections' probation officers.

[1] Section 910.035(5)(a), F.S.
[2] Section 1.01(14), F.S.
[3] Section 910.35(5)(d)1. and 2., F.S.
[4] Section 910.35(5)(b), F.S.
[5] Department of Corrections, *2016 Agency Legislative Bill Analysis* (Nov. 12, 2015) (on file with the Senate Committee on Judiciary).

Pre-trial Intervention in Criminal Cases

The Department of Corrections (DOC) supervises pretrial intervention programs for defendants who have criminal charges pending. Pretrial intervention is available to defendants who are charged with a misdemeanor or third degree felony as a first offense or who have previously committed one nonviolent misdemeanor.[6]

Before a case may be transferred to another county, the following is required:
- Approval from the administrator of the pretrial intervention program, a victim, the state attorney, and the judge who presided at the initial first appearance of the defendant;
- Voluntary and written agreement from the defendant; and
- Knowing and intelligent waiver of speedy trial rights from the defendant during the term of diversion.[7]

While a defendant is in the program, criminal charges remain pending. If the defendant fails to successfully complete the program, the program administrator may recommend further supervision or the state attorney may resume prosecution of the case. The defendant does not have the right to a public defender unless the defendant is subject to incarceration if convicted.[8] If the defendant successfully completes the program, the program administrator may recommend that charges be dismissed without prejudice.[9]

The purpose of pretrial intervention is to offer eligible defendants a sentencing alternative in the form of counseling, education, supervision, and medical and psychological treatment as appropriate.[10]

Veterans Programs and Courts for Criminal Offenders

The Use of Veterans' Courts Nationally

A 2012 national survey found that 71 percent of participants in veterans' courts had experienced trauma while serving in the military.[11] More recently in 2014, a veterans' court report found that 46 percent of participants were diagnosed with substance abuse and mental health problems.

Veterans' courts are modeled after other specialty courts, such as drug courts and mental health courts. The goal of specialty courts is to provide treatment interventions to resolve underlying causes of criminal behavior to "reintegrate court participants into society, reduce future involvement with the criminal justice system, and promote public safety."[12]

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[6] A misdemeanor is punishable by up to a 1 year term in a county jail and a $500 to a $1,000 fine. Sections 775.08(2) and 775.083(1)(d) and (e), F.S. A felony is punishable by a minimum of more than a 1 year term of imprisonment in a state penitentiary and fines that range from $5,000 to $15,000. Sections 775.08(1) and 775.083(1)(a) through (d), F.S.
[7] Section 948.08 (2), F.S.
[8] Section 948.08(3) and (4), F.S.
[9] Section 948.08(5), F.S. If a case is dismissed without prejudice, the case can be refiled at a later time.
[10] Section 948.08(1), F.S.
[11] Office of Program Policy Analysis & Government Accountability, Research Memorandum, *State-Funded Veterans' Courts in Florida*, pg. 1 (Jan. 30, 2015).
[12] *Id*.

Like other specialty courts, veterans' courts require the defendant to appear before the court over a specified period of time. On average, it takes 12 to 18 months for a veterans' court to dispose of a case.[13]

Veterans' Courts in Florida Law

The 2012 Florida Legislature placed into law the "T. Patt Maney Veterans' Treatment Intervention Act."[14] The law:

- Recognizes veterans' courts;
- Requires courts to hold a pre-sentencing hearing if a combat veteran alleges military-related injury, to determine if the defendant suffers from certain conditions, such as post-traumatic stress disorder, a traumatic brain injury, or a substance abuse disorder due to military service;
- Establishes pretrial and post-adjudication intervention programs for combat veterans having pending criminal charges or convictions; and
- Enables counties to establish programs to divert eligible defendants who are veterans into treatment programs.

Veterans' Courts

The chief judge of a judicial circuit may establish a Military Veterans and Service Members Court Program to serve the special needs of veterans and service members who are convicted of criminal offenses.[15] In sentencing defendants, these specialty courts will consider whether military-related conditions, such as mental illness, traumatic brain injury, or substance abuse can be addressed through programs designed to serve the specific needs of the participant.[16]

Pre-trial Intervention Programs

Veterans charged with misdemeanors[17] or felonies[18] may be eligible to participate in diversion programs. However, veterans must not be charged with a disqualifying felony offense. Disqualifying offenses are serious felony offenses and include:

- Kidnapping and attempted kidnapping;
- Murder or attempted murder;
- Aggravated battery or attempted aggravated battery;
- Sexual battery or attempted sexual battery;
- Lewd or lascivious battery and certain other sexual offenses against children;
- Robbery or attempted robbery;
- Burglary or attempted burglary;
- Aggravated assault;

[13] *Id.*
[14] Senate Bill 138 (ch. 2012-159, Laws of Fla.).
[15] Section 1.01(14), F.S., defines a veteran as a person who served in active military, naval, or air service who was discharged or released under honorable conditions or who later received an upgraded discharge under honorable conditions. A servicemember is defined as a person serving as a member of the United States Armed Forces on active duty or state active duty and members of the Florida National Guard and United States Reserve Forces. Section 250.01(19), F.S.
[16] The authority for Veterans' Courts Programs is in ch. 394, F.S., which addresses mental health. Section 394.47891, F.S.
[17] Section 948.16 (2)(a), F.S., establishes the misdemeanor pretrial veterans' treatment intervention program.
[18] Section 948.08(7)(a), F.S., authorizes courts to consider veterans charged with non-disqualifying felonies for pretrial veterans' treatment intervention programs.

- Aggravated stalking; and
- Treason.[19]

Prior to a veteran's placement in a program, a veterans' treatment intervention team must develop an individualized coordinated strategy for the veteran. The team must present the coordinated strategy to the veteran in writing before he or she agrees to enter the program. The strategy is modeled after the 10 therapeutic jurisprudence principles and key components for treatment-based drug court programs.[20]

During the time that the defendant is allotted participation in the treatment program, the court retains jurisdiction in the case. At the end of the program, the court considers recommendations for disposition by the state attorney and the program administrator. If the veteran successfully completes the treatment program, the court must dismiss the criminal charges. If the court finds that the veteran did not successfully complete the program, the court can either order the veteran to continue in education and treatment or authorize the state attorney to proceed with prosecution.

Eligible veterans who successfully complete the diversion program may petition the court to order the expunction of the arrest record and the plea.

Post-adjudication Treatment Programs

Veterans and service members[21] on probation or community control who committed a crime on or after July 1, 2012, and who suffer from a military-related mental illness, a traumatic brain injury, or a substance abuse disorder, may also qualify for treatment programs. A court may impose, as a condition of probation or community control, successful completion of a mental health or substance abuse treatment program.[22]

Forensic Facilities and Mental Health Treatment for Criminal Defendants

State Forensic System

Chapter 916, F.S., governs secure forensic facilities that are under the jurisdiction of the Department of Children and Families (DCF). The state forensic system is a network of state facilities and community services for persons who have mental health issues and who are involved with the criminal justice system.

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[19] Section 948.06(8)(c), F.S.

[20] Section 948.08(7)(b), F.S., requires a coordinated strategy for veterans charged with felonies who are participating in pretrial intervention programs. Section 948.16(2)(b), F.S., requires a coordinated strategy for veterans charged with misdemeanors. Section 397.334(4), F.S., requires treatment based court programs to include therapeutic jurisprudence principles and components recognized by the United States Department of Justice and adopted by the Florida Supreme Court Treatment-based Drug Court Steering Committee.

[21] Section 1.01(14), F.S., defines a veteran as a person who served in active military, naval, or air service who was discharged or released under honorable conditions or who later received an upgraded discharge under honorable conditions. A servicemember is defined as a person serving as a member of the United States Armed Forces on active duty or state active duty and members of the Florida National Guard and United States Reserve Forces. (Section 250.01(19), F.S.).

[22] Section 948.21, F.S.

Two types of mentally ill defendants charged with felonies are eligible for involuntary commitment:

- Persons found incompetent to proceed[23] to trial or the entry of a plea; and
- Persons found not guilty by reason of insanity.[24]

Forensic treatment is provided in the following settings:

- Separate and secure forensic facilities;
- Civil facilities; and
- Community residential programs or other community settings.

Circuit courts have the option of committing a person to a facility or releasing the person on conditional release.[25] Conditional release is release into the community, accompanied by outpatient care and treatment.[26] The committing court retains jurisdiction over the defendant while the defendant is either under involuntary commitment or conditional release.[27]

The DCF oversees two state-operated facilities, Florida State Hospital and North Florida Evaluation and Treatment Center, and two privately-operated, maximum-security forensic treatment facilities, South Florida Evaluation and Treatment Center and Treasure Coast Treatment Center. In the 2011-2012 fiscal year, the appropriation for state forensic facilities was $139 million from the General Revenue Fund.[28]

Miami-Dade Forensic Alternative Center

The Miami-Dade Forensic Alternative Center (MDFAC) opened in 2009 as a community-based, forensic commitment program. The MDFAC serves adults who have lesser felony offenses and are not a danger to the community.[29] The MDFAC provides competency restoration and a continuum of care during commitment and after reentry into the community.[30] The MDFAC currently operates a 16-bed facility at a daily cost of $284.81 per bed.[31]

III. Effect of Proposed Changes:

This bill expands the authority of courts to use treatment-based mental health and substance abuse treatment programs and specifies minimum requirements of those programs. The premise of the bill is that some who become involved with the criminal justice system are less likely to become involved in the future if they receive treatment for mental health or substance abuse issues.

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[23] Mental incompetence to proceed is defined in s. 916.12(1), F.S.
[24] Section 916.105(1), F.S.; The Florida Rules of Criminal Procedure define what is meant by "not guilty by reason of insanity," rather than the statutes. Section 916.15(1), F.S.
[25] Section 916.17(1), F.S.
[26] *Id*.
[27] Section 916.16(1), F.S.
[28] Budget Subcommittee on Health and Human Services Appropriations, The Florida Senate, *Interim Report 2012-108, The Forensic Mental Health System* (Sept. 2011).
[29] Department of Children and Families (DCF), *2016 Agency Legislative Bill Analysis* (Nov. 13, 2015) (on file with the Senate Committee on Judiciary).
[30] The Florida Senate, *supra* note 28.
[31] DCF, *supra* note 29, at 2.

Judicial Proceedings Relating to Children

The bill amends legislative findings and intent under s. 39.001, F.S., for mental health treatment to be included in dependency court services and for the state to contract with mental health service providers for such services.

The bill amends s. 39.507, F.S., to allow a dependency court to:
- Order a person requesting custody of a child to submit to a mental health or substance abuse disorder assessment or evaluation;
- Require participation of such person in a mental health court program or a treatment-based drug court program; and
- Oversee the progress and compliance with treatment by the person who has custody or is requesting custody of a child.

The bill amends s. 39.521, F.S., to authorize a court, with jurisdiction over a child that has been adjudicated dependent, to:
- Require the person who has custody or is requesting custody of the child to submit to a mental health or substance abuse disorder assessment or evaluation;
- Require the person to participate in and comply with a mental health court program or drug court program, and
- Oversee the progress and compliance by the person who has custody or is requesting custody of a child.

Involuntary Outpatient Placement

The bill amends s. 394.4655, F.S., relating to involuntary outpatient placement for mental health services, to define "court" to mean a circuit court or a criminal county court. The bill also defines "criminal county court" to mean a county court exercising its original jurisdiction in a misdemeanor case under s. 34.01, F.S.

Under the bill, if a person has been ordered into involuntary outpatient placement and continues to meet the criteria for such placement, the mental health service provider with which the person has been placed must file a petition for continued involuntary outpatient placement in the court that issued the order for placement, and hearings on those petitions will be held by the court that issued the order for placement. Under current law, such petitions must be filed in circuit court and the hearings must be held by the circuit court.

The bill amends ss. 394.4599, 394.463, 394.455, 394.4615, and 790.065, F.S., to conform those sections to the functions of a criminal county court versus a circuit court or to update cross-references to changes made in the bill.

Eligibility for Participation in a Problem-Solving Court

The bill expands the population who may be served through a problem-solving court to include children who are enrolled in delinquency pretrial intervention programs.

The bill clarifies that:
- Service members are eligible to participate in problem-solving courts; and
- Veterans and service members may participate in a Military Veterans and Service Members Court Program as part of a pretrial intervention program.

Under current law, a veterans' court serves veterans who have been released from military service through an honorable discharge. The bill makes veterans who have been discharged or released under a less than honorable discharge also eligible to participate in veterans' court.

Treatment-based Mental Health Court Programs

Creation of the Treatment-based Mental Health Court Program

This bill authorizes counties to establish and fund treatment-based mental health court programs. The program facilitates the provision of therapeutic mental health treatment for persons who have mental health issues who are in the criminal justice system. Participation by defendants is voluntary.

The program may apply to:
- Pretrial intervention programs;
- Post-adjudicatory treatment-based mental health court programs; and
- Court review of the status of compliance or noncompliance of sentenced defendants.

In determining the suitability of a post-adjudicatory treatment-based mental health court program, for a particular defendant, the court must review the defendant's:
- Criminal history;
- Mental health screening outcome;
- Amenability to services of the program;
- Total sentence points; and
- Agreement to enter the program.

The court must also consider the recommendation of the state attorney and the victim.

If a defendant sentenced to a post-adjudicatory mental health court program is charged with a violation of probation or community control while in the program, the judge of the program will hear the violation of probation or community control case.

This bill encourages coordination among various state agencies, local government, and law enforcement agencies to establish and support these programs.

Contingent upon an appropriation by the Legislature, each judicial circuit is required to establish at least one coordinator position for the treatment-based mental health court program to coordinate responsibilities of participating agencies and service providers. The bill requires mental health court programs to collect client-level data and programmatic information to evaluate the program. Of the information collected, each mental health court program must then report programmatic information and aggregate data to the Office of the State Courts Administrator (OSCA).

If a county establishes a treatment-based mental health court program, the county must secure funding from sources other than the state for costs not otherwise required under the state constitution for state court system funding.[32] Agencies of the state executive branch may provide funding for the program and counties may enter into inter-local agreements for the collective funding of these programs.

The bill authorizes the chief judge of each judicial circuit to appoint an advisory committee for the treatment-based mental health court program. Members of the committee are:

- The chief judge or his or her designee serving as chair;
- The judge of the treatment-based mental health court program, unless otherwise designated by the chief judge or his or her designee;
- The state attorney and the public defender;
- Treatment-based mental health program coordinators;
- Community representatives and treatment representatives; and
- Any other person whom the chair deems appropriate.

Pretrial Intervention Mental Health Court Programs

Current law authorizes courts to establish specialty pretrial intervention programs for persons charged with misdemeanor or felony crimes.

Misdemeanor Program for Adults

Under the bill, a misdemeanor pretrial mental health court program is included as a type of pretrial intervention program. A defendant who is charged with a misdemeanor and identified as having a mental illness is eligible to participate in the program.

Felony Program for Adults

Current law authorizes a court to voluntarily admit a defendant who is a veteran released from military service under an honorable discharge into a pretrial veterans' treatment intervention program. This bill authorizes veterans who were released from military service under a less than honorable discharge to participate in a pretrial intervention program.

The bill specifies how a veteran charged with a felony qualifies to participate in a pretrial mental health program. To be eligible to participate, the defendant:

- Must be identified as having a mental illness;
- Must not have been convicted of a felony; and

[32] Section 29.004, F.S., provides that pursuant to s. 14, Art. V of the State Constitution, state revenue funding for the state court system includes funding for appointed and elected judges; juror compensation and expenses; reasonable court reporting and transcription services; court administration; and case management, including the initial review and evaluation of cases, case monitoring, tracking, and coordination; and service referral, coordination, monitoring, and tracking for treatment-based drug court programs.

- Must be charged with a nonviolent felony[33] or certain violent felonies if the state attorney and the victim consent.[34]

The court retains jurisdiction over the disposition of the pending charges. If the court finds in writing that the defendant has successfully completed the program, the court shall order the dismissal of the criminal charges. If the court finds that the defendant has failed to successfully complete the program, the case may proceed to prosecution.

Delinquency Pretrial Intervention Program for Children

The bill establishes a pretrial intervention program for children who have been identified as having a mental illness. Treatment under the program is to be based on the clinical needs of the child and participation in the program is voluntarily. To qualify:

- The child must not have been previously adjudicated for a felony; and
- The criminal charge that is currently pending is limited to a misdemeanor, a nonviolent felony,[35] or certain forcible felonies, with victim consent.[36]

At the end of the pretrial intervention period, the court will determine how to proceed with the case, based on the recommendation of the state attorney and the program administrator and whether the child has successfully completed the program. If the court dismisses the charges after a child successfully completes a mental health court program, and if the child otherwise qualifies, he or she may have his or her arrest record and plea of no lo contendere expunged.

Post-conviction Treatment-based Mental Health Court Program

Regardless of how a defendant would rank under the Criminal Punishment Code, a court is authorized to place a defendant convicted of a felony or a felony violation of probation or community control into a post-adjudicatory treatment-based mental health court program if:

- The offense is a nonviolent felony;[37]
- The defendant is amenable to mental health treatment, including taking prescribed medication; and
- The court determines the defendant is suitable for placement, based on criteria identical to that required for assessments into the program of other defendants.

A court may also consider a defendant for the program for the offenses of certain forcible felonies after the court has considered a victim statement or testimony, if provided by the victim.[38]

[33] A nonviolent felony is defined in the bill as an offense of burglary or trespass listed under ch. 810, F.S., which is charged as a third-degree felony or a non-forcible felony.
[34] These offenses are resisting arrest of an officer with violence; battery on a law enforcement officer; or aggravated assault.
[35] A nonviolent felony is defined in the bill as an offense of burglary or trespass listed under ch. 810, F.S., which is charged as a third-degree felony or a non-forcible felony.
[36] These offenses are resisting arrest of an officer with violence; battery on a law enforcement officer; or aggravated assault.
[37] A nonviolent felony is defined in the bill as an offense of burglary or trespass listed under ch. 810, F.S., which is charged as a third-degree felony or a non-forcible felony.
[38] These offenses are resisting arrest of an officer with violence; battery on a law enforcement officer; or aggravated assault.

After a court orders placement of a defendant into a treatment-based mental health program, jurisdiction of the case transfers from the sentencing court to the post-adjudicatory treatment-based mental health court program for the interim that the defendant is in the program. Satisfactory completion of the program is a condition of the defendant's probation or community control.

The court may impose specialized treatment for probationers or community controllees who are veterans or service members and whose crime is committed after July 1, 2016 (the effective date of this bill). Specialized treatment will address a defendants' mental illness, traumatic brain injury, substance abuse disorder, or psychological problem, as appropriate.

The bill provides a definition of "mental health probation" and authorizes the DOC to establish designated and trained mental health probation officers to support individuals under supervision of the mental health court program. Under the bill, "mental health probation" means a form of specialized supervision that emphasizes mental health treatment and working with treatment providers to focus on the underlying mental health disorders and compliance with a prescribed psychotropic medication regimen in accordance with individualized treatment plans. Mental health probation must be supervised by officers with restricted caseloads who are sensitized to the unique needs of individuals with mental health disorders, and who will work in tandem with community mental health case managers assigned to the defendant. The bill provides that caseloads of such officers should be restricted to a maximum of 50 cases per officer in order to ensure an adequate level of staffing and supervision.

Forensic Services

Forensic Hospital Diversion Pilot Program

This bill authorizes the DCF to create the Forensic Hospital Diversion Pilot Program (pilot program). The pilot program would divert incarcerated defendants who are found mentally incompetent to proceed at trial or not guilty by reason of insanity from state forensic mental health treatment facilities to community outpatient treatment. The goals of the pilot program are to provide competency-restoration and community-reintegration services. Services would be provided in either a locked residential treatment facility or a community-based facility, based on public safety, the needs of the individual, and available resources.

Under the bill, if DCF decides to implement the pilot program, it will be implemented in Escambia, Hillsborough, Miami-Dade, and Okaloosa counties. The model for the pilot program is the Miami-Dade Forensic Alternative Center (MDFAC), currently in operation.

The bill specifies that the DCF may implement the pilot program if existing resources are available on a recurring basis. The bill authorizes the DCF to request budget amendments under ch. 216, F.S., to realign funds between mental health services and community substance abuse and mental health services in order to implement the pilot program.

Participation in the pilot program is limited to persons who are:
- 18 years of age and older;
- Charged with a second or third degree felony;

- Do not have a significant history of violent criminal offenses;
- Have been adjudicated either incompetent to proceed to trial or not guilty by reason of insanity;
- Meet safety and treatment criteria established by the DCF for placement in the community; and
- Would otherwise be admitted to a state mental health treatment facility.

The bill encourages the Florida Supreme Court, in conjunction with the Florida Supreme Court Task Force on Substance Abuse and Mental Health Issues in the Courts, to develop educational training for judges in the pilot program counties regarding the community forensic system.

The DCF is authorized to adopt rules to facilitate the provisions of the bill relating to the pilot program.

The bill takes effect July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill does not appear to contain a mandate because the bill authorizes but does not require counties to spend funds.

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:

Judicial Proceedings Relating to Children

The Office of the State Courts Administrator (OSCA) advises that changes made by CS/CS/SB 604 to ch. 39, F.S., to authorize dependency courts to require persons seeking custody of a child to submit to a mental health assessment and participation in a mental health court program, may increase the workload of the state courts system by increasing

the number of mental health court cases. However, the OSCA cannot determine how many additional mental health court cases, if any, would result.[39]

Involuntary Outpatient Placement

The bill's designation of "criminal county courts" and the authorization of criminal county courts to order involuntary outpatient placement could impact judicial workload. A criminal county court would have to hold hearings on the petitions filed for involuntary outpatient placement. Further, the criminal county court would have to hold hearings for cases where continued outplacement placement is sought. However, the OSCA cannot determine how many additional outpatient placement petitions and cases, if any, would result from allowing criminal county courts to order outpatient placement.[40]

Forensic Hospital Diversion Pilot Program

The bill authorizes the Department of Children and Families (DCF) to replicate the Miami-Dade Forensic Alternative Center (MDFAC) as a pilot program in Escambia, Hillsborough, Miami-Dade, and Okaloosa counties. However, the authorization is contingent on the availability of existing resources on a recurring basis.

The DCF's current contract with the MDFAC costs almost $1.6 million annually. Funding this model for the pilot program in three counties will require funding of almost $6.4 million. The DCF anticipates that the redirection of $6.4 million from the department's budget could impact or decrease the provision of services to other DCF clients. Therefore, the DCF would be unable to absorb the additional costs and would need additional funding for the pilot program.[41]

Cost savings may be realized, however, based on the success of the pilot program. The MDFAC is able to keep individuals whose competency has been restored in the program rather than in jail while awaiting trial. Doing so may shorten the process, as defendants are less likely to decompensate in the MDFAC compared to a jail setting and are more likely lose competency again in a jail setting due to the stress and the less-than-optimal treatment provided.[42] Commitment bed and court cost savings are expected through this bill. The experience of the MDFAC indicates that competency is restored more quickly through the pilot program, which requires 100 days on average, than at state facilities, which require 125 days on average.[43]

[39] Email from OSCA staff, Feb. 11, 2016, on file with staff of the Senate Appropriations Subcommittee on Health and Human Services.
[40] *Id.*
[41] DCF, *supra* note 29.
[42] *Id.*
[43] *Id.*

In Fiscal Year 2011-2012, the average cost for a secure forensic bed was $333 per day. A bed at the MDFAC cost much less; $229 a day in 2011-12.[44] However, the current cost per bed per day at the MDFAC is $285 a day.[45]

County Expenses for Treatment-Based Mental Health Court Programs

The bill encourages, but does not require, counties to create and fund treatment-based mental health court programs. The bill also, contingent upon appropriations, requires each judicial circuit to establish at least one coordinator for the treatment-based mental health programs within the circuit.

Problem-solving Courts

The OSCA anticipates additional judicial and court workload from:

- Creating mental health courts, as problem-solving court cases require more extensive hearings and time monitoring than traditional criminal cases. However, cost savings may be realized from lower recidivism and costs of incarceration.
- Expanding the eligibility criteria for veterans. Like other problem-solving courts, veterans' courts require more judicial time than traditional criminal cases.

The bill's fiscal impact on the state courts system is indeterminate, due to the lack of data needed to gauge the impact on judicial workload.[46]

The DOC expects the bill to have a minimal impact on its supervised offender population, as felony offenders are already being referred by pretrial intervention drug courts or are sentenced to probation or community control by felony circuit courts and problem-solving courts. Some of these referrals include special conditions to address mental health or substance abuse treatment.[47]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 39.001, 39.507, 39.521, 394.4655, 394.4599, 394.463, 394.455, 394.4615, 394.47891, 790.065, 910.035, 948.001, 948.01, 948.06, 948.08, 948.16, 948.21, and 985.345.

[44] The Florida Senate, *supra* note 28.
[45] DCF, *supra* note 29, at 2.
[46] Office of the State Courts Administrator, *2015 Judicial Impact Statement* (Nov. 13, 2015) (on file with the Senate Committee on Judiciary).
[47] Department of Corrections, *supra* note 5, at 4.

This bill creates the following sections of the Florida Statutes: 394.48792 and 916.185.

This bill reenacts the following sections of the Florida Statutes: 397.334 and 948.012.

IX. Additional Information:

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

CS/CS by Appropriations on March 3, 2016:
The committee substitute:

- Removes provisions allowing county court judges to release misdemeanor defendants on conditional release;
- Adds Okaloosa County to the list of counties in which the Department of Children and Families may implement the Forensic Hospital Diversion Pilot Program;
- Authorizes dependency courts to require persons having or seeking custody of a child to participate in certain mental health programs; and
- Creates a designation for some county courts as "criminal county courts" for involuntary outpatient placement and certain other functions.

CS by Judiciary on November 17, 2015:

- Establishes mental health probation as a form of specialized supervision that emphasizes mental health treatment;
- Clarifies that the mental health court program must collect client-level data but report aggregate data to the Office of the State Courts Administrator; and
- Makes technical clarifying changes.

B. Amendments:

None.

By the Committee on Judiciary; and Senators Diaz de la Portilla and Hutson

590-01331-16 2016604c1

A bill to be entitled

An act relating to mental health services in the criminal justice system; amending s. 394.47891, F.S.; expanding eligibility for military veterans and servicemembers court programs; creating s. 394.47892, F.S.; authorizing the funding for mental health court programs; providing legislative intent; providing for eligibility; providing program requirements; providing requirements for mental health court programs and counties that participate in the program; requiring the state courts system to establish at least one coordinator position in each mental health court program, contingent upon an annual appropriation; annually report to the Office of the State Courts Administrator specified data, programmatic information, and aggregate data; providing for an advisory committee; amending s. 910.035, F.S.; revising the definition of the term "problem-solving court"; amending s. 916.106, F.S.; redefining the term "court" to include county courts in certain circumstances; amending s. 916.17, F.S.; authorizing a county court to order the conditional release of a defendant for the provision of outpatient care and treatment; creating s. 916.185, F.S.; creating the Forensic Hospital Diversion Pilot Program; providing legislative findings and intent; providing definitions; authorizing the Department of Children and Families to implement a Forensic Hospital Diversion Pilot Program in specified judicial

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circuits; providing for funding; providing for eligibility for the program; providing legislative intent concerning training; authorizing rulemaking; amending s. 948.001, F.S.; defining the term "mental health probation"; amending ss. 948.01 and 948.06, F.S.; authorizing courts to order certain offenders on probation or community control to postadjudicatory mental health court programs; amending s. 948.08, F.S.; expanding eligibility requirements for certain pretrial intervention programs; providing for voluntary admission into a pretrial mental health court program; amending s. 948.16, F.S.; expanding eligibility of veterans for a misdemeanor pretrial veterans' treatment intervention program; providing eligibility of misdemeanor defendants for a misdemeanor pretrial mental health court program; amending s. 948.21, F.S.; expanding veterans' eligibility for participating in treatment programs while on court-ordered probation or community control; amending s. 985.345, F.S.; authorizing pretrial mental health court programs for certain juvenile offenders; providing for disposition of pending charges after completion of the pretrial intervention program; expanding the services for which an entity must enter into a contract with specified governmental entities if such entity provides such services; reenacting ss. 394.658(1)(a) and 916.16(2), F.S., relating to diverting individuals from judicial commitment to community-based service programs and the jurisdiction

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

of committing courts, respectively, to incorporate the amendment made to s. 916.17, F.S., in references thereto; reenacting s. 397.334(3)(a) and (5), F.S., relating to treatment-based drug court programs, to incorporate the amendments made to ss. 948.01 and 948.06, F.S., in references thereto; reenacting s. 948.012(2)(b), F.S., relating to split sentence probation or community control and imprisonment, to incorporate the amendment made to s. 948.06, F.S., in a reference thereto; providing an effective date.

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

Section 1. Section 394.47891, Florida Statutes, is amended to read:

394.47891 Military veterans and servicemembers court programs.—The chief judge of each judicial circuit may establish a Military Veterans and Servicemembers Court Program under which veterans, as defined in s. 1.01, including veterans who were discharged or released under a general discharge, and servicemembers, as defined in s. 250.01, who are charged or convicted of a criminal offense and who suffer from a military-related mental illness, traumatic brain injury, substance abuse disorder, or psychological problem can be sentenced in accordance with chapter 921 in a manner that appropriately addresses the severity of the mental illness, traumatic brain injury, substance abuse disorder, or psychological problem through services tailored to the individual needs of the participant. Entry into any Military Veterans and Servicemembers

Court Program must be based upon the sentencing court's assessment of the defendant's criminal history, military service, substance abuse treatment needs, mental health treatment needs, amenability to the services of the program, the recommendation of the state attorney and the victim, if any, and the defendant's agreement to enter the program.

Section 2. Section 394.47892, Florida Statutes, is created to read:

394.47892 Mental health court programs.—

(1) Each county may fund a mental health court program under which a defendant in the justice system assessed with a mental illness shall be processed in such a manner as to appropriately address the severity of the identified mental illness through treatment services tailored to the individual needs of the participant. The Legislature intends to encourage the department, the Department of Corrections, the Department of Juvenile Justice, the Department of Health, the Department of Law Enforcement, the Department of Education, and other such agencies, local governments, law enforcement agencies, interested public or private entities, and individuals to support the creation and establishment of problem-solving court programs. Participation in a mental health court program does not relieve a public or private agency of its responsibility for a child or an adult, but enables such agency to better meet the child's or adult's needs through shared responsibility and resources.

(2) Mental health court programs may include pretrial intervention programs as provided in ss. 948.08, 948.16, and 985.345, postadjudicatory mental health court programs as

provided in ss. 948.01 and 948.06, and review of the status of compliance or noncompliance of sentenced defendants through a mental health court program.

(3) Entry into a pretrial mental health court program is voluntary.

(4)(a) Entry into a postadjudicatory mental health court program as a condition of probation or community control pursuant to s. 948.01 or s. 948.06 must be based upon the sentencing court's assessment of the defendant's criminal history, mental health screening outcome, amenability to the services of the program, and total sentence points; the recommendation of the state attorney and the victim, if any; and the defendant's agreement to enter the program.

(b) A defendant who is sentenced to a postadjudicatory mental health court program and who, while a mental health court program participant, is the subject of a violation of probation or community control under s. 948.06 shall have the violation of probation or community control heard by the judge presiding over the postadjudicatory mental health court program. After a hearing on or admission of the violation, the judge shall dispose of any such violation as he or she deems appropriate if the resulting sentence or conditions are lawful.

(5)(a) Contingent upon an annual appropriation by the Legislature, the state courts system shall establish, at a minimum, one coordinator position in each mental health court program to coordinate the responsibilities of the participating agencies and service providers. Each coordinator shall provide direct support to the mental health court program by providing coordination between the multidisciplinary team and the

judiciary, providing case management, monitoring compliance of the participants in the mental health court program with court requirements, and managing the collection of data for program evaluation and accountability.

(b) Each mental health court program shall collect sufficient client-level data and programmatic information for purposes of program evaluation. Client-level data include primary offenses that resulted in the mental health court program referral or sentence, treatment compliance, completion status and reasons for failure to complete, offenses committed during treatment and the sanctions imposed, frequency of court appearances, and units of service. Programmatic information includes referral and screening procedures, eligibility criteria, type and duration of treatment offered, and residential treatment resources. The programmatic information and aggregate data on the number of mental health court program admissions and terminations by type of termination shall be reported annually by each mental health court program to the Office of the State Courts Administrator.

(6) If a county chooses to fund a mental health court program, the county must secure funding from sources other than the state for those costs not otherwise assumed by the state pursuant to s. 29.004. However, this subsection does not preclude counties from using funds for treatment and other services provided through state executive branch agencies. Counties may provide, by interlocal agreement, for the collective funding of these programs.

(7) The chief judge of each judicial circuit may appoint an advisory committee for the mental health court program. The

committee shall be composed of the chief judge, or his or her designee, who shall serve as chair; the judge of the mental health court program, if not otherwise designated by the chief judge as his or her designee; the state attorney, or his or her designee; the public defender, or his or her designee; the mental health court program coordinators; community representatives; treatment representatives; and any other persons who the chair deems appropriate.

Section 3. Paragraph (a) of subsection (5) of section 910.035, Florida Statutes, is amended to read:

910.035 Transfer from county for plea, sentence, or participation in a problem-solving court.—

(5) TRANSFER FOR PARTICIPATION IN A PROBLEM-SOLVING COURT.—

(a) For purposes of this subsection, the term "problem-solving court" means a drug court pursuant to s. 948.01, s. 948.06, s. 948.08, s. 948.16, or s. 948.20; a military veterans' and servicemembers' court pursuant to s. 394.47891, s. 948.08, s. 948.16, or s. 948.21; ~~or~~ a mental health court program pursuant to s. 394.47892, s. 948.01, s. 948.06, s. 948.08, or s. 948.16; or a delinquency pretrial intervention court program pursuant to s. 985.345.

Section 4. Subsection (5) of section 916.106, Florida Statutes, is amended to read:

916.106 Definitions.—For the purposes of this chapter, the term:

(5) "Court" means the circuit court and includes a county court ordering the conditional release of a defendant as provided in s. 916.17.

Section 5. Subsection (1) of section 916.17, Florida

Statutes, is amended to read:

916.17 Conditional release.—

(1) Except for an inmate currently serving a prison sentence, the committing court may order a conditional release of any defendant in lieu of an involuntary commitment to a facility pursuant to s. 916.13 or s. 916.15 based upon an approved plan for providing appropriate outpatient care and treatment. A county court may order the conditional release of a defendant for purposes of the provision of outpatient care and treatment only. Upon a recommendation that outpatient treatment of the defendant is appropriate, a written plan for outpatient treatment, including recommendations from qualified professionals, must be filed with the court, with copies to all parties. Such a plan may also be submitted by the defendant and filed with the court with copies to all parties. The plan shall include:

(a) Special provisions for residential care or adequate supervision of the defendant.

(b) Provisions for outpatient mental health services.

(c) If appropriate, recommendations for auxiliary services such as vocational training, educational services, or special medical care.

In its order of conditional release, the court shall specify the conditions of release based upon the release plan and shall direct the appropriate agencies or persons to submit periodic reports to the court regarding the defendant's compliance with the conditions of the release and progress in treatment, with copies to all parties.

Section 6. Section 916.185, Florida Statutes, is created to read:

916.185 Forensic Hospital Diversion Pilot Program.—

(1) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds that many jail inmates who have serious mental illnesses and who are committed to state forensic mental health treatment facilities for restoration of competency to proceed could be served more effectively and at less cost in community-based alternative programs. The Legislature further finds that many people who have serious mental illnesses and who have been discharged from state forensic mental health treatment facilities could avoid returning to the criminal justice and forensic mental health systems if they received specialized treatment in the community. Therefore, it is the intent of the Legislature to create the Forensic Hospital Diversion Pilot Program to serve offenders who have mental illnesses or co-occurring mental illnesses and substance use disorders and who are involved in or at risk of entering state forensic mental health treatment facilities, prisons, jails, or state civil mental health treatment facilities.

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

(a) "Best practices" means treatment services that incorporate the most effective and acceptable interventions available in the care and treatment of offenders who are diagnosed as having mental illnesses or co-occurring mental illnesses and substance use disorders.

(b) "Community forensic system" means the community mental health and substance use forensic treatment system, including the comprehensive set of services and supports provided to

offenders involved in or at risk of becoming involved in the criminal justice system.

(c) "Evidence-based practices" means interventions and strategies that, based on the best available empirical research, demonstrate effective and efficient outcomes in the care and treatment of offenders who are diagnosed as having mental illnesses or co-occurring mental illnesses and substance use disorders.

(3) CREATION.—There is created a Forensic Hospital Diversion Pilot Program to provide competency-restoration and community-reintegration services in either a locked residential treatment facility when appropriate or a community-based facility based on considerations of public safety, the needs of the individual, and available resources.

(a) The department may implement a Forensic Hospital Diversion Pilot Program modeled after the Miami-Dade Forensic Alternative Center, taking into account local needs and resources, in Escambia County, in conjunction with the First Judicial Circuit in Escambia County; in Hillsborough County, in conjunction with the Thirteenth Judicial Circuit in Hillsborough County; and in Miami-Dade County, in conjunction with the Eleventh Judicial Circuit in Miami-Dade County.

(b) If the department elects to create and implement the program, the department shall include a comprehensive continuum of care and services that use evidence-based practices and best practices to treat offenders who have mental health and co-occurring substance use disorders.

(c) The department and the corresponding judicial circuits may implement this section if existing resources are available

to do so on a recurring basis. The department may request budget amendments pursuant to chapter 216 to realign funds between mental health services and community substance abuse and mental health services in order to implement this pilot program.

(4) ELIGIBILITY.—Participation in the Forensic Hospital Diversion Pilot Program is limited to offenders who:

(a) Are 18 years of age or older.

(b) Are charged with a felony of the second degree or a felony of the third degree.

(c) Do not have a significant history of violent criminal offenses.

(d) Are adjudicated incompetent to proceed to trial or not guilty by reason of insanity pursuant to this part.

(e) Meet public safety and treatment criteria established by the department for placement in a community setting.

(f) Otherwise would be admitted to a state mental health treatment facility.

(5) TRAINING.—The Legislature encourages the Florida Supreme Court, in consultation and cooperation with the Florida Supreme Court Task Force on Substance Abuse and Mental Health Issues in the Courts, to develop educational training for judges in the pilot program areas which focuses on the community forensic system.

(6) RULEMAKING.—The department may adopt rules to administer this section.

Section 7. Present subsections (6) through (13) of section 948.001, Florida Statutes, are renumbered as subsections (7) through (14), respectively, and new subsection (6) is added to that section, to read:

948.001 Definitions.—As used in this chapter, the term:

(6) "Mental health probation" means a form of specialized supervision that emphasizes mental health treatment and working with treatment providers to focus on the underlying mental health disorders and compliance with a prescribed psychotropic medication regimen in accordance with individualized treatment plans. Mental health probation shall be supervised by officers with restricted caseloads who are sensitized to the unique needs of individuals with mental health disorders, and who will work in tandem with community mental health case managers assigned to the defendant. Caseloads of such officers should be restricted to a maximum of 50 cases per officer in order to ensure an adequate level of staffing and supervision.

Section 8. Subsection (8) is added to section 948.01, Florida Statutes, to read:

948.01 When court may place defendant on probation or into community control.—

(8)(a) Notwithstanding s. 921.0024 and effective for offenses committed on or after July 1, 2016, the sentencing court may place the defendant into a postadjudicatory mental health court program if the offense is a nonviolent felony, the defendant is amenable to mental health treatment, including taking prescribed medications, and the defendant is otherwise qualified under s. 394.47892(4). The satisfactory completion of the program must be a condition of the defendant's probation or community control. As used in this subsection, the term "nonviolent felony" means a third degree felony violation under chapter 810 or any other felony offense that is not a forcible felony as defined in s. 776.08. Defendants charged with

resisting an officer with violence under s. 843.01, battery on a law enforcement officer under s. 784.07, or aggravated assault may participate in the mental health court program if the court so orders after the victim is given his or her right to provide testimony or written statement to the court as provided in s. 921.143.

(b) The defendant must be fully advised of the purpose of the mental health court program and the defendant must agree to enter the program. The original sentencing court shall relinquish jurisdiction of the defendant's case to the postadjudicatory mental health court program until the defendant is no longer active in the program, the case is returned to the sentencing court due to the defendant's termination from the program for failure to comply with the terms thereof, or the defendant's sentence is completed.

(c) The Department of Corrections may establish designated and trained mental health probation officers to support individuals under supervision of the mental health court program.

Section 9. Paragraph (j) is added to subsection (2) of section 948.06, Florida Statutes, to read:

948.06 Violation of probation or community control; revocation; modification; continuance; failure to pay restitution or cost of supervision.—

(2)

(j)1. Notwithstanding s. 921.0024 and effective for offenses committed on or after July 1, 2016, the court may order the offender to successfully complete a postadjudicatory mental health court program under s. 394.47892 or a military veterans

and servicemembers court program under s. 394.47891 if:

a. The court finds or the offender admits that the offender has violated his or her community control or probation;

b. The underlying offense is a nonviolent felony. As used in this subsection, the term "nonviolent felony" means a third degree felony violation under chapter 810 or any other felony offense that is not a forcible felony as defined in s. 776.08. Offenders charged with resisting an officer with violence under s. 843.01, battery on a law enforcement officer under s. 784.07, or aggravated assault may participate in the mental health court program if the court so orders after the victim is given his or her right to provide testimony or written statement to the court as provided in s. 921.143;

c. The court determines that the offender is amenable to the services of a postadjudicatory mental health court program, including taking prescribed medications, or a military veterans and servicemembers court program;

d. The court explains the purpose of the program to the offender and the offender agrees to participate; and

e. The offender is otherwise qualified to participate in a postadjudicatory mental health court program under s. 394.47892(4) or a military veterans and servicemembers court program under s. 394.47891.

2. After the court orders the modification of community control or probation, the original sentencing court shall relinquish jurisdiction of the offender's case to the postadjudicatory mental health court program until the offender is no longer active in the program, the case is returned to the sentencing court due to the offender's termination from the

program for failure to comply with the terms thereof, or the offender's sentence is completed.

Section 10. Present subsection (8) of section 948.08, Florida Statutes, is renumbered as subsection (9), paragraph (a) of subsection (7) is amended, and a new subsection (8) is added to that section, to read:

948.08 Pretrial intervention program.—

(7)(a) Notwithstanding any provision of this section, a person who is charged with a felony, other than a felony listed in s. 948.06(8)(c), and identified as a veteran, as defined in s. 1.01, including a veteran who was discharged or released under a general discharge, or servicemember, as defined in s. 250.01, who suffers from a military service-related mental illness, traumatic brain injury, substance abuse disorder, or psychological problem, is eligible for voluntary admission into a pretrial veterans' treatment intervention program approved by the chief judge of the circuit, upon motion of either party or the court's own motion, except:

1. If a defendant was previously offered admission to a pretrial veterans' treatment intervention program at any time before trial and the defendant rejected that offer on the record, the court may deny the defendant's admission to such a program.

2. If a defendant previously entered a court-ordered veterans' treatment program, the court may deny the defendant's admission into the pretrial veterans' treatment program.

(8)(a) Notwithstanding any provision of this section, a defendant is eligible for voluntary admission into a pretrial mental health court program established pursuant to s. 394.47892

and approved by the chief judge of the circuit for a period to be determined by the court, based on the clinical needs of the defendant, upon motion of either party or the court's own motion if:

1. The defendant is identified as having a mental illness;

2. The defendant has not been convicted of a felony; and

3. The defendant is charged with:

a. A nonviolent felony that includes a third degree felony violation of chapter 810 or any other felony offense that is not a forcible felony as defined in s. 776.08;

b. Resisting an officer with violence under s. 843.01, if the law enforcement officer and state attorney consent to the defendant's participation;

c. Battery on a law enforcement officer under s. 784.07, if the law enforcement officer and state attorney consent to the defendant's participation; or

d. Aggravated assault, if the victim and state attorney consent to the defendant's participation.

(b) At the end of the pretrial intervention period, the court shall consider the recommendation of the program administrator and the recommendation of the state attorney as to disposition of the pending charges. The court shall determine, by written finding, whether the defendant has successfully completed the pretrial intervention program. If the court finds that the defendant has not successfully completed the pretrial intervention program, the court may order the person to continue in education and treatment, which may include a mental health program offered by a licensed service provider, as defined in s. 394.455, or order that the charges revert to normal channels for

prosecution. The court shall dismiss the charges upon a finding that the defendant has successfully completed the pretrial intervention program.

Section 11. Present subsections (3) and (4) of section 948.16, Florida Statutes, are renumbered as subsections (4) and (5), respectively, paragraph (a) of subsection (2) and present subsection (4) of that section are amended, and a new subsection (3) is added to that section, to read:

948.16 Misdemeanor pretrial substance abuse education and treatment intervention program; misdemeanor pretrial veterans' treatment intervention program; misdemeanor pretrial mental health court program.—

(2)(a) A veteran, as defined in s. 1.01, including a veteran who was discharged or released under a general discharge, or servicemember, as defined in s. 250.01, who suffers from a military service-related mental illness, traumatic brain injury, substance abuse disorder, or psychological problem, and who is charged with a misdemeanor is eligible for voluntary admission into a misdemeanor pretrial veterans' treatment intervention program approved by the chief judge of the circuit, for a period based on the program's requirements and the treatment plan for the offender, upon motion of either party or the court's own motion. However, the court may deny the defendant admission into a misdemeanor pretrial veterans' treatment intervention program if the defendant has previously entered a court-ordered veterans' treatment program.

(3) A defendant who is charged with a misdemeanor and identified as having a mental illness is eligible for voluntary

admission into a misdemeanor pretrial mental health court program established pursuant to s. 394.47892, approved by the chief judge of the circuit, for a period to be determined by the court, based on the clinical needs of the defendant, upon motion of either party or the court's own motion.

(5)~~(4)~~ Any public or private entity providing a pretrial substance abuse education and treatment program or mental health court program under this section shall contract with the county or appropriate governmental entity. The terms of the contract shall include, but not be limited to, the requirements established for private entities under s. 948.15(3). This requirement does not apply to services provided by the Department of Veterans' Affairs or the United States Department of Veterans Affairs.

Section 12. Section 948.21, Florida Statutes, is amended to read:

948.21 Condition of probation or community control; military servicemembers and veterans.—

(1) Effective for a probationer or community controllee whose crime is ~~was~~ committed on or after July 1, 2012, and who is a veteran, as defined in s. 1.01, or servicemember, as defined in s. 250.01, who suffers from a military service-related mental illness, traumatic brain injury, substance abuse disorder, or psychological problem, the court may, in addition to any other conditions imposed, impose a condition requiring the probationer or community controllee to participate in a treatment program capable of treating the probationer's ~~probationer~~ or community controllee's mental illness, traumatic brain injury, substance abuse disorder, or psychological

problem.

(2) Effective for a probationer or community controllee whose crime is committed on or after July 1, 2016, and who is a veteran, as defined in s. 1.01, including a veteran who was discharged or released under a general discharge, or servicemember, as defined in s. 250.01, who suffers from a military service-related mental illness, traumatic brain injury, substance abuse disorder, or psychological problem, the court may, in addition to any other conditions imposed, impose a condition requiring the probationer or community controllee to participate in a treatment program capable of treating the probationer's or community controllee's mental illness, traumatic brain injury, substance abuse disorder, or psychological problem.

(3) The court shall give preference to treatment programs for which the probationer or community controllee is eligible through the United States Department of Veterans Affairs or the Florida Department of Veterans' Affairs. The Department of Corrections is not required to spend state funds to implement this section.

Section 13. Present subsection (4) of section 985.345, Florida Statutes, is renumbered as subsection (7) and amended, and new subsections (4), (5), and (6) are added to that section, to read:

985.345 Delinquency pretrial intervention program.—

(4) Notwithstanding any other provision of law, a child who has been identified as having a mental illness and who has not been previously adjudicated for a felony is eligible for voluntary admission into a delinquency pretrial mental health

court program, established pursuant to s. 394.47892, approved by the chief judge of the circuit, for a period to be determined by the court, based on the clinical needs of the child, upon motion of either party or the court's own motion if the child is charged with:

(a) A misdemeanor;

(b) A nonviolent felony; for purposes of this paragraph, the term "nonviolent felony" means a third degree felony violation of chapter 810 or any other felony offense that is not a forcible felony as defined in s. 776.08;

(c) Resisting an officer with violence under s. 843.01, if the law enforcement officer and state attorney consent to the child's participation;

(d) Battery on a law enforcement officer under s. 784.07, if the law enforcement officer and state attorney consent to the child's participation; or

(e) Aggravated assault, if the victim and state attorney consent to the child's participation.

(5) At the end of the delinquency pretrial intervention period, the court shall consider the recommendation of the state attorney and the program administrator as to disposition of the pending charges. The court shall determine, by written finding, whether the child has successfully completed the delinquency pretrial intervention program. If the court finds that the child has not successfully completed the delinquency pretrial intervention program, the court may order the child to continue in an education, treatment, or monitoring program if resources and funding are available or order that the charges revert to normal channels for prosecution. The court may dismiss the

charges upon a finding that the child has successfully completed the delinquency pretrial intervention program.

(6) A child whose charges are dismissed after successful completion of the mental health court program, if otherwise eligible, may have his or her arrest record and plea of nolo contendere to the dismissed charges expunged under s. 943.0585.

(7) ~~(4)~~ Any entity, whether public or private, providing pretrial substance abuse education, treatment intervention, drug testing, or ~~and~~ a mental health court ~~urine monitoring~~ program under this section must contract with the county or appropriate governmental entity, and the terms of the contract must include, but need not be limited to, the requirements established for private entities under s. 948.15(3). It is the intent of the Legislature that public or private entities providing substance abuse education and treatment intervention programs involve the active participation of parents, schools, churches, businesses, law enforcement agencies, and the department or its contract providers.

Section 14. For the purpose of incorporating the amendment made by this act to section 916.17, Florida Statutes, in a reference thereto, paragraph (a) of subsection (1) of section 394.658, Florida Statutes, is reenacted to read:

394.658 Criminal Justice, Mental Health, and Substance Abuse Reinvestment Grant Program requirements.—

(1) The Criminal Justice, Mental Health, and Substance Abuse Statewide Grant Review Committee, in collaboration with the Department of Children and Families, the Department of Corrections, the Department of Juvenile Justice, the Department of Elderly Affairs, and the Office of the State Courts

Administrator, shall establish criteria to be used to review submitted applications and to select the county that will be awarded a 1-year planning grant or a 3-year implementation or expansion grant. A planning, implementation, or expansion grant may not be awarded unless the application of the county meets the established criteria.

(a) The application criteria for a 1-year planning grant must include a requirement that the applicant county or counties have a strategic plan to initiate systemic change to identify and treat individuals who have a 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. The 1-year planning grant must be used to develop effective collaboration efforts among participants in affected governmental agencies, including the criminal, juvenile, and civil justice systems, mental health and substance abuse treatment service providers, transportation programs, and housing assistance programs. The collaboration efforts shall be the basis for developing a problem-solving model and strategic plan for treating adults and juveniles who are in, or at risk of entering, the criminal or juvenile justice system and doing so at the earliest point of contact, taking into consideration public safety. The planning grant shall include strategies to divert individuals from judicial commitment to community-based service programs offered by the Department of Children and Families in accordance with ss. 916.13 and 916.17.

Section 15. For the purpose of incorporating the amendment made by this act to section 916.17, Florida Statutes, in a reference thereto, subsection (2) of section 916.16, Florida

Statutes, is reenacted to read:

916.16 Jurisdiction of committing court.—

(2) The committing court shall retain jurisdiction in the case of any defendant placed on conditional release pursuant to s. 916.17. Such defendant may not be released from the conditions of release except by order of the committing court.

Section 16. For the purpose of incorporating the amendments made by this act to sections 948.01 and 948.06, Florida Statutes, in a reference thereto, paragraph (a) of subsection (3) and subsection (5) of section 397.334, Florida Statutes, are reenacted to read:

397.334 Treatment-based drug court programs.—

(3)(a) Entry into any postadjudicatory treatment-based drug court program as a condition of probation or community control pursuant to s. 948.01, s. 948.06, or s. 948.20 must be based upon the sentencing court's assessment of the defendant's criminal history, substance abuse screening outcome, amenability to the services of the program, total sentence points, the recommendation of the state attorney and the victim, if any, and the defendant's agreement to enter the program.

(5) Treatment-based drug court programs may include pretrial intervention programs as provided in ss. 948.08, 948.16, and 985.345, treatment-based drug court programs authorized in chapter 39, postadjudicatory programs as provided in ss. 948.01, 948.06, and 948.20, and review of the status of compliance or noncompliance of sentenced offenders through a treatment-based drug court program. While enrolled in a treatment-based drug court program, the participant is subject to a coordinated strategy developed by a drug court team under

subsection (4). The coordinated strategy may include a protocol of sanctions that may be imposed upon the participant for noncompliance with program rules. The protocol of sanctions may include, but is not limited to, placement in a substance abuse treatment program offered by a licensed service provider as defined in s. 397.311 or in a jail-based treatment program or serving a period of secure detention under chapter 985 if a child or a period of incarceration within the time limits established for contempt of court if an adult. The coordinated strategy must be provided in writing to the participant before the participant agrees to enter into a treatment-based drug court program.

Section 17. For the purpose of incorporating the amendment made by this act to section 948.06, Florida Statutes, in a reference thereto, paragraph (b) of subsection (2) of section 948.012, Florida Statutes, is reenacted to read:

948.012 Split sentence of probation or community control and imprisonment.—

(2) The court may also impose a split sentence whereby the defendant is sentenced to a term of probation which may be followed by a period of incarceration or, with respect to a felony, into community control, as follows:

(b) If the offender does not meet the terms and conditions of probation or community control, the court may revoke, modify, or continue the probation or community control as provided in s. 948.06. If the probation or community control is revoked, the court may impose any sentence that it could have imposed at the time the offender was placed on probation or community control. The court may not provide credit for time served for any portion

of a probation or community control term toward a subsequent term of probation or community control. However, the court may not impose a subsequent term of probation or community control which, when combined with any amount of time served on preceding terms of probation or community control for offenses pending before the court for sentencing, would exceed the maximum penalty allowable as provided in s. 775.082. Such term of incarceration shall be served under applicable law or county ordinance governing service of sentences in state or county jurisdiction. This paragraph does not prohibit any other sanction provided by law.

Section 18. This act shall take effect July 1, 2016.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Judiciary, *Chair*
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Community Affairs
Finance and Tax
Regulated Industries
Rules

SENATOR MIGUEL DIAZ de la PORTILLA
40th District

February 18, 2016

The Honorable Tom Lee
Chairman
Senate Appropriations

Dear Chair Lee:

The following bill became a C/S in the Appropriations Subcommittee on Health and Human Services yesterday. The next reference, if not re-referenced, is Appropriations.

CS/SB 604: Mental Health Services in the Criminal Justice System

I would very much appreciate it if you would agenda the bill when received. Thank you for your consideration.

Sincerely,

Miguel Diaz de la Portilla
State Senator, District 40

Cc: Ms. Cindy Kynoch, Staff Director; Ms. Alicia Weiss, Committee Administrative Assistant

REPLY TO:
❒ 2100 Coral Way, Suite 505, Miami, Florida 33145 (305) 643-7200
❒ 406 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5040

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

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

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

3 3 16
Meeting Date

604
Bill Number (if applicable)

Topic Forensic Mental Health

Amendment Barcode (if applicable)

Name Dan Hendrickson

Job Title Chair Advocacy Committee

Address 319 E Park Ave, PO Box 1201
Street

Phone 850 570 1967

Tallahassee — *City* | Fl — *State* | 32302 — *Zip*

Email danbhendrickson@comcast.net

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Big Bend Mental Health Coalition, NAMI Tallahassee,

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/16
Meeting Date

SB 0604
Bill Number (if applicable)

Topic MENTAL HEALTH SERVICES

Amendment Barcode (if applicable)

Name COLONEL MIKE PRENDERGAST

Job Title EXECUTIVE DIRECTOR

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TALLAHASSEE FL 32399
City *State* *Zip*

Phone 850-487-1533

Email PRENDERGASTM@FDVA.STATE.FL.US

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

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

Representing FLORIDA DEPARTMENT OF VETERANS AFFAIRS

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

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/2016
Meeting Date

Topic _____ Bill Number 604 *(if applicable)*

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

Job Title TRUSTEE

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

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

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/16
Meeting Date

604
Bill Number (if applicable)

Topic App.

Amendment Barcode (if applicable)

Name Greg Pound

Job Title

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Street

Phone

Largo Fl 33773
City *State* *Zip*

Email

Speaking: ☐ For ☐ Against ☒ Information

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

Representing Pinellas County Florida Government Corruption

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/16
Meeting Date

604
Bill Number (if applicable)

Topic Mental Health Services in the Criminal Justice System

Amendment Barcode (if applicable)

Name Sarah Naf

Job Title Director, Office of Community & Intergovernmental Relations, Office of the State Courts Administrator

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Email nafs@flcourts.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against

(The Chair will read this information into the record.)

of mental health dual court provisions

Representing Supreme Court Task Force on Substance Abuse & Mental Health Issues in the Courts

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/16
Meeting Date

604
Bill Number (if applicable)

Topic Mental Health Svs. in Criminal Justice System

Amendment Barcode (if applicable)

Name Daphnee Sainvil

Job Title State Legislative Coordinator

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Street

Ft. Lauderdale FL 33301
City *State* *Zip*

Phone 954-253-7320

Email dsainvil@broward.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Broward County

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	CS/CS/SB 686
INTRODUCER:	Governmental Oversight and Accountability Committee; Ethics and Elections Committee; and Senator Gaetz
SUBJECT:	Government Accountability
DATE:	March 2, 2016
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carlton	Roberts	EE	**Fav/CS**
2.	Peacock	McVaney	GO	**Fav/CS**
3.	Present	Yeatman	CA	**Favorable**
4.	Betta	Kynoch	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 686 is an omnibus government accountability bill. The bill:

- Prohibits legislators from accepting employment with private entities that directly receive funding through state revenues appropriated by the General Appropriations Act, if he or she knows, or with the exercise of reasonable care should know, that the position is being offered by the employer for the purpose of gaining influence or other advantage based on the legislator's office or candidacy. A member who is employed by such an entity before his or her legislative service may keep his or her employment; however, there are limitations on advancement, promotions, additional compensation, or anything of value that is given because of his or her legislative position. Additionally, such advancement, promotion, additional compensation, or thing of value may not be inconsistent with that given to any other similarly situated employee. For acceptance of future employment by legislators with such entity, several criteria must be met, including the position must already exist or be created without the knowledge or anticipation of the legislator's interest in the position, and the position must be open to other candidates.
- Includes changes to Florida's governmental ethics policies such as broadening the water management district lobbyist registration provisions to apply to many more special districts and applying post-employment lobbying restrictions to certain individuals with Enterprise Florida, its divisions, and the Florida Development Finance Corporation.

- Applies certain ethical standards and post-employment lobbying restrictions to corporations created or housed within the Department of Economic Opportunity (DEO) that are not currently covered by ethical standards.
- Extends the conflicting contractual relationship ban in s. 112.313(7)(a), F.S., to include contracts held by a business entity in which a public officer or public employee holds a controlling interest in a business entity or is an officer, director, or a member who manages such an entity.
- Requires that, beginning in 2016, all elected municipal officers file the more detailed CE Form 6 financial disclosure with their qualifying papers for each year that they hold office.
- Amends Florida's criminal provisions relating to Bribery, Misuse of Public Office, Unlawful Compensation or Reward for Official Behavior, Official Misconduct, and Bid Tampering to replace the corrupt intent mens rea requirement with the knowingly and intentionally mens rea requirement. The bill also applies the crimes of Official Misconduct and Bid Tampering to "public contractors."
- Requires local governmental entities to keep their final budgets, and any amendments thereto, on their website for a period of two years after adoption.
- Requires various governmental entities to adopt internal controls to prevent and detect fraud, waste, and abuse.
- Requires governmental entities to investigate claims of unauthorized compensation.
- Allows the Governor or Commissioner of Education, or their designees, to report that a local governmental entity has failed to comply with applicable auditing, financial reporting, bond issuance notification, bond verification provisions, or failed to disclose a financial emergency or provide information required during a financial emergency. The bill increases the Single Audit Act threshold from $500,000 to $750,000 and allows the Auditor General to review the threshold periodically and make appropriate recommendations to the Legislature. The bill makes changes to the financial reporting requirements and independent audit requirements. The bill specifies who can serve as members of the auditor selection committees for local governmental entities. The bill requires the Florida Virtual School to have an independent financial audit each year.
- Requires the Florida Clerk of Courts Corporation to notify the Legislature quarterly of any clerk of court who is not meeting workload requirements and to provide corrective action plans within 45 days of the end of the quarter.
- Requires a water management district monthly financial report to be provided in the format required by the Department of Financial Services.
- Requires the Governor or the Commissioner of Education to notify the Legislative Auditing Committee of financial emergencies instead of notifying the members of the Legislative Auditing Committee.
- Clarifies that members of the public are not required to provide an advance written copy of their testimony or comments as a precondition to being given the opportunity to be heard.

There is no fiscal impact to state funds.

The bill is effective October 1, 2016.

II. Present Situation:

For the purposes of this bill analysis, the Present Situation will be addressed in the III. Effect of Proposed Changes section below.

III. Effect of Proposed Changes:

Governmental Ethics Laws

Employment of Members of the Legislature (Section 6)

Present Situation: Article II, Section 8(e) of the State Constitution prohibits members of the Legislature from personally representing another person or entity for compensation before any state agency other than judicial tribunals. Additionally, s. 112.3125, F.S., prohibits legislators (as well as other public officers) from being employed by the state or any of its political subdivisions if he or she knows, or with the exercise of reasonable care should know, that the position is being offered for the purpose of gaining influence or other advantage based upon his or her service as a legislator. A legislator may accept public employment if: the position was already in existence or was created before the entity knew the legislator was interested in the position; the position was publicly advertised; the legislator was subject to the same application and hiring process as other candidates for the position; and the legislator meets or exceeds the qualifications for the position.

The standards of conduct in the Code of Ethics for Public Officers and Employees also contain several limitations on the types of private sector employment and duties that a legislator may have. Specifically, s. 112.313(3), F.S., prohibits a legislator from doing business with the Legislature; s. 112.313(7), F.S., prohibits legislators from having employment or contractual relationships with any business entity or agency that is subject to the regulation of, or doing business with, the Legislature. That section also prohibits employment or contractual relationships that will create a continuing or frequently recurring conflicts of interest or that would impede the proper performance of his or her public duties. Several other provisions of the Code prohibit certain actions, even if the employment or contractual relationship itself is permitted.

Effect of the Bill: The bill creates s. 112.3126, F.S., to define the term "private entity" as any nongovernmental entity, such as a corporation, partnership, company or nonprofit organization, any legal entity, or any natural person. The bill prohibits legislators or a candidate for the Legislature from accepting employment with private entities that directly receive funding through state revenues appropriated by the General Appropriations Act, if he or she knows, or with the exercise of reasonable care should know, that the position is being offered by the employer for the purpose of gaining influence or other advantage based on the legislator's office or candidacy.

Any employment with such private entity accepted by a member or candidate must meet all of the following conditions:

- The position was already in existence or was created by the employer without the knowledge or anticipation of the legislator's interest in such position;
- The position was open to other applicants;

- The legislator was subject to the same application and hiring process as other candidates for the position; and
- The legislator meets or exceeds the required qualifications for the position.

A member who is employed by such an entity before his or her legislative service may keep his or her employment; however, there are limitations on advancement, promotions, additional compensation, or anything of value that is given because of his or her position. Additionally, such advancement, promotion, additional compensation, or thing of value may not be inconsistent with that given to any other similarly situated employee.

Collection Methods for Unpaid Financial Disclosure Fines (Section 10)

Present Situation: Section 112.31455, F.S., authorizes the Florida Commission on Ethics to engage in common-law withholding of wages and to seek garnishment in order to collect unpaid financial disclosure fines. Prior to referring such a fine to the Department of Financial Services, the Florida Commission on Ethics must attempt to determine whether or not the filer is a current public officer or public employee.[1] If the person is currently a public officer or public employee, the Florida Commission on Ethics may notify the Chief Financial Officer or the governing body of the appropriate county, municipality, or special district of the total amount of the fine owed to the Florida Commission on Ethics. After receipt and verification of the notice from the Florida Commission on Ethics, the appropriate governing body is required to begin withholding the lesser of ten percent of, or the maximum amount allowed under federal law from, any salary-related payment. The withheld payments shall be remitted to the Florida Commission on Ethics until the fine is satisfied. Additionally, the Chief Financial Officer or appropriate governing body may retain an amount from each withheld payment to cover administrative costs incurred under s. 112.31455(1)(b), F.S. In the event that the Florida Commission on Ethics determines that the person is no longer a public officer, or is unable to make such a determination, the Florida Commission on Ethics must wait for six months. After that period of time, the Florida Commission on Ethics can seek garnishment pursuant to ch. 77, F.S. The Florida Commission on Ethics can refer the unpaid fine to a collection agency.[2] The collection agency can use any legal tool it may possess to collect the unpaid fine. The statute of limitations for an unpaid financial disclosure fine is 20 years.[3]

Effect of the Bill: The bill amends s. 112.31455, F.S., to expressly require school districts to withhold public salary-related payments after receiving notice from the commission that an employee has an unpaid fine, including a portion to cover any administrative costs incurred under this section.

Lobbying Registration and Reporting Requirements for Certain Districts (Section 11)

Present Situation: Section 112.3261, F.S., requires a person who seeks to lobby a water management district to register as a lobbyist before he or she begins to lobby. The lobbyist must present a signed statement authorizing him or her to act on the principal's behalf. The statement must also state the principal's main business. Changes to this information must be reported

[1] Section 112.31455(1), F.S.
[2] Section 112.31455(3), F.S.
[3] Section 112.31455(4), F.S.

within 15 days. Water management districts may create their own lobbyist registration forms or use a legislative or executive branch lobbyist registration form. Districts are required to be diligent in ascertaining whether lobbyists have properly registered and may not knowingly allow a lobbyist to lobby if he or she is not registered. The Florida Commission on Ethics is charged with investigating complaints alleging that a lobbyist has failed to register or provided false information in a report or registration. The Governor has the authority to enforce the Florida Commission on Ethics' findings and recommendations. The water management districts were granted rulemaking authority to adopt rules and establish procedures to govern lobbyist registration, including the adoption of forms and the establishment of a lobbyist registration fee not to exceed $40.

Effect of the Bill: The bill amends s. 112.3261, F.S., to revise definitions of the terms "governmental entity" or "entity," and "lobbies," and to expand the scope of lobbyist registration and reporting requirements to apply to hospital districts, a children's services district, expressway authorities, port authorities, counties or municipalities that have not adopted lobbyist registration or reporting requirements, or any independent special district with annual revenues of more than $5 million which exercises ad valorem taxing authority.

Post Service Lobbying Restrictions (Sections 3, 25, and 26)

Present Situation: Section 288.92, F.S., authorizes Enterprise Florida, Inc. (Enterprise Florida) to create and dissolve divisions as necessary to carry out its mission. That section also requires Enterprise Florida to have certain divisions. The law also provides for hiring of officers and members of the divisions of Enterprise Florida and subjects certain officers and members to several standards of conduct in the Code of Ethics for Public Officers and Employees.[4] The law currently does not contain any post-employment or post-service restrictions.

Effect of the Bill: The bill amends s. 288.92, F.S., (section 25), to prohibit officers and members of the boards of directors of the divisions of Enterprise Florida, subsidiaries of Enterprise Florida, corporations created to carry out the missions of Enterprise Florida, and corporations with which a division is required by law to contract to carry out its missions, from representing another person or entity for compensation before Enterprise Florida, divisions of Enterprise Florida, subsidiaries of Enterprise Florida, corporations created to carry out the missions of Enterprise Florida, and corporations with which a division is required by law to contract to carry out its missions, for a period of two years after retirement or termination of service to a division, or for a period of ten years if such officer or board member is removed or terminated for misconduct, as defined in s. 443.036(29), F.S.

Present Situation: The Florida Development Finance Authority is created in s. 288.9604, F.S. That provision addresses appointment of members of the board of directors and powers of the corporation. It also subjects directors to several standards of conduct in the Code of Ethics for Public Officers and Employees.[5] The law currently does not contain any post-employment or post-service restrictions.

[4] Part III, Chapter 112, Florida Statutes.
[5] *Id*.

Effect of the Bill: The bill amends s. 288.9604, F.S., (section 26), to prohibit directors of the Florida Development Finance Authority from representing another person or entity for compensation before the corporation, for a period of two years following his or her service on the board.

Present Situation: The Department of Economic Opportunity is created in s. 20.60, F.S., and has numerous entities under its purview in various chapters of the Florida Statutes. While the Department is an agency, and therefore subject to the provisions of the Code of Ethics for Public Officers and Employees, many of the divisions and corporations created by, or administratively housed in, may not be subject to the provisions.

Effect of the Bill: The bill creates s. 20.602, F.S., (section 3), to subject the officers and members of the boards of directors of any corporation created pursuant to ch. 288, F.S., Space Florida, CareerSource Florida, Inc., the Florida Housing Finance Corporation, or any other corporation created by the Department of Economic Opportunity to certain standards of conduct. Specifically, those individuals are subject to the anti-nepotism provision in s. 112.3135, F.S., the voting conflicts standard applicable to statewide officers in s. 112.3143(2), F.S., and the standards of conduct in s. 112.313, F.S. Additionally, the bill prohibits a former officer or board member from representing a person or entity for compensation before his or her corporation; a division, subsidiary, or the board of directors of a corporation created to carry out the mission of his or her corporation; a corporation with which his or her former corporation within DEO is required by law to contract with to carry out its missions for a period of six years after retirement or termination of service with the DEO corporate entity. If he or she is removed due to misconduct, as defined in s. 443.036(29), F.S., the prohibition applies for a period of ten years.

Conflicting Employment and Contractual Relationships (Section 7)

Present Situation: Section 112.313(7)(a), F.S., prohibits public officers and employees of an agency from having employment or contractual relationships with a business entity or agency that is subject to the regulation of, or doing business with, his or her agency. That section further prohibits public officers and employees of an agency from having employment or a contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties or that would impede the full and faithful discharge of his or her public duties.

In its annual reports to the Legislature for the last several years, the Commission on Ethics has advised that the law needs to be amended. Specifically, the Commission has advised that individuals were creating a fictitious legal entity then using those fictitious legal entities to engage in contracts that would be prohibited if the people entered them individually.

Effect of the Bill: The bill amends s. 112.313(7)(a), F.S., to provide that if a public officer or public employee holds a controlling interest in a business entity or is an officer, director, or a member who manages such an entity, contractual relationships held by the business entity are deemed to be held by the public officer. As such, if a public officer or public employee holds a controlling interest in a business entity or is an officer, director, or a member who manages such an entity, it would be a violation for the business entity to have a contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and

the performance of his or her public duties or that would impede the full and faithful discharge of his or her public duties. The public officer or public employee would face penalties ranging from censure and reprimand to removal from office. The penalties also permit a civil fine up to $10,000 per violation.

CE Form 6 Financial Disclosure (Sections 8 and 38)

Present Situation: Section 112.3144, F.S., requires certain officers that are specified in Article II, Section 8 of the State Constitution, and other officers as required by law, to file a Full and Public Disclosure of Financial Interests (commonly referred to as a CE Form 6). That statute addresses what is required to be disclosed, the due date of the disclosure, the processes to amend the disclosure, and penalties for failing to file the CE Form 6 as required. This filing is more detailed than what is referred to as a CE Form 1 which is filed annually by other officers as provided in s. 112.3145, F.S. Currently, elected municipal officers are subject to the CE Form 1 filing requirement in accordance with s. 99.061, F.S.

Effect of the Bill: The bill amends s. 112.3144, F.S., (section 8), to require all elected municipal officers to file the more detailed CE Form 6 annually as provided in s. 112.3144, F.S., beginning with the 2016 filing year.[6] The bill also amends s. 99.061, F.S., (section 38), to require a candidate for elected municipal office to file a CE Form 6 with his or her qualifying papers.

Criminal Ethics Provisions

Nineteenth Statewide Grand Jury

A statewide grand jury[7] was impaneled in February 2010 upon the petition of Governor Charlie Crist to the Supreme Court of Florida. In the Petition for Order to Impanel a Statewide Grand Jury, Governor Crist requested that the following should be addressed:[8]

- Examine criminal activity of public officials who have abused their powers via their public office;
- Consider whether Florida's prosecutors have sufficient resources to effectively combat corruption;
- Address the effectiveness of Florida's current statutes in fighting public corruption;
- Identify any deficiencies in current laws, punishments or enforcement efforts and make detailed recommendations to improve our anti-corruption initiatives;
- Investigate crimes, return indictments, and make presentations; and
- Examine public policy issues regarding public corruption and develop specific recommendations regarding improving current laws.

The Nineteenth Statewide Grand Jury issued its First Interim Report: A Study of Public Corruption in Florida and Recommended Solutions on December 17, 2010. In its report, the Nineteenth Statewide Grand Jury made several recommendations to the Legislature, including

[6] Financial disclosure, much like federal income tax filings, are done for the preceding year. Thus, elected municipal officers will be required to file the CE Form 6 for the first year by July 1, 2017.
[7] *See* ss. 905.31-905.40, F.S., known as the Statewide Grand Jury Act.
[8] Nineteenth Statewide Grand Jury First Interim Report: A Study of Public Corruption in Florida and Recommended Solutions, December 17, 2010, Case No. SC 09-1910. Available online at: http://myfloridalegal.com/webfiles.nsf/WF/JFAO-8CLT9A/$file/19thSWGJInterimReport.pdf (last visited on Feb. 12, 2016).

revisions to ch. 838, F.S., regarding the definitions of the terms "public servant" and "corruptly" and "corrupt intent," and the offenses of bribery, unlawful compensation or reward for official behavior, official misconduct, and bid tampering.

Color of Law

Florida law does not enhance criminal classifications or felony sentencing penalties for criminal acts committed "under color of law" where the enhancements for wrongful conduct are based on public authority or position or the assertion of such that does not form an element of the underlying crime. The Nineteenth Statewide Grand Jury also recommended that the Legislature consider reclassification of such offenses.[9]

Doctrine of Mens Rea and Scienter

The term "mens rea" is defined as "a guilty mind; a guilty or wrongful purpose; a criminal intent."[10] Black's Law Dictionary notes that the term scienter is defined as "knowingly" and frequently used to signify the defendant's guilty knowledge.[11] The general rule is that scienter or mens rea is a necessary element in the indictment for every crime.[12]

The Nineteenth Statewide Grand Jury found that the use of the word "corruptly" or "with corrupt intent" made prosecutions of offenses under ch. 838, F.S., more difficult and might require additional evidence, such as testimony from persons involved.[13] The Nineteenth Statewide Grand Jury recommended that the additional element of "corruptly" or "with corrupt intent" be removed from the ch. 838, F.S., offenses of bribery, unlawful compensation, official misconduct, and bid tampering.[14]

Bribery; Misuse of Public Office: Chapter 838, F.S. (Section 28)

Present Situation: Chapter 838, F.S., pertains to bribery and other offenses concerning the misuse of public office.

Section 838.014(4), F.S., defines the term "corruptly" or "with corrupt intent" as acting knowingly and dishonestly for a wrongful purpose.

Section 838.014(6), F.S., defines the term "public servant" as:

a) Any officer or employee of a state, county, municipal, or special district agency or entity;
b) Any legislative or judicial officer or employee;
c) Any person, except a witness, who acts as a general or special magistrate, receiver, auditor, arbitrator, umpire, referee, consultant, or hearing officer while performing a governmental function; or
d) A candidate for election or appointment to any of the positions listed in this subsection, or an individual who has been elected to, but has yet to officially assume the responsibilities of, public office.

[9] *Id*.
[10] BLACK'S LAW DICTIONARY 1137 (4th Rev. 1968).
[11] *Id*. 1512.
[12] *Chicone v. State*, 684 So.2d 736, 741 (Fla. 1996). Also, see *U.S. v. Balint*, 258 U.S. 250 (1922).
[13] *See supra* note 8, at 24.
[14] *Id*.

Effect of the Bill: The bill amends s. 838.014, F.S., to define the term "governmental entity" as an agency or entity of the state, a county, a municipality, or a special district or any other public entity created or authorized by law. The bill appears to expand the definition of "governmental entity" to include other public entities, such as Citizens Property Insurance Corporation,[15] statutorily-created direct support organizations,[16] and other statutorily-created public entities. The definition of "corruptly" or "with corrupt intent" is eliminated.

The bill defines the term "public contractor," for the offenses of official misconduct[17] and bid tampering,[18] as any person, as defined in s. 1.01(3), F.S., who has entered into a contract with a governmental entity; or any officer or employee of a person, as defined in s. 1.01(3), F.S., who has entered into a contract with a governmental entity. "Person" is defined in s. 1.01(3), F.S., as "individuals, children, firms, associations, joint adventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations."

The bill revises the definition of the term "public servant" as any officer or employee of a governmental entity including executive, legislative, or judicial branch officer or employee and a candidate for election or appointment to any of the officer positions listed in this subsection.

Bribery (Section 29)

Present Situation: Section 838.015, F.S., relates to the offense of bribery.[19] Any individual who violates this section is guilty of a felony of the second degree, which is punishable as provided for in ss. 775.082, 775.083, or 775.084, F.S.[20]

Chapter 838, F.S., also contains three other bribery offenses, including bribery in athletic contests,[21] commercial bribery receiving,[22] and commercial bribery.[23] In *Roque v. State*, the Florida Supreme Court held that s. 838.15, F.S., the commercial bribe receiving law, was

[15] Section 627.351(6), F.S. Citizens Property Insurance Corporation was created in 2002 as a not-for-profit insurer of last resort for home-owners who could not obtain insurance elsewhere.
[16] A direct support organization is an organization incorporated under ch. 617, F.S., and approved by the Department of State as a Florida corporation not for profit that is approved by a state agency to operate for the benefit of a specific program, such as the Florida Historic Capitol Museum Council's direct support organization. See s. 272.131(1)(e), F.S.
[17] Section 838.022, F.S.
[18] Section 838.22, F.S.
[19] Section 838.015(1), F.S., defines "bribery" as corruptly to give, offer, or promise to any public servant, or, if a public servant, corruptly to request, solicit, accept, or agree to accept for himself or herself or another, any pecuniary or other benefit not authorized by law with an intent or purpose to influence the performance of any act or omission which the person believes to be, or the public servant represents as being, within the official discretion of a public servant, in violation of a public duty, or in performance of a public duty.
[20] Section 838.015(3), F.S. Under sections 775.082 and 775.083, Florida Statutes, a second degree felony is punishable by a term of imprisonment not to exceed 15 years, and a maximum fine of $10,000. Section 775.084, Florida Statutes, relates to habitual felony offenders. If a habitual felony offender is convicted of a second degree felony, such offender may be sentenced for a term not exceeding 30 years.
[21] Section 838.12, F.S.
[22] Section 838.15, F.S.
[23] Section 838.16, F.S.

invalid.[24] The Nineteenth Statewide Grand Jury Report opined that s. 838.16, F.S., commercial bribery, was probably unconstitutionally vague since s. 838.16, F.S., referred to s. 838.15, F.S.[25]

Effect of the bill: The bill amends s. 838.015, F.S., to change the mens rea element of the offense of bribery from "corruptly" to "knowingly and intentionally."

Unlawful Compensation or Reward for Official Behavior (Section 30)

Present Situation: Section 838.016, F.S., pertains to unlawful compensation or reward for official behavior. Any person who violates this section commits a second degree felony which is punishable as provided for in ss. 775.082, 775.083, or 775.084, F.S.[26]

Section 838.016, F.S., pertains to unlawful compensation or reward for official behavior. It is a second degree felony for any person corruptly to give, offer, or promise to any public servant any benefit not authorized by law; or for any public servant corruptly to request, solicit, accept or agree to accept any benefit not authorized by law:

- For the past, present, or future performance, nonperformance or violation of any act or omission; or
- For the past, present, or future exertion of any influence upon or with any other public servant regarding any act or omission which the person believes to have been or the public servant represents to have been either within the official discretion of the public servant, in violation of a public duty, or in performance of a public duty.

Effect of the bill: The bill amends s. 838.016, F.S., to change the mens rea element of the offense of unlawful compensation or reward for official behavior from "corruptly" to "knowingly and intentionally."

Official Misconduct (Section 31)

Present Situation: The offense of official misconduct contained in s. 838.022(1), F.S., provides that it "is unlawful for a public servant, with corrupt intent to obtain a benefit for any person or to cause harm to another to:

- Falsify, or cause another person to falsify, any official record or official document;
- Conceal, cover up, destroy, mutilate, or alter any official record or official document or cause another person to perform such an act; or
- Obstruct, delay, or prevent the communication of information relating to the commission of a felony that directly involves or affects the public agency or public entity served by the public servant.

Any person who violates this section commits a felony of the third degree, which is punishable as provided for in s. 775.082, s. 775.083, or s. 775.084, F.S.[27]

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[24] *Roque v. State*, 664 So.2d 928 (Fla. 1995). The Court further noted that s. 838.015, F.S., was impermissibly vague and subject to arbitrary application. *Id.* at 929.
[25] *See supra* note 8, at 34.
[26] Section 838.016(4), F.S. *Also, see supra* note 4.
[27] Section 838.022(3), F.S. Under sections 775.082 and 775.083, Florida Statutes, a third degree felony is punishable by a term of imprisonment not to exceed 5 years, and a maximum fine of $5,000. Section 775.084, Florida Statutes, relates to

Effect of the bill: The bill amends s. 838.022, F.S., to subject public contractors to the same level of conduct as public servants. The mens rea element of the offense is changed from "with corrupt intent" to "knowingly and intentionally." The law is clarified so that the harm caused to another must be an "unlawful harm." Concealing, covering up, destroying, mutilating, or altering an official record is criminalized unless such action is authorized by law or contract.

Bid Tampering (Section 32)

Present Situation: Section 838.22, F.S., provides that:

1) It is unlawful for a public servant, with corrupt intent to influence or attempt to influence the competitive bidding process undertaken by any state, county, municipal, or special district agency, or any other public entity, for the procurement of commodities or services, to:
a) Disclose material information concerning a bid or other aspects of the competitive bidding process when such information is not publicly disclosed.
b) Alter or amend a submitted bid, documents or other materials supporting a submitted bid, or bid results for the purpose of intentionally providing a competitive advantage to any person who submits a bid.
2) It is unlawful for a public servant, with corrupt intent to obtain a benefit for any person or to cause unlawful harm to another, to circumvent a competitive bidding process required by law or rule by using a sole-source contract for commodities or services.
3) It is unlawful for any person to knowingly agree, conspire, combine, or confederate, directly or indirectly, with a public servant to violate subsection (1) or subsection (2).
4) It is unlawful for any person to knowingly enter into a contract for commodities or services which was secured by a public servant acting in violation of subsection (1) or subsection (2).
5) Any person who violates this section commits a felony of the second degree, punishable as provided in ss. 775.082, 775.083, or 775.084, F.S.[28]

Effect of the Bill: The bill amends s. 838.22, F.S., to expand the application of the bid tampering laws to public contractors who have contracted with a governmental entity to assist in a competitive procurement. These public contractors are treated similar to public servants for this law. The mens rea element of the offense is changed from "with corrupt intent" to "knowingly and intentionally" influence.

habitual felony offenders. If a habitual felony offender is convicted of a third degree felony, such offender may be sentenced for a term not exceeding 10 years.

[28] *See supra* note 4.

Online Posting of Governmental Budgets

Counties, Municipalities, and Special Districts (Sections 12, 13, 14, and 15)

Present Situation: Counties[29], municipalities[30], and special districts[31] are required to post their tentative budgets on their websites two days prior to consideration of the budget. The final budget of a county, municipality or special district must be posted on the county, municipality, or special district website within 30 days after adoption. An amendment to a budget must be posted to the county, municipality, or special district website within five days of adoption.[32] Current law does not specify how long those items must remain available on the website.

Effect of the Bill: The bill amends s. 129.03, F.S., (section 12), to require a county's tentative budget to remain on the county's website for at least 45 days and the final budget remain on its website for at least two years. The bill amends s. 129.06, F.S., (section 13), to require that the amended final adopted budget must remain on the county's website for at least two years.

The bill amends s. 166.241, F.S., (section 14), to require a municipality's tentative budget to remain on the municipality's website for at least 45 days and the final adopted budget remain on its website for at least two years.

The bill amends s. 189.016, F.S., (section 15), to require a special district's tentative budget to remain on the special district's website for at least 45 days, the final adopted budget to remain on its website for at least two years, and the amended final adopted budget remain on its website for at least two years.

Water Management Districts (Section 27)

Present Situation: Chapter 373 governs Florida's water resource management. That chapter includes provisions authorizing the creation of water management districts and provides those districts with taxing authority. Section 373.536, F.S., governs water management districts' budget process. That section also requires financial audits, five-year capital improvement plans, and five-year water resource development work programs. All of these items must be submitted to the Department of Environmental Protection as specified in s. 373.536(6), F.S. The tentative budget is required to be posted on the water management district's website at least two days before the budget hearings are conducted. The law requires the final budget to be posted on the district's official website within 30 days of adoption.

Effect of the Bill: The bill amends s. 373.536, F.S., to require the tentative budget to remain on the district's website for at least 45 days. The bill requires the final budget to remain on the district's website for at least two years.

[29] Section 129.03, F.S.
[30] Section 166.241, F.S.
[31] Section 189.016, F.S.
[32] Section 129.06, F.S.

Internal Controls to Prevent and Detect Fraud, Waste, and Abuse

State Agencies and the Judicial Branch (Section 17)

Present Situation: Section 215.86, F.S., provides:

> Each state agency and the judicial branch as defined in s. 216.011 shall establish and maintain management systems and controls that promote and encourage compliance; economic, efficient, and effective operations; reliability of records and reports; and safeguarding of assets. Accounting systems and procedures shall be designed to fulfill the requirements of generally accepted accounting principles.

Effect of the Bill: The bill amends s. 215.86, F.S., to require each entity to establish and maintain internal controls designed to: prevent and detect fraud, waste, and abuse; promote and encourage compliance with applicable laws, rules, contracts, and grant agreements; support economical and efficient operations; ensure reliability of financial records and reports; and, safeguard assets.

Local Governmental Entities (Section 21)

Present Situation: Section 218.33, F.S., requires each local governmental entity to begin its fiscal year on October 1 and end it on September 30. Section 218.33(2), F.S., requires each local governmental entity to follow uniform accounting practices and procedures as provided by rule of the department to assure the use of proper accounting and fiscal management by such units. Such rules shall include a uniform classification of accounts.

Effect of the Bill: The bill amends s. 218.33, F.S., to require each local governmental entity to establish and maintain internal controls designed to: prevent and detect fraud, waste, and abuse; promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best practices; support economical and efficient operations; ensure reliability of financial records and reports; and, safeguard assets.

Charter Schools (Section 34)

Present Situation: Section 1002.33, F.S., authorizes charter schools as part of Florida's state program of education. In addition to the creation of charter schools, that section also imposes certain requirements on charter schools. In pertinent part, the law requires that the governing body of a charter school is responsible for: ensuring that the charter school has retained a certified public accountant to perform its annual audit; reviewing the audit report; establishing a corrective plan, if necessary; monitoring a financial recovery plan to ensure compliance; and, participating in governance training approved by the Department of Education. That governance training is required to address government in the sunshine, conflicts of interest, ethics, and financial responsibility.

Effect of the Bill: The bill amends s. 1002.33, F.S., to require the governing body of each charter school to establish and maintain internal controls designed to: prevent and detect fraud, waste, and abuse; promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best practices; support economical and efficient operations; ensure reliability of financial records and reports; and, safeguard assets.

School Districts and Florida College System Institutions (Sections 33 and 36)

Present Situation: The financial records and accounts of each school district, Florida College System institution, and other institution or agency under the supervision of the State Board of Education shall be prepared and maintained as prescribed by law and the rules of the State Board of Education. The financial records and accounts of each state university under the supervision of the Board of Governors shall be prepared and maintained as prescribed by law and the rules of the Board of Governors. Rules of the State Board of Education and rules of the Board of Governors shall incorporate the requirements of law and accounting principles generally accepted in the United States. Such rules shall include a uniform classification of accounts. Each state university shall 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. The Board of Governors' rules shall prescribe the filing deadline for the financial statements. Required financial accounts and reports shall include provisions that are unique to each of the following: K-12 school districts, Florida College System institutions, and state universities, and shall 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.

Section 1001.42, F.S., outlines the powers and duties of district school boards, including the discretionary authority to retain an internal auditor to perform ongoing financial verification of the financial records of the school district.

Effect of the Bill: The bill amends s. 1010.01, F.S., (section 36), to require each school district, Florida College System institution, and state university to establish and maintain internal controls designed to: prevent and detect fraud, waste, and abuse; promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best practices; support economical and efficient operations; ensure reliability of financial records and reports; and safeguard assets.

The bill also amends s. 1001.42(12), F.S., (section 33), to authorize the internal auditor that may be employed by the school district to perform ongoing financial verification of financial records and other such audits and reviews as the district school board directs for the purposes of determining: the adequacy of internal controls designed to prevent and detect fraud, waste and abuse; compliance with applicable laws, rules, contracts, grant agreements, district school board-approved policies, and best practices; the efficiency of operations; the reliability of financial records and reports; and the safeguarding of assets.

Additionally, the bill amends s. 1001.42, F.S., to authorize district school board members to visit schools, observe the management and instruction, give suggestions for improvement, and advise citizens with the view of promoting interest in education and improving the school.

Justice Administration Commission (Section 5)

Present Situation: The Justice Administration Commission (Commission) is created in s. 43.16, F.S. Among its duties, the Commission is charged with maintaining a central state office for administrative services and assistance when possible, and on behalf of the state attorneys and

public defenders of Florida, the capital collateral regional counsel of Florida, the criminal conflict and civil regional counsel, and the Guardian Ad Litem Program. Additionally, the Commission records and submits necessary budgets, vouchers that represent valid claims for reimbursement by the state for authorized expenses, and other things incidental to the proper administrative operation of the office, such as revenue transmittals to the Chief Financial Officer and automated systems plans that were created by the state attorney, public defender, and criminal conflict and civil regional counsel and the Guardian Ad Litem Program.

Effect of the Bill: The bill amends s. 43.16, F.S., to require the Justice Administration Commission, each state attorney, each public defender, the criminal conflict and civil regional counsel, the capital collateral regional counsel, and the Guardian Ad Litem Program to establish and maintain internal controls designed to: prevent and detect fraud, waste, and abuse; promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best practices; support economical and efficient operations; ensure reliability of financial records and reports; and, safeguard assets.

Extra Compensation Claims and False Claims Act Changes (Section 16)

Extra Compensation Claims

Present Situation: Section 215.425, F.S., prohibits extra compensation to any officer, agent, employee, or contractor after the service has been rendered or the contract made. Money may not be appropriated or paid on any claim the subject matter of which has not been provided for by preexisting laws, unless such compensation or claim is allowed by a law enacted by two-thirds of the members elected to each house of the Legislature. However, when adopting salary schedules for a fiscal year, a district school board or community college district board of trustees may apply the schedule for payment of all services rendered subsequent to July 1 of that fiscal year. That section also requires a contract or employment agreement, or renewal of a contract or employment agreement, containing a provision for severance pay to limit severance pay to 20 weeks and to prohibit severance pay when the individual is terminated for misconduct.

Effect of the Bill: The bill amends s. 215.425, F.S., to define the term "public funds" as:

Any taxes, tuition, state grants, fines, fees, or other charges or any other type of revenue collected by the state or any county, municipality, special district, school district, Florida College System institution, state university, or other separate unit of government created pursuant to law, including any office, department, agency, division, subdivision, political subdivision, board, bureau, or commission of such entities. However, if the payment and receipt does not otherwise violate Part III, ch. 112, F.S., the following are not considered public funds:

- Revenues received by the Board of Governors or state universities through or from faculty practice plans; health services support organizations; hospitals with which state universities are affiliated; direct-support organizations; or federal, auxiliary, or private sources, except for tuition;
- Revenues received by Florida College System institutions through or from faculty practice plans; health services support organizations; direct-support organizations; or federal, auxiliary, or private sources, except for tuition;

- Certain revenues that are received by a hospital licensed under ch. 395 which has entered into a Medicaid Provider Contract, and that:
  - Are not derived from the levy of an ad valorem tax;
  - Are not derived from patient services paid through the Medicaid or Medicare program;
  - Are derived from patient services pursuant to contracts with private insurers or private managed care entities, or paid by the patient or private entities; or
  - Are not appropriated by the Legislature or by any county, municipality, special district, school district, Florida College System institution, state university, or other separate unit of government created pursuant to law, including any office, department, agency, division, subdivision, political subdivision, board, bureau, commission, authority, or institution of such entities, except for revenues otherwise authorized to be used pursuant to subparagraphs 2. and 3.
- Revenues or fees received by a seaport or airport from sources other than through the levy of a tax, or funds appropriated by any county or municipality or the Legislature.

The bill amends the provisions regarding a bonus scheme to require notification of all employees who meet the prescribed criteria for a particular bonus and to consider all employees who meet the prescribed criteria for a particular bonus scheme.

The bill requires new contracts or renewal contracts on or after July 1, 2011, in which units of government are a party, and on or after July 1, 2012, in which state universities are a party, to contain a requirement that severance pay from public funds may not exceed 20 weeks and to prohibit severance paid from any source of revenue when the officer, agent, employee, or contractor has been fired for misconduct.

In regards to determining the amount of severance pay, the bill requires the unit of government or the state university to consider the nature of the claim, the circumstances giving rise to the claim, and the potential cost of resolving the dispute. The existence of a contract providing for severance pay does not limit the application of this provision to the settlement of a dispute.

Subsections (6)-(8) are added to s. 215.425, F.S., to require a unit of government that has made a prohibited compensation payment to investigate and take all reasonable actions to recover the prohibited compensation. If the compensation was provided unintentionally, the unit of government must take all reasonable action to recover the prohibited compensation through its normal recovery methods. If the prohibited payment was willfully made, the unit of government must take all reasonable action to recover the payment from either the recipient or the employee or employees of the unit of government who willfully violated this section. Each individual determined to have willfully violated this section is jointly and severally liable for repayment of the prohibited compensation. The bill provides for suspension and removal of officers as follows: an officer who exercises the powers and duties of a state or county office may be suspended by the Governor and removed by the Florida Senate. Any other officer may be suspended and removed by the Governor pursuant to s. 112.51, F.S.

Subsections (6)-(8) apply prospectively to contracts or employment agreements, or the renewal or renegotiation or an existing contract or employment agreement, effective on or after October 1, 2016.

Auditing

Joint Legislative Auditing Committee (Sections 1 and 2)

Present Situation: Section 11.40, F.S., provides:

> Following notification by the Auditor General, the Department of Financial Services, or the Division of Bond Finance of the State Board of Administration of the failure of a local governmental entity, district school board, charter school, or charter technical career center to comply with the applicable provisions within ss. 11.45(5)-(7),[33] 218.32(1),[34] 218.38,[35] or 218.503(3),[36] the Legislative Auditing Committee may schedule a hearing to determine if the entity should be subject to further state action.

Section 11.45, F.S., defines the types of audits that may be conducted. That section requires the Auditor General to conduct certain state and local governmental audits and specifies the frequency with which the audits must occur. Section 11.45, F.S., also allows the Auditor General to conduct other audits he or she determines to be appropriate. For purposes of s. 11.45, F.S., the term local governmental entity means "a county agency, municipality, or special district as defined in s. 189.012, F.S., but does not include any housing authority established under ch. 421, F.S."

The Auditor General is required to transmit, by July 15, to the President of the Senate, the Speaker of the House of Representatives, and the Department of Financial Services a list of all school districts, charter schools, charter technical career centers, Florida College System institutions, state universities, and water management districts that have failed to comply with the transparency requirements as identified in the audit reports reviewed pursuant to paragraph (b) and those conducted pursuant to subsection (2).

Effect of the Bill: The bill amends s. 11.40, F.S., (section 1), to provide that the Governor or his or her designee, or the Commissioner of Education or his or her designee, may also notify the Joint Legislative Auditing Committee that a local governmental entity has failed to comply with applicable auditing, financial reporting, bond issuance notification, bond verification provisions, or failed to disclose a financial emergency or provide information required during a financial emergency.

The bill amends s. 11.45. F.S., (section 2), to define the terms "abuse," "fraud," and "waste" as follows:

- "Abuse" means behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary operational practice given the facts and circumstances. The term includes the misuse of authority or position for personal gain.

[33] Section 11.45, F.S., governs certain audits to be conducted by the Auditor General.
[34] Section 218.32(1), F.S., requires annual financial reports from local governmental entities.
[35] Section 218.38, F.S., requires notice of bond issuance and contains verification requirements.
[36] Section 218.503(3), F.S., requires those entities to disclose a financial emergency and provide certain information concerning a financial emergency.

- "Fraud" means obtaining something of value through willful misrepresentation, including, but not limited to, the intentional misstatements or omissions of amounts or disclosures in financial statements to deceive users of financial statements, theft of an entity's assets, bribery, or the use of one's position for personal enrichment through the deliberate misuse or misapplication of an organization's resources.
- "Waste" means the act of using or expending resources unreasonably, carelessly, extravagantly, or for no useful purpose.

The bill also redefines the term "Local governmental entity" for purposes of s. 11.45, F.S., to include tourist development councils and county tourism promotion agencies.

The bill exempts water management districts from being subject to audits pursuant to s. 11.45(2)(j), F.S. The bill allows the Auditor General to conduct audits or other engagements of tourist development councils and county tourism promotion agencies. The bill also conforms the Auditor General's reporting requirement to the President of the Senate, the Speaker of the House of Representatives, and the Department of Financial Services, by removing the obsolete reference to water management districts and replacing it with the phrase "local governmental entity."

Single Audit Act (Section 18)

Present Situation: The Florida Single Audit Act, s. 215.97, F.S., is designed to establish uniform state audit requirements for state financial assistance provided by state agencies to nonstate entities to carry out state projects; promote sound financial management, including effective internal controls, with respect to state financial assistance administered by nonstate entities; promote audit economy and efficiency by relying to the extent possible on already required audits of federal financial assistance provided to nonstate entities; provide for identification of state financial assistance transactions in the state accounting records and recipient organization records; promote improved coordination and cooperation within and between affected state agencies providing state financial assistance and nonstate entities receiving state assistance; and, ensure, to the maximum extent possible, that state agencies monitor, use, and follow-up on audits of state financial assistance provided to nonstate entities. Pursuant to the Single Audit Act, certain entities that exceed the "audit threshold" are subject to a state single audit or a project specific audit. Currently, the "audit threshold" is defined as:

> …the threshold amount used to determine when a state single audit or project-specific audit of a nonstate entity shall be conducted in accordance with this section. Each nonstate entity that expends a total amount of state financial assistance equal to or in excess of $500,000 in any fiscal year of such nonstate entity shall be required to have a state single audit, or a project-specific audit, for such fiscal year in accordance with the requirements of this section. Every 2 years the Auditor General, after consulting with the Executive Office of the Governor, the Department of Financial Services, and all state awarding agencies, shall review the threshold amount for requiring audits under this section and may adjust such threshold amount consistent with the purposes of this section. Section 215.97(2)(a), F.S.

Effect of the Bill: The bill amends s. 215.97, F.S., to change the audit threshold from $500,000 to $750,000. Additionally, the bill changes the requirement that the Auditor General review the threshold amount for requiring audits from every two years to "periodically." The term "periodically" is not defined in the bill. Finally, the bill authorizes the Auditor General to recommend to the Legislature a statutory change to revise the threshold amount in the annual report submitted pursuant to s. 11.45(7)(f), F.S.

Local Government Entity Annual Financial Reports (Section 20)

Present Situation: Section 218.32, F.S., requires certain local governmental entities to submit an annual financial report for the previous fiscal year. The annual financial report is required to be signed by the chair of the governing body and the chief financial officer of the local governmental entity. That section also specifies what information is required to be in the report.

Additionally, the Department of Financial Services is required to file a verified report with the Governor, the Legislature, the Auditor General, and the Special District Accountability Program of the Department of Economic Opportunity showing the revenues, both locally derived and derived from intergovernmental transfers, and the expenditures of each local governmental entity, regional planning council, local government finance commission, and municipal power corporation that is required to submit an annual financial report.[37]

Effect of the Bill: The bill amends s. 218.32, F.S., to require an independent certified public accountant completing an audit of a unit of local government pursuant to s. 218.39, F.S., to determine, as part of the audit, whether or not the entity's annual financial report is in agreement with the audit report. The accountant's audit report must be supported by the same level of detail required for the annual financial report. If the reports are not in agreement, the bill requires the audit to specify the differences that exist between the annual financial report and the audit report.

The bill also provides that, in preparing the verified report, the Department of Financial Services may request additional information from the local governmental entity. Any additional information requested must be provided within 45 days of the request. If the local governmental entity does not comply with the request, the Department of Financial Services must notify the Legislative Auditing Committee, which may take action pursuant to s. 11.40(2), F.S.

Annual Financial Audit Reports (Section 22)

Present Situation: If certain types of governmental entities are not notified by the first day of the fiscal year that they will be audited by the Auditor General, those entities must have an annual financial audit performed by an independent certified public accountant completed within nine months.[38] Section 218.39, F.S., lays out the minimum required information for the independent audits and provides for discussion between the governing body and the independent certified public accountant regarding certain specified conditions. If corrective action is required and has not been taken, the Legislative Auditing Committee can request a statement explaining why the corrective action has not been taken and provides for corrective steps including actions pursuant to s. 11.40(2), F.S.

[37] Section 218.32(2), F.S.
[38] Section 218.39, F.S.

Effect of the Bill: The bill amends s. 218.39, F.S., to provide that if the audit report contains a recommendation from the preceding financial audit report, the governing body, within 60 days, must indicate its intent regarding corrective action, the corrective action to be taken, and when the corrective action will occur. If the governing body does not intend to take any corrective action, it shall explain why such action will not be taken at the regularly scheduled public meeting.

Auditor Selection Procedures (Section 23)

Present Situation: Section 218.391, F.S., lays out the process that specified governmental entities[39] must follow in selecting its independent certified public accountant to act as an auditor. Noncharter counties are required to create a committee consisting of each of its elected county constitutional officers and one member of the board of county commissioners or their designee. Those entities must create an audit committee which must make a request for proposals. The law lays out what must be considered in selecting the firm and discusses negotiating for compensation.

Effect of the Bill: The bill amends s. 218.391, F.S., to require all counties to have an auditor selection committee consisting of each of its officers elected pursuant to the county charter or Florida Constitution. The bill requires municipalities, special districts, district school boards, charter schools, or charter technical career centers to create an audit committee with at least three members, one of which must be a member of the governing body of the entity. That member will serve as the committee's chair. An employee, chief executive officer, or chief financial officer of the county, municipality, special district, district school board, charter school, or charter technical career center may not be a member of an audit committee established under this section.

The audit report submitted pursuant to s. 218.39, F.S., must include an affidavit executed by the chair of the audit committee affirming that the committee complied with the auditor selection requirements. If the Auditor General determines that an entity failed to comply with the requirements in selecting an auditor, the entity shall select a replacement auditor to conduct audits for the subsequent fiscal years(s) remaining in the contract.

The Florida Virtual School (Section 35)

Present Situation: The Florida Virtual School[40] was created to develop and deliver online and distance learning. The Commissioner of Education is charged with monitoring the Florida Virtual School. In pertinent part, the law requires the board of trustees to submit an annual report to the Governor, the Legislature, the Commissioner of Education, and the State Board of Education. The report is required to address: operations and accomplishments of the Florida Virtual School within the state and those occurring outside the state as Florida Virtual School Global; marketing and operational plan for the Florida Virtual School and Florida Virtual School Global, including recommendations regarding methods for improving the delivery of education through the Internet and other distance learning technology; assets and liabilities of the Florida

[39] The entities are: the governing body of a charter county, municipality, special district, district school board, charter school, or charter technical career center.
[40] Section 100.37, F.S.

Virtual School and Florida Virtual School Global at the end of the fiscal year; a copy of an annual financial audit of the accounts and records of the Florida Virtual School and Florida Virtual School Global, conducted by an independent certified public accountant and performed in accordance with rules adopted by the Auditor General; recommendations regarding the unit cost of providing services to students through the Florida Virtual School and Florida Virtual School Global; and recommendations regarding an accountability mechanism to assess the effectiveness of the services provided by the Florida Virtual School and Florida Virtual School Global.[41]

The Auditor General is required to conduct an operational audit of the Florida Virtual School, including Florida Virtual School Global. The scope of the audit must include, but not be limited to, the administration of responsibilities relating to personnel; procurement and contracting; revenue production; school funds, including internal funds; student enrollment records; franchise agreements; information technology utilization, assets, and security; performance measures and standards; and accountability. The final report on the audit shall be submitted to the President of the Senate and the Speaker of the House of Representatives no later than January 31, 2014.

Effect of the Bill: The bill amends s. 1002.37, F.S. to eliminate the requirement that the Auditor General conduct an operation audit and report to the President of the Senate and the Speaker of the House of Representatives by January 31, 2014. That provision is replaced with requiring the Florida Virtual School to have an annual financial audit of its accounts and records completed by an independent auditor who is a licensed certified public accountant. The independent auditor must conduct the audit in accordance with the rules adopted by the Auditor General governing such audits. The audit report is required to include a written statement of the board of trustees describing corrective action to be taken in response to each of the independent auditor's recommendations. Upon completion of the audits, the independent auditor is required to submit an audit report to the board of trustees and the Auditor General no later than nine months after the end of the prior fiscal year. The bill also makes conforming changes to the annual report provided to the Governor, the Legislature, the Commissioner of Education, and the State Board of Education, by requiring a copy of the audit report be submitted with the annual statement.

Required Audits of Certain Educational Institutions (Section 37)

Present Situation: Section 1010.30(1), F.S., provides that school districts, Florida College System institutions, and other institutions and agencies under the supervision of the State Board of Education and state universities under the supervision of the Board of Governors are subject to the audit provisions of ss. 11.45 and 218.39, F.S. If an audit contains a significant finding, the district school board, the Florida College System institution board of trustees, or the university board of trustees shall conduct an audit overview during a public meeting.[42]

Effect of the Bill: The bill amends s. 1010.30, F.S., to require that if any audit report includes a recommendation that was previously included in the preceding financial audit report, the district school board, the Florida College System institution board of trustees, or the university board of trustees, must indicate its intent regarding corrective action, the corrective action to be taken, and when the corrective action will occur within 60 days after the delivery of the audit report. This

[41] Section 1002.37(6), F.S.
[42] Section 1010.30(2), F.S.

response must occur during a regularly scheduled public meeting. If the district school board, Florida College System institution board of trustees, or university board of trustees does not intend to take corrective action, it shall explain why such action will not be taken at the regularly scheduled public meeting.

Other Provisions

Florida Clerk of Courts Corporation (Section 4)

Present Situation: Currently, s. 28.35, F.S., requires the Florida Clerk of Courts Corporation (corporation) to develop and certify a uniform system of workload measures and applicable workload standards for court-related functions as developed by the corporation and clerk workload performance in meeting the workload performance standards. These workload measures and workload performance standards must be designed to facilitate an objective determination of the performance of each clerk in accordance with minimum standards for fiscal management, operational efficiency, and effective collection of fines, fees, service charges, and court costs. The corporation shall develop the workload measures and workload performance standards in consultation with the Legislature. When the corporation finds a clerk has not met the workload performance standards, the corporation shall identify the nature of each deficiency and any corrective action recommended and taken by the affected clerk of the court. The corporation shall notify the Legislature of any clerk not meeting workload performance standards and provide a copy of any corrective action plans.

Effect of the Bill: The bill amends s. 28.35, F.S., to require the Florida Clerk of Courts Corporation to notify the Legislature of any clerk not meeting the workload performance standards and provide a copy of any corrective action plans within 45 days after the end of each quarter. For purposes of s. 28.35, F.S., the quarters end on the last day of March, June, September, and December of each year.

Transparency in Government Spending (Section 19)

Present Situation: The Transparency Florida Act (Act), located in s. 215.985, F.S., requires the Governor, in consultation with the appropriations committees of the House and Senate, to maintain a central website providing access to all other websites required to be linked under the Act. That law requires certain budget information to be readily available online, certain contract information, and minimum functionality standards. In pertinent part, s. 215.985(11), F.S., requires: "Each water management district shall provide a monthly financial statement to its governing board and make such statement available for public access on its website."

Effect of the Bill: The bill amends s. 215.985, F.S., to require the monthly financial statement to be in the form and manner prescribed by the Department of Financial Services to the district's governing board and make such monthly financial statement available to the public on its website.

Financial Emergencies (Section 39)

Present Situation: Local governmental entities, charter schools, charter technical career centers, and district school boards are subject to review and oversight by the Governor, the charter school sponsor, the charter technical career center sponsor, or the Commissioner of Education, as

appropriate, under certain circumstances.[43] If a financial emergency occurs, the Governor or the Commissioner of Education must contact the entity to determine what steps have been taken to rectify, resolve, or prevent the financial emergency. Any information requested must be provided within 45 days. If the local governmental entity or the district school board does not comply with the request, the Governor or Commissioner of Education must notify the ***members*** of the Legislative Auditing Committee who may take action pursuant to s. 11.40, F.S. The Governor or the Commissioner of Education must then determine whether the entity needs state assistance. If so, the entity is considered to be in a state of financial emergency. The Governor or the Commissioner of Education then has the authority to take steps to resolve the financial emergency.[44]

Effect of the Bill: The bill amends s. 218.503, F.S., to provide that the Governor, or his or her designee, or the Commissioner of Education, or his or her designee, must notify the Legislative Auditing Committee instead of notifying the members of the Legislative Auditing Committee.

Reasonable Opportunity to Be Heard at Public Meetings (Section 24)

Present Situation: Section 286.0114, F.S., requires, with certain exceptions, that the public be provided a reasonable opportunity to be heard. That section prescribes the general process and permits entities to prescribe how public comment is made and certain reasonable limitations. The law also provides for the availability of attorney fees.

Effect of the Bill: The bill amends s. 286.0114, F.S., to clarify that a member of the public is not required to provide an advance written copy of his or her testimony or comments as a precondition to being given the opportunity to be heard.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, Section 18 of the State Constitution, excuses local governments from complying with state mandates which impose negative fiscal consequences. Subsection (a) provides, "[n]o county or municipality shall be bound by any general law requiring such county or municipality to spend funds or to take an action requiring the expenditure of funds" unless certain requirements are met. However, several exemptions and exceptions exist. Subsection (a) of Art. VII, Sec. 18 of the State Constitution, contains an exemption for laws having an insignificant fiscal impact and an exception for laws which apply to all persons similarly situated.

The bill appears to require counties and municipalities to expend an unknown amount of funds in order to establish and maintain specified internal controls. However, an exemption may apply if the bill results in an insignificant fiscal impact to county or municipal governments. Furthermore, the bill appears to apply to all persons similarly

[43] Section 218.503(1), F.S.
[44] Section 218.503(3), F.S.

situated; therefore an exception may apply which would make the provisions of this bill enforceable against local governments. Section 47 provides that the Legislature determines and declares that this bill fulfills an important state interest.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

CS/CS/SB 686 requires members of the public to register as a lobbyist when lobbying a specified unit of local government. Current law authorizes a fee for each registration, which may not exceed $40.

C. Government Sector Impact:

The bill requires state agencies, the judicial branch, local governments, district school boards, charter schools, school districts, state colleges and universities, and the Justice Administration Commission to establish specified internal controls. Such requirement may require additional time and expense to create the internal controls. Establishing these controls should be handled within existing resources.

The bill amends provisions related to the prohibition against extra compensation. The bill requires investigations of allegations and repayment of any prohibited compensation.

VI. Technical Deficiencies:

Sections 5, 21, 33, 34, and 36 all require compliance with best practices. Section 17 does not require compliance with best practices. It is unclear whether the phrase was intentionally omitted.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 11.40, 11.45, 28.35, 43.16, 112.313, 112.3144, 112.31455, 112.3261, 129.03, 129.06, 166.241, 189.016, 215.425,

215.86, 215.97, 215.985, 218.32, 218.33, 218.39, 218.391, 286.0114, 288.92, 288.9604, 373.536, 838.014, 838.015, 838.016, 838.022, 838.22, 1001.42, 1002.33, 1002.37, 1010.01, 1010.30, 99.061, 218.503, and 1002.455.

This bill creates the following sections of the Florida Statutes: 20.602 and 112.3126.

IX. Additional Information:

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

CS/CS by Governmental Oversight and Accountability on February 9, 2016:

- Deletes provisions regarding previous title of bill, legislative branch lobbying, executive branch lobbying, and investigations by the Commission on Ethics;
- Deletes provision regarding electronic filing of compensation reports and other information;
- Revises provisions regarding employment of members of the Legislature;
- Revises the definition of "public contractor;"
- Deletes the provisions expanding the offenses of bribery and unlawful compensation or reward for official behavior to include public contractors;
- Deletes provision renaming bid tampering offense as unlawful influence of the competitive solicitation process;
- Deletes provision regarding compliance with best practices for state agencies and judicial branch for internal controls to prevent fraud, waste, and abuse;
- Authorizes district school board members to visit schools, observe the management and instruction, give suggestions for improvement, and advise citizens with the view of promoting interest in education and improving the school;
- Revises the definition of "public funds" for extra compensation claims;
- Deletes various provisions regarding rewards and prosecution of extra compensation payments;
- Revises notification and consideration requirements for employees who meet criteria for a bonus scheme;
- Requires a unit of government or state university to consider various factors in determining amount of severance pay and provides existence of contract does not limit application of this provision;
- Deletes provisions regarding false claims against the state and civil actions for false claims;
- Amends ss. 112.534 and 117.01, F.S., relating to failure to comply; official misconduct, and regulation of notary publics, respectively, to incorporate by reference revisions made by this act;
- Reenacts s. 921.022(3)(d), F.S., relating to criminal punishment code; offense severity chart, to incorporate by reference revisions made by this act; and
- Authorizes the Commission on Ethics to render advisory opinions to any public officer, candidate for public office, or public employee regarding application of code of ethics for public officers and employees.

CS by Ethics and Elections on January 12, 2016:

- Requires legislative branch lobbyists to file a monthly report detailing which bills or appropriations that they have attempted to support, oppose, or influence;
- Authorizes fines of $50 per day up to a maximum of $5,000 for failing to timely file the monthly reports and provides grounds for waiving the fines;
- Prohibits lobbying the Department of Economic Opportunity and its various divisions, units and corporations (including the Florida Development Finance Corporation) for a period of 2 years instead of 6 years;
- Prohibits legislators from accepting certain employment while in office;
- Authorizes the Commission on Ethics to initiate investigations under certain circumstances by a super-majority vote;
- Clarifies which sources of funds are permissible to use to pay additional compensation or severance pay in excess of those authorized by statute to public employees;
- Defines "public contractor" and removes the definition of "nongovernmental entity" from the bill in s. 838.014, F.S.; and
- Applies the offenses of bribery, unlawful compensation or reward for official behavior, official misconduct, and unlawful influence in the competitive solicitation process to "public contractors."

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate . House

. . . . .

The Committee on Appropriations (Gaetz) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsection (2) of section 11.40, Florida Statutes, is amended to read:

11.40 Legislative Auditing Committee.—

(2) Following notification by the Auditor General, the Department of Financial Services, ~~or~~ the Division of Bond Finance of the State Board of Administration, the Governor or

his or her designee, or the Commissioner of Education or his or her designee of the failure of a local governmental entity, district school board, charter school, or charter technical career center to comply with the applicable provisions within s. 11.45(5)-(7), s. 218.32(1), s. 218.38, or s. 218.503(3), the Legislative Auditing Committee may schedule a hearing to determine if the entity should be subject to further state action. If the committee determines that the entity should be subject to further state action, the committee shall:

(a) In the case of a local governmental entity or 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 which are payable to such entity until the entity complies with the law. The committee shall specify the date that such action must ~~shall~~ begin, and the directive must be received by the Department of Revenue and the Department of Financial Services 30 days before the date of the distribution mandated by law. The Department of Revenue and the Department of Financial Services may implement ~~the provisions of~~ this paragraph.

(b) In the case of a special district created by:

1. A special act, notify the President of the Senate, the Speaker of the House of Representatives, the standing committees of the Senate and the House of Representatives charged with special district oversight as determined by the presiding officers of each respective chamber, the legislators who represent a portion of the geographical jurisdiction of the special district pursuant to s. 189.034(2), and the Department of Economic Opportunity that the special district has failed to

comply with the law. Upon receipt of notification, the Department of Economic Opportunity shall proceed pursuant to s. 189.062 or s. 189.067. If the special district remains in noncompliance after the process set forth in s. 189.034(3), or if a public hearing is not held, the Legislative Auditing Committee may request the department to proceed pursuant to s. 189.067(3).

2. A local ordinance, notify the chair or equivalent of the local general-purpose government pursuant to s. 189.035(2) and the Department of Economic Opportunity that the special district has failed to comply with the law. Upon receipt of notification, the department shall proceed pursuant to s. 189.062 or s. 189.067. If the special district remains in noncompliance after the process set forth in s. 189.034(3), or if a public hearing is not held, the Legislative Auditing Committee may request the department to proceed pursuant to s. 189.067(3).

3. Any manner other than a special act or local ordinance, notify the Department of Economic Opportunity that the special district has failed to comply with the law. Upon receipt of notification, the department shall proceed pursuant to s. 189.062 or s. 189.067(3).

(c) In the case of a charter school or charter technical career center, notify the appropriate sponsoring entity, which may terminate the charter pursuant to ss. 1002.33 and 1002.34.

Section 2. Subsection (1), paragraph (j) of subsection (2), paragraph (u) of subsection (3), and paragraph (i) of subsection (7) of section 11.45, Florida Statutes, are amended, and paragraph (x) is added to subsection (3) of that section, to read:


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11.45 Definitions; duties; authorities; reports; rules.—

(1) DEFINITIONS.—As used in ss. 11.40-11.51, the term:

(a) "Abuse" means behavior that is deficient or improper when compared with behavior that a prudent person would consider a reasonable and necessary operational practice given the facts and circumstances. The term includes the misuse of authority or position for personal gain.

(b) ~~(a)~~ "Audit" means a financial audit, operational audit, or performance audit.

(c) ~~(b)~~ "County agency" means a board of county commissioners or other legislative and governing body of a county, however styled, including that of a consolidated or metropolitan government, a clerk of the circuit court, a separate or ex officio clerk of the county court, a sheriff, a property appraiser, a tax collector, a supervisor of elections, or any other officer in whom any portion of the fiscal duties of a body or officer expressly stated in this paragraph are ~~the above are under law~~ separately placed by law.

(d) ~~(c)~~ "Financial audit" means an examination of financial statements in order to express an opinion on the fairness with which they are presented in conformity with generally accepted accounting principles and an examination to determine whether operations are properly conducted in accordance with legal and regulatory requirements. Financial audits must be conducted in accordance with auditing standards generally accepted in the United States and government auditing standards as adopted by the Board of Accountancy. When applicable, the scope of financial audits must ~~shall~~ encompass the additional activities necessary to establish compliance with the Single Audit Act


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Amendments of 1996, 31 U.S.C. ss. 7501-7507, and other applicable federal law.

(e) "Fraud" means obtaining something of value through willful misrepresentation, including, but not limited to, the intentional misstatements or omissions of amounts or disclosures in financial statements to deceive users of financial statements, theft of an entity's assets, bribery, or the use of one's position for personal enrichment through the deliberate misuse or misapplication of an organization's resources.

(f) ~~(d)~~ "Governmental entity" means a state agency, a county agency, or any other entity, however styled, that independently exercises any type of state or local governmental function.

(g) ~~(e)~~ "Local governmental entity" means a county agency, municipality, tourist development council, county tourism promotion agency, or special district as defined in s. 189.012. The term~~, but~~ does not include any housing authority established under chapter 421.

(h) ~~(f)~~ "Management letter" means a statement of the auditor's comments and recommendations.

(i) ~~(g)~~ "Operational audit" means an audit whose purpose is to evaluate management's performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste, and abuse, and in administering assigned responsibilities in accordance with applicable laws, administrative rules, contracts, grant agreements, and other guidelines. Operational audits must be conducted in accordance with government auditing standards. Such audits examine internal controls that are designed and placed in operation to promote and encourage the achievement of management's control objectives

in the categories of compliance, economic and efficient operations, reliability of financial records and reports, and safeguarding of assets, and identify weaknesses in those internal controls.

(j) ~~(h)~~ "Performance audit" means an examination of a program, activity, or function of a governmental entity, conducted in accordance with applicable government auditing standards or auditing and evaluation standards of other appropriate authoritative bodies. The term includes an examination of issues related to:

1. Economy, efficiency, or effectiveness of the program.

2. Structure or design of the program to accomplish its goals and objectives.

3. Adequacy of the program to meet the needs identified by the Legislature or governing body.

4. Alternative methods of providing program services or products.

5. Goals, objectives, and performance measures used by the agency to monitor and report program accomplishments.

6. The accuracy or adequacy of public documents, reports, or requests prepared under the program by state agencies.

7. Compliance of the program with appropriate policies, rules, or laws.

8. Any other issues related to governmental entities as directed by the Legislative Auditing Committee.

(k) ~~(i)~~ "Political subdivision" means a separate agency or unit of local government created or established by law and includes, but is not limited to, the following and the officers thereof: authority, board, branch, bureau, city, commission,


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consolidated government, county, department, district, institution, metropolitan government, municipality, office, officer, public corporation, town, or village.

(l) ~~(j)~~ "State agency" means a separate agency or unit of state government created or established by law and includes, but is not limited to, the following and the officers thereof: authority, board, branch, bureau, commission, department, division, institution, office, officer, or public corporation, as the case may be, except any such agency or unit within the legislative branch of state government other than the Florida Public Service Commission.

(m) "Waste" means the act of using or expending resources unreasonably, carelessly, extravagantly, or for no useful purpose.

(2) DUTIES.—The Auditor General shall:

(j) Conduct audits of local governmental entities when determined to be necessary by the Auditor General, when directed by the Legislative Auditing Committee, or when otherwise required by law. No later than 18 months after the release of the audit report, the Auditor General shall perform such appropriate followup procedures as he or she deems necessary to determine the audited entity's progress in addressing the findings and recommendations contained within the Auditor General's previous report. The Auditor General shall notify each member of the audited entity's governing body and the Legislative Auditing Committee of the results of his or her determination. For purposes of this paragraph, local governmental entities do not include water management districts.

The Auditor General shall perform his or her duties independently but under the general policies established by the Legislative Auditing Committee. This subsection does not limit the Auditor General's discretionary authority to conduct other audits or engagements of governmental entities as authorized in subsection (3).

(3) AUTHORITY FOR AUDITS AND OTHER ENGAGEMENTS.—The Auditor General may, pursuant to his or her own authority, or at the direction of the Legislative Auditing Committee, conduct audits or other engagements as determined appropriate by the Auditor General of:

(u) The Florida Virtual School ~~pursuant to s. 1002.37~~.

(x) Tourist development councils and county tourism promotion agencies.

(7) AUDITOR GENERAL REPORTING REQUIREMENTS.—

(i) The Auditor General shall annually transmit by July 15, to the President of the Senate, the Speaker of the House of Representatives, and the Department of Financial Services, a list of all school districts, charter schools, charter technical career centers, Florida College System institutions, state universities, and local governmental entities ~~water management districts~~ that have failed to comply with the transparency requirements as identified in the audit reports reviewed pursuant to paragraph (b) and those conducted pursuant to subsection (2).

Section 3. Paragraph (d) of subsection (2) of section 28.35, Florida Statutes, is amended to read:

28.35 Florida Clerks of Court Operations Corporation.—

(2) The duties of the corporation shall include the

following:

(d) Developing and certifying a uniform system of workload measures and applicable workload standards for court-related functions as developed by the corporation and clerk workload performance in meeting the workload performance standards. These workload measures and workload performance standards shall be designed to facilitate an objective determination of the performance of each clerk in accordance with minimum standards for fiscal management, operational efficiency, and effective collection of fines, fees, service charges, and court costs. The corporation shall develop the workload measures and workload performance standards in consultation with the Legislature. When the corporation finds a clerk has not met the workload performance standards, the corporation shall identify the nature of each deficiency and any corrective action recommended and taken by the affected clerk of the court. For quarterly periods ending on the last day of March, June, September, and December of each year, the corporation shall notify the Legislature of any clerk not meeting workload performance standards and provide a copy of any corrective action plans. Such notifications shall be submitted no later than 45 days after the end of the preceding quarterly period. As used in this subsection, the term:

1. "Workload measures" means the measurement of the activities and frequency of the work required for the clerk to adequately perform the court-related duties of the office as defined by the membership of the Florida Clerks of Court Operations Corporation.

2. "Workload performance standards" means the standards

developed to measure the timeliness and effectiveness of the activities that are accomplished by the clerk in the performance of the court-related duties of the office as defined by the membership of the Florida Clerks of Court Operations Corporation.

Section 4. Present subsections (6) and (7) of section 43.16, Florida Statutes, are redesignated as subsections (7) and (8), respectively, and a new subsection (6) is added to that section, to read:

43.16 Justice Administrative Commission; membership, powers and duties.—

(6) The commission, each state attorney, each public defender, the criminal conflict and civil regional counsel, the capital collateral regional counsel, and the Guardian Ad Litem Program shall establish and maintain internal controls designed to:

(a) Prevent and detect fraud, waste, and abuse.

(b) Promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best practices.

(c) Support economical and efficient operations.

(d) Ensure reliability of financial records and reports.

(e) Safeguard assets.

Section 5. Subsection (1) of section 112.31455, Florida Statutes, is amended to read:

112.31455 Collection methods for unpaid automatic fines for failure to timely file disclosure of financial interests.—

(1) Before referring any unpaid fine accrued pursuant to s. 112.3144(5) or s. 112.3145(7) to the Department of Financial Services, the commission shall attempt to determine whether the

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individual owing such a fine is a current public officer or current public employee. If so, the commission may notify the Chief Financial Officer or the governing body of the appropriate county, municipality, school district, or special district of the total amount of any fine owed to the commission by such individual.

(a) After receipt and verification of the notice from the commission, the Chief Financial Officer or the governing body of the county, municipality, school district, or special district shall begin withholding the lesser of 10 percent or the maximum amount allowed under federal law from any salary-related payment. The withheld payments shall be remitted to the commission until the fine is satisfied.

(b) The Chief Financial Officer or the governing body of the county, municipality, school district, or special district may retain an amount of each withheld payment, as provided in s. 77.0305, to cover the administrative costs incurred under this section.

Section 6. Section 112.3261, Florida Statutes, is amended to read:

112.3261 Lobbying before governmental entities ~~water management districts~~; registration and reporting.—

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

(a) "Governmental entity" or "entity" ~~"District"~~ means a water management district created in s. 373.069 and operating under the authority of chapter 373, a hospital district, a children's services district, an expressway authority as the term "authority" is defined in s. 348.0002, the term "port authority" as defined in s. 315.02, a county or municipality

that has not adopted lobbyist registration and reporting requirements, or an independent special district with annual revenues of more than $5 million which exercises ad valorem taxing authority.

(b) "Lobbies" means seeking, on behalf of another person, to influence a governmental entity ~~district~~ with respect to a decision of the entity ~~district~~ in an area of policy or procurement or an attempt to obtain the goodwill of an ~~a~~ ~~district~~ official or employee of a governmental entity. The term ~~"lobbies"~~ shall be interpreted and applied consistently with the rules of the commission implementing s. 112.3215.

(c) "Lobbyist" has the same meaning as provided in s. 112.3215.

(d) "Principal" has the same meaning as provided in s. 112.3215.

(2) A person may not lobby a governmental entity ~~district~~ until such person has registered as a lobbyist with that entity ~~district~~. Such registration shall be due upon initially being retained to lobby and is renewable on a calendar-year basis thereafter. Upon registration, the person shall provide a statement signed by the principal or principal's representative stating that the registrant is authorized to represent the principal. The principal shall also identify and designate its main business on the statement authorizing that lobbyist pursuant to a classification system approved by the governmental entity ~~district~~. Any changes to the information required by this section must be disclosed within 15 days by filing a new registration form. The registration form must ~~shall~~ require each lobbyist to disclose, under oath, the following:

(a) The lobbyist's name and business address.

(b) The name and business address of each principal represented.

(c) The existence of any direct or indirect business association, partnership, or financial relationship with an official ~~any officer~~ or employee of a governmental entity ~~district~~ with which he or she lobbies or intends to lobby.

(d) A governmental entity shall create a lobbyist registration form modeled after the ~~In lieu of creating its own lobbyist registration forms, a district may accept a completed~~ legislative branch or executive branch lobbyist registration form, which must be returned to the governmental entity.

(3) A governmental entity ~~district~~ shall make lobbyist registrations available to the public. If a governmental entity ~~district~~ maintains a website, a database of currently registered lobbyists and principals must be available on the entity's ~~district's~~ website.

(4) A lobbyist shall promptly send a written statement to the governmental entity ~~district~~ canceling the registration for a principal upon termination of the lobbyist's representation of that principal. A governmental entity ~~district~~ may remove the name of a lobbyist from the list of registered lobbyists if the principal notifies the entity ~~district~~ that a person is no longer authorized to represent that principal.

(5) A governmental entity ~~district~~ may establish an annual lobbyist registration fee, not to exceed $40, for each principal represented. The governmental entity ~~district~~ may use registration fees only to administer this section.

(6) A governmental entity ~~district~~ shall be diligent to


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ascertain whether persons required to register pursuant to this section have complied. A governmental entity ~~district~~ may not knowingly authorize a person who is not registered pursuant to this section to lobby the entity ~~district~~.

(7) Upon receipt of a sworn complaint alleging that a lobbyist or principal has failed to register with a governmental entity ~~district~~ or has knowingly submitted false information in a report or registration required under this section, the commission shall investigate a lobbyist or principal pursuant to the procedures established under s. 112.324. The commission shall provide the Governor with a report of its findings and recommendations in any investigation conducted pursuant to this subsection. The Governor is authorized to enforce the commission's findings and recommendations.

(8) A governmental entity ~~Water management districts~~ may adopt rules to establish procedures to govern the registration of lobbyists, including the adoption of forms and the establishment of a lobbyist registration fee.

Section 7. Paragraph (c) of subsection (3) of section 129.03, Florida Statutes, is amended to read:

129.03 Preparation and adoption of budget.—

(3) The county budget officer, after tentatively ascertaining the proposed fiscal policies of the board for the next fiscal year, shall prepare and present to the board a tentative budget for the next 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.

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(c) The board shall hold public hearings to adopt tentative and final budgets pursuant to s. 200.065. The hearings shall be primarily for the purpose of hearing requests and complaints from the public regarding the budgets and the proposed tax levies and for explaining the budget and any proposed or adopted amendments. The tentative budget must be posted on the county's official website at least 2 days before the public hearing to consider such budget and must remain on the website for at least 45 days. The final budget must be posted on the website within 30 days after adoption and must remain on the website for at least 2 years. The tentative budgets, adopted tentative budgets, and final budgets shall be filed in the office of the county auditor as a public record. Sufficient reference in words and figures to identify the particular transactions must ~~shall~~ be made in the minutes of the board to record its actions with reference to the budgets.

Section 8. 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) Unless otherwise prohibited by law, if an amendment to a budget is required for a purpose not specifically authorized in paragraphs (a)-(e), the amendment may be authorized by resolution or ordinance of the board of county commissioners adopted following a public hearing.

1. 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 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. 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 fund's appropriations.

2. If the board amends the budget pursuant to this paragraph, the adopted amendment must be posted on the county's official website within 5 days after adoption and must remain on the website for at least 2 years.

Section 9. Subsections (3) and (5) of section 166.241, Florida Statutes, are amended to read:

166.241 Fiscal years, budgets, and budget amendments.—

(3) The tentative budget must be posted on the municipality's official website at least 2 days before the budget hearing, held pursuant to s. 200.065 or other law, to consider such budget, and must remain on the website for at least 45 days. The final adopted budget must be posted on the municipality's official website within 30 days after adoption and must remain on the website for at least 2 years. If the municipality does not operate an official website, the municipality must, within a reasonable period of time as established by the county or counties in which the municipality is located, transmit the tentative budget and final budget to the manager or administrator of such county or counties who shall post the budgets on the county's website.

(5) If the governing body of a municipality amends the budget pursuant to paragraph (4)(c), the adopted amendment must

be posted on the official website of the municipality within 5 days after adoption and must remain on the website for at least 2 years. If the municipality does not operate an official website, the municipality must, within a reasonable period of time as established by the county or counties in which the municipality is located, transmit the adopted amendment to the manager or administrator of such county or counties who shall post the adopted amendment on the county's website.

Section 10. Subsections (4) and (7) of section 189.016, Florida Statutes, are amended to read:

189.016 Reports; budgets; audits.—

(4) The tentative budget must be posted on the special district's official website at least 2 days before the budget hearing, held pursuant to s. 200.065 or other law, to consider such budget, and must remain on the website for at least 45 days. The final adopted budget must be posted on the special district's official website within 30 days after adoption and must remain on the website for at least 2 years. If the special district does not operate an official website, the special district must, within a reasonable period of time as established by the local general-purpose government or governments in which the special district is located or the local governing authority to which the district is dependent, transmit the tentative budget or final budget to the manager or administrator of the local general-purpose government or the local governing authority. The manager or administrator shall post the tentative budget or final budget on the website of the local general-purpose government or governing authority. This subsection and subsection (3) do not apply to water management districts as

defined in s. 373.019.

(7) If the governing body of a special district amends the budget pursuant to paragraph (6)(c), the adopted amendment must be posted on the official website of the special district within 5 days after adoption and must remain on the website for at least 2 years. If the special district does not operate an official website, the special district must, within a reasonable period of time as established by the local general-purpose government or governments in which the special district is located or the local governing authority to which the district is dependent, transmit the adopted amendment to the manager or administrator of the local general-purpose government or governing authority. The manager or administrator shall post the adopted amendment on the website of the local general-purpose government or governing authority.

Section 11. Section 215.425, Florida Statutes, is amended to read:

215.425 Extra compensation claims prohibited; bonuses; severance pay.—

(1) As used in this section, the term "public funds" means any taxes, tuition, state grants, fines, fees, or other charges or any other type of revenue collected by the state or any county, municipality, special district, school district, Florida College System institution, state university, or other separate unit of government created pursuant to law, including any office, department, agency, division, subdivision, political subdivision, board, bureau, or commission of such entities. However, if the payment and receipt does not otherwise violate part III of chapter 112, the following are not considered public

funds:

(a) Revenues received by the Board of Governors or state universities through or from faculty practice plans; health services support organizations; hospitals with which state universities are affiliated; direct-support organizations; or federal, auxiliary, or private sources, except for tuition.

(b) Revenues received by Florida College System institutions through or from faculty practice plans; health services support organizations; direct-support organizations; or federal, auxiliary, or private sources, except for tuition.

(c) Revenues that are received by a hospital licensed under chapter 395 which has entered into a Medicaid provider contract and that:

1. Are not derived from the levy of an ad valorem tax;

2. Are not derived from patient services paid through the Medicaid or Medicare program;

3. Are derived from patient services pursuant to contracts with private insurers or private managed care entities, or paid by the patient or private entities; or

4. Are not appropriated by the Legislature or by any county, municipality, special district, school district, Florida College System institution, state university, or other separate unit of government created pursuant to law, including any office, department, agency, division, subdivision, political subdivision, board, bureau, commission, authority, or institution of such entities, except for revenues otherwise authorized to be used pursuant to subparagraphs 2. and 3.

(d) A clothing and maintenance allowance given to plainclothes deputies pursuant to s. 30.49.

(e) Revenues or fees received by a seaport or airport from sources other than through the levy of a tax, or funds appropriated by any county or municipality or the Legislature.

(2) ~~(1)~~ Except as provided in subsections (3) and (4), no extra compensation shall be made from public funds to any officer, agent, employee, or contractor after the service has been rendered or the contract made; nor shall any public funds ~~money~~ be appropriated or paid on any claim the subject matter of which has not been provided for by preexisting laws, unless such compensation or claim is allowed by a law enacted by two-thirds of the members elected to each house of the Legislature. However, when adopting salary schedules for a fiscal year, a district school board or community college district board of trustees may apply the schedule for payment of all services rendered subsequent to July 1 of that fiscal year.

~~(2) This section does not apply to:~~

~~(a) a bonus or severance pay that is paid wholly from nontax revenues and nonstate-appropriated funds, the payment and receipt of which does not otherwise violate part III of chapter 112, and which is paid to an officer, agent, employee, or contractor of a public hospital that is operated by a county or a special district; or~~

~~(b) A clothing and maintenance allowance given to plainclothes deputies pursuant to s. 30.49.~~

(3) Any policy, ordinance, rule, or resolution designed to implement a bonus scheme must:

(a) Base the award of a bonus on work performance;

(b) Describe the performance standards and evaluation process by which a bonus will be awarded;

(c) Notify all employees who meet the prescribed criteria for a particular bonus scheme of the policy, ordinance, rule, or resolution before the beginning of the evaluation period on which a bonus will be based; and

(d) Consider all employees who meet the prescribed criteria for a particular bonus scheme for the bonus.

(4)(a) ~~On or after July 1, 2011,~~ A unit of government, on or after July 1, 2011, or a state university, on or after July 1, 2012, which ~~that~~ enters into a contract or employment agreement, or a renewal or renegotiation of an existing contract or employment agreement, which ~~that~~ contains a provision for severance pay with an officer, agent, employee, or contractor must include the following provisions in the contract:

1. A requirement that severance pay paid from public funds ~~provided~~ may not exceed an amount greater than 20 weeks of compensation.

2. A prohibition of provision of severance pay paid from public funds when the officer, agent, employee, or contractor has been fired for misconduct, as defined in s. 443.036(29), by the unit of government. However, the existence of a contract that includes a provision providing for severance pay does not limit the application of paragraph (b) to the settlement of a dispute.

(b) On or after July 1, 2011, an officer, agent, employee, or contractor may receive severance pay that is not provided for in a contract or employment agreement if the severance pay represents the settlement of an employment dispute. In determining the amount of severance pay that may be paid in accordance with this section, the unit of government or the

state university shall consider the nature of the claim, the circumstances giving rise to the dispute, and the potential cost of resolving the dispute ~~Such severance pay may not exceed an amount greater than 6 weeks of compensation~~. The settlement may not include provisions that limit the ability of any party to the settlement to discuss the dispute or settlement.

(5) Any agreement or contract~~,~~ executed on or after July 1, 2011, which involves extra compensation between a unit of government and an officer, agent, employee, or contractor may not include provisions that limit the ability of any party to the agreement or contract to discuss the agreement or contract.

(6) Upon discovery or notification that a unit of government has provided prohibited compensation to any officer, agent, employee, or contractor in violation of this section, such unit of government shall investigate and take all reasonable action to recover the prohibited compensation.

(a) If the violation was unintentional, the unit of government shall take all reasonable action to recover the prohibited compensation from the individual receiving the prohibited compensation through normal recovery methods for overpayments.

(b) If the violation was willful, the unit of government shall take all reasonable action to recover the prohibited compensation from the individual receiving the prohibited compensation or the employee or employees of the unit of government who willfully violated this section. Each individual determined to have willfully violated this section is jointly and severally liable for repayment of the prohibited compensation.


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(7) An officer who exercises the powers and duties of a state or county officer and willfully violates this section is subject to the Governor's power under s. 7(a), Art. IV of the State Constitution. An officer who exercises powers and duties other than those of a state or county officer and willfully violates this section is subject to the suspension and removal procedures under s. 112.51.

(8) An employee who is discharged, demoted, suspended, threatened, harassed, or in any manner discriminated against in the terms and conditions of employment by his or her employer because of lawful acts done by the employee on behalf of the employee or others in furtherance of an action under this section, including investigation for initiation of, testimony for, or assistance in an action filed or to be filed under this section, has a cause of action under s. 112.3187.

(9) Subsections (6), (7), and (8) apply prospectively to contracts and employment agreements, and the renewal or renegotiation of an existing contract or employment agreement, effective on or after October 1, 2016.

Section 12. Section 215.86, Florida Statutes, is amended to read:

215.86 Management systems and controls.—Each state agency and the judicial branch as defined in s. 216.011 shall establish and maintain management systems and internal controls designed to:

(1) Prevent and detect fraud, waste, and abuse. ~~that~~

(2) Promote and encourage compliance with applicable laws, rules, contracts, and grant agreements.~~;~~

(3) Support economical and ~~economic,~~ efficient~~, and~~


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~~effective~~ operations.~~,~~

(4) Ensure reliability of financial records and reports.~~,~~

(5) Safeguard ~~and safeguarding of~~ assets. ~~Accounting systems and procedures shall be designed to fulfill the requirements of generally accepted accounting principles.~~

Section 13. Paragraph (a) of subsection (2) of section 215.97, Florida Statutes, is amended to read:

215.97 Florida Single Audit Act.—

(2) Definitions; as used in this section, the term:

(a) "Audit threshold" means the threshold amount used to determine when a state single audit or project-specific audit of a nonstate entity shall be conducted in accordance with this section. Each nonstate entity that expends a total amount of state financial assistance equal to or in excess of $750,000 ~~$500,000~~ in any fiscal year of such nonstate entity shall be required to have a state single audit~~,~~ or a project-specific audit~~,~~ for such fiscal year in accordance with the requirements of this section. ~~Every 2 years the Auditor General,~~ After consulting with the Executive Office of the Governor, the Department of Financial Services, and all state awarding agencies, the Auditor General shall periodically review the threshold amount for requiring audits under this section and may recommend any appropriate statutory change to revise the threshold amount in the annual report submitted pursuant to s. 11.45(7)(h) to the Legislature ~~may adjust such threshold amount consistent with the purposes of this section~~.

Section 14. Subsection (11) of section 215.985, Florida Statutes, is amended to read:

215.985 Transparency in government spending.—

(11) Each water management district shall provide a monthly financial statement in the form and manner prescribed by the Department of Financial Services to the district's ~~its~~ governing board and make such monthly financial statement available for public access on its website.

Section 15. Paragraph (d) of subsection (1) and subsection (2) of section 218.32, Florida Statutes, are amended to read:

218.32 Annual financial reports; local governmental entities.—

(1)

(d) Each local governmental entity that is required to provide for an audit under s. 218.39(1) must submit a copy of the audit report and annual financial report to the department within 45 days after the completion of the audit report but no later than 9 months after the end of the fiscal year. In conducting an audit of a local governmental entity pursuant to s. 218.39, an independent certified public accountant shall determine whether the entity's annual financial report is in agreement with the audited financial statements. The accountant's audit report must be supported by the same level of detail as required for the annual financial report. If the accountant's audit report is not in agreement with the annual financial report, the accountant shall specify and explain the significant differences that exist between the annual financial report and the audit report.

(2) The department shall annually by December 1 file a verified report with the Governor, the Legislature, the Auditor General, and the Special District Accountability Program of the Department of Economic Opportunity showing the revenues, both

locally derived and derived from intergovernmental transfers, and the expenditures of each local governmental entity, regional planning council, local government finance commission, and municipal power corporation that is required to submit an annual financial report. In preparing the verified report, the department may request additional information from the local governmental entity. The information requested must be provided to the department within 45 days after the request. If the local governmental entity does not comply with the request, the department shall notify the Legislative Auditing Committee, which may take action pursuant to s. 11.40(2). The report must include, but is not limited to:

(a) The total revenues and expenditures of each local governmental entity that is a component unit included in the annual financial report of the reporting entity.

(b) The amount of outstanding long-term debt by each local governmental entity. For purposes of this paragraph, the term "long-term debt" means any agreement or series of agreements to pay money, which, at inception, contemplate terms of payment exceeding 1 year in duration.

Section 16. Present subsection (3) of section 218.33, Florida Statutes, is redesignated as subsection (4), and a new subsection (3) is added to that section, to read:

218.33 Local governmental entities; establishment of uniform fiscal years and accounting practices and procedures.—

(3) Each local governmental entity shall establish and maintain internal controls designed to:

(a) Prevent and detect fraud, waste, and abuse.

(b) Promote and encourage compliance with applicable laws,


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rules, contracts, grant agreements, and best practices.

(c) Support economical and efficient operations.

(d) Ensure reliability of financial records and reports.

(e) Safeguard assets.

Section 17. Present subsections (8) through (12) of section 218.39, Florida Statutes, are redesignated as subsections (9) through (13), respectively, and a new subsection (8) is added to that section, to read:

218.39 Annual financial audit reports.—

(8) If the audit report includes a recommendation that was included in the preceding financial audit report but remains unaddressed, the governing body of the audited entity, within 60 days after the delivery of the audit report to the governing body, shall indicate during a regularly scheduled public meeting whether it intends to take corrective action, the intended corrective action, and the timeframe for the corrective action. If the governing body indicates that it does not intend to take corrective action, it shall explain its decision at the public meeting.

Section 18. Subsection (2) of section 218.391, Florida Statutes, is amended, and subsection (9) is added to that section, to read:

218.391 Auditor selection procedures.—

(2) The governing body of a ~~charter~~ county, municipality, special district, district school board, charter school, or charter technical career center shall establish an audit committee.

(a) The audit committee for a county ~~Each noncharter county shall establish an audit committee that~~, at a minimum, shall

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consist of each of the county officers elected pursuant to the county charter or s. 1(d), Art. VIII of the State Constitution~~,~~ or their respective designees ~~a designee,~~ and one member of the board of county commissioners or its designee.

(b) The audit committee for a municipality, special district, district school board, charter school, or charter technical career center shall consist of at least three members. One member of the audit committee must be a member of the governing body of an entity specified in this paragraph, who shall also serve as the chair of the committee.

(c) An employee, chief executive officer, or chief financial officer of the county, municipality, special district, district school board, charter school, or charter technical career center may not serve as a member of an audit committee established under this subsection.

(d) The primary purpose of the audit committee is to assist the governing body in selecting an auditor to conduct the annual financial audit required in s. 218.39; however, the audit committee may serve other audit oversight purposes as determined by the entity's governing body. The public may ~~shall~~ not be excluded from the proceedings under this section.

(9) An audit report submitted pursuant to s. 218.39 must include an affidavit executed by the chair of the audit committee affirming that the committee complied with the requirements of subsections (3)-(6) in selecting an auditor. If the Auditor General determines that an entity failed to comply with the requirements of subsections (3)-(6) in selecting an auditor, the entity shall select a replacement auditor in accordance with this section to conduct audits for subsequent

fiscal years if the original audit was performed under a multiyear contract. If the replacement of an auditor would preclude the entity from timely completing the annual financial audit required by s. 218.39, the entity shall replace an auditor in accordance with this section for the subsequent annual financial audit. A multiyear contract between an entity or an auditor may not prohibit or restrict an entity from complying with this subsection.

Section 19. Subsection (2) of section 286.0114, Florida Statutes, is amended to read:

286.0114 Public meetings; reasonable opportunity to be heard; attorney fees.—

(2) Members of the public shall be given a reasonable opportunity to be heard on a proposition before a board or commission. The opportunity to be heard need not occur at the same meeting at which the board or commission takes official action on the proposition if the opportunity occurs at a meeting that is during the decisionmaking process and is within reasonable proximity in time before the meeting at which the board or commission takes the official action. A board or commission may not require a member of the public to provide an advance written copy of his or her testimony or comments as a precondition of being given the opportunity to be heard at a meeting. This section does not prohibit a board or commission from maintaining orderly conduct or proper decorum in a public meeting. The opportunity to be heard is subject to rules or policies adopted by the board or commission, as provided in subsection (4).

Section 20. Paragraph (b) of subsection (2) of section

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288.92, Florida Statutes, is amended to read:

288.92 Divisions of Enterprise Florida, Inc.—

(2)

(b)1. The following officers and board members are subject to ss. 112.313(1)-(8), (10), (12), and (15); 112.3135; and 112.3143(2):

a. Officers and members of the board of directors of the divisions of Enterprise Florida, Inc.

b. Officers and members of the board of directors of subsidiaries of Enterprise Florida, Inc.

c. Officers and members of the board of directors of corporations created to carry out the missions of Enterprise Florida, Inc.

d. Officers and members of the board of directors of corporations with which a division is required by law to contract to carry out its missions.

2. For a period of 2 years after retirement from or termination of service to a division, or for a period of 10 years if removed or terminated for cause or for misconduct, as defined in s. 443.036(29), the officers and board members specified in subparagraph 1. may not represent another person or entity for compensation before:

a. Enterprise Florida, Inc.;

b. A division, a subsidiary, or the board of directors of corporations created to carry out the missions of Enterprise Florida, Inc.; or

c. A division with which Enterprise Florida, Inc., is required by law to contract to carry out its missions.

3.~~2.~~ For purposes of applying ss. 112.313(1)-(8), (10),

(12), and (15); 112.3135; and 112.3143(2) to activities of the officers and members of the board of directors specified in subparagraph 1., those persons shall be considered public officers or employees and the corporation shall be considered their agency.

4.~~3.~~ It is not a violation of s. 112.3143(2) or (4) for the officers or members of the board of directors of the Florida Tourism Industry Marketing Corporation to:

a. Vote on the 4-year marketing plan required under s. 288.923 or vote on any individual component of or amendment to the plan.

b. Participate in the establishment or calculation of payments related to the private match requirements of s. 288.904(3). The officer or member must file an annual disclosure describing the nature of his or her interests or the interests of his or her principals, including corporate parents and subsidiaries of his or her principal, in the private match requirements. This annual disclosure requirement satisfies the disclosure requirement of s. 112.3143(4). This disclosure must be placed ~~either~~ on the Florida Tourism Industry Marketing Corporation's website or included in the minutes of each meeting of the Florida Tourism Industry Marketing Corporation's board of directors at which the private match requirements are discussed or voted upon.

Section 21. Paragraph (a) of subsection (3) of section 288.9604, Florida Statutes, is amended to read:

288.9604 Creation of the authority.—

(3)(a)1. A director may not receive compensation for his or her services, but is entitled to necessary expenses, including

881 travel expenses, incurred in the discharge of his or her duties.
882 Each director shall hold office until his or her successor has
883 been appointed.
884 2. Directors are subject to ss. 112.313(1)-(8), (10), (12),
885 and (15); 112.3135; and 112.3143(2). For purposes of applying
886 ss. 112.313(1)-(8), (10), (12), and (15); 112.3135; and
887 112.3143(2) to activities of directors, directors shall be
888 considered public officers and the corporation shall be
889 considered their agency.
890 3. A director of the corporation may not represent another
891 person or entity for compensation before the corporation for a
892 period of 2 years following his or her service on the board of
893 directors.
894 Section 22. Paragraph (e) of subsection (4), paragraph (d)
895 of subsection (5), and paragraph (d) of subsection (6) of
896 section 373.536, Florida Statutes, are amended to read:
897 373.536 District budget and hearing thereon.—
898 (4) BUDGET CONTROLS; FINANCIAL INFORMATION.—
899 (e) ~~By September 1, 2012,~~ Each district shall provide a
900 monthly financial statement in the form and manner prescribed by
901 the Department of Financial Services to the district's governing
902 board and make such monthly financial statement available for
903 public access on its website.
904 (5) TENTATIVE BUDGET CONTENTS AND SUBMISSION; REVIEW AND
905 APPROVAL.—
906 (d) Each district shall, by August 1 of each year, submit
907 for review a tentative budget and a description of any
908 significant changes from the preliminary budget submitted to the
909 Legislature pursuant to s. 373.535 to the Governor, the


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President of the Senate, the Speaker of the House of Representatives, the chairs of all legislative committees and subcommittees having substantive or fiscal jurisdiction over water management districts, as determined by the President of the Senate or the Speaker of the House of Representatives, as applicable, the secretary of the department, and the governing body of each county in which the district has jurisdiction or derives any funds for the operations of the district. The tentative budget must be posted on the district's official website at least 2 days before budget hearings held pursuant to s. 200.065 or other law and must remain on the website for at least 45 days.

(6) FINAL BUDGET; ANNUAL AUDIT; CAPITAL IMPROVEMENTS PLAN; WATER RESOURCE DEVELOPMENT WORK PROGRAM.—

(d) The final adopted budget must be posted on the water management district's official website within 30 days after adoption and must remain on the website for at least 2 years.

Section 23. Paragraph (l) of subsection (12) of section 1001.42, Florida Statutes, is amended, a new subsection (27) is added to that section, and present subsection (27) of that section is renumbered as subsection (28), to read:

1001.42 Powers and duties of district school board.—The district school board, acting as a board, shall exercise all powers and perform all duties listed below:

(12) FINANCE.—Take steps to assure students adequate educational facilities through the financial procedure authorized in chapters 1010 and 1011 and as prescribed below:

(l) *Internal auditor.*—May employ an internal auditor to perform ongoing financial verification of the financial records

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of the school district and such other audits and reviews as the district school board directs for the purpose of determining:

1. The adequacy of internal controls designed to prevent and detect fraud, waste, and abuse.

2. Compliance with applicable laws, rules, contracts, grant agreements, district school board-approved policies, and best practices.

3. The efficiency of operations.

4. The reliability of financial records and reports.

5. The safeguarding of assets.

The internal auditor shall report directly to the district school board or its designee.

(27) VISITATION OF SCHOOLS.—Visit the schools, observe the management and instruction, give suggestions for improvement, and advise citizens with the view of promoting interest in education and improving the school.

Section 24. Paragraph (j) of subsection (9) of section 1002.33, Florida Statutes, is amended to read:

1002.33 Charter schools.—

(9) CHARTER SCHOOL REQUIREMENTS.—

(j) The governing body of the charter school shall be responsible for:

1. Establishing and maintaining internal controls designed to:

a. Prevent and detect fraud, waste, and abuse.

b. Promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best practices.

c. Support economical and efficient operations.

d. Ensure reliability of financial records and reports.

e. Safeguard assets.

2.~~1.~~ Ensuring that the charter school has retained the services of a certified public accountant or auditor for the annual financial audit, pursuant to s. 1002.345(2), who shall submit the report to the governing body.

3.~~2.~~ Reviewing and approving the audit report, including audit findings and recommendations for the financial recovery plan.

4.a.~~3.a.~~ Performing the duties in s. 1002.345, including monitoring a corrective action plan.

b. Monitoring a financial recovery plan in order to ensure compliance.

5.~~4.~~ Participating in governance training approved by the department which must include government in the sunshine, conflicts of interest, ethics, and financial responsibility.

Section 25. Present subsections (6) through (10) of section 1002.37, Florida Statutes, are redesignated as subsections (7) through (11), respectively, a new subsection (6) is added to that section, and present subsections (6) and (11) of that section are amended, to read:

1002.37 The Florida Virtual School.—

(6) The Florida Virtual School shall have an annual financial audit of its accounts and records conducted by an independent auditor who is a certified public accountant licensed under chapter 473. The independent auditor shall conduct the audit in accordance with rules adopted by the Auditor General pursuant to s. 11.45 and, upon completion of the audit, shall prepare an audit report in accordance with such

rules. The audit report must include a written statement of the board of trustees describing corrective action to be taken in response to each of the recommendations of the independent auditor included in the audit report. The independent auditor shall submit the audit report to the board of trustees and the Auditor General no later than 9 months after the end of the preceding fiscal year.

(7) ~~(6)~~ The board of trustees shall annually submit to the Governor, the Legislature, the Commissioner of Education, and the State Board of Education the audit report prepared pursuant to subsection (6) and a complete and detailed report setting forth:

(a) The operations and accomplishments of the Florida Virtual School within the state and those occurring outside the state as Florida Virtual School Global.

(b) The marketing and operational plan for the Florida Virtual School and Florida Virtual School Global, including recommendations regarding methods for improving the delivery of education through the Internet and other distance learning technology.

(c) The assets and liabilities of the Florida Virtual School and Florida Virtual School Global at the end of the fiscal year.

(d) ~~A copy of an annual financial audit of the accounts and records of the Florida Virtual School and Florida Virtual School Global, conducted by an independent certified public accountant and performed in accordance with rules adopted by the Auditor General.~~

~~(e)~~ Recommendations regarding the unit cost of providing

services to students through the Florida Virtual School and Florida Virtual School Global. In order to most effectively develop public policy regarding any future funding of the Florida Virtual School, it is imperative that the cost of the program is accurately identified. The identified cost of the program must be based on reliable data.

(e) ~~(f)~~ Recommendations regarding an accountability mechanism to assess the effectiveness of the services provided by the Florida Virtual School and Florida Virtual School Global.

~~(11) The Auditor General shall conduct an operational audit of the Florida Virtual School, including Florida Virtual School Global. The scope of the audit shall include, but not be limited to, the administration of responsibilities relating to personnel; procurement and contracting; revenue production; school funds, including internal funds; student enrollment records; franchise agreements; information technology utilization, assets, and security; performance measures and standards; and accountability. The final report on the audit shall be submitted to the President of the Senate and the Speaker of the House of Representatives no later than January 31, 2014.~~

Section 26. Subsection (5) is added to section 1010.01, Florida Statutes, to read:

1010.01 Uniform records and accounts.—

(5) Each school district, Florida College System institution, and state university shall establish and maintain internal controls designed to:

(a) Prevent and detect fraud, waste, and abuse.

(b) Promote and encourage compliance with applicable laws,

rules, contracts, grant agreements, and best practices.

(c) Support economical and efficient operations.

(d) Ensure reliability of financial records and reports.

(e) Safeguard assets.

Section 27. Subsection (2) of section 1010.30, Florida Statutes, is amended to read:

1010.30 Audits required.—

(2) If a school district, Florida College System institution, or university audit report includes a recommendation that was included in the preceding financial audit report but remains unaddressed, ~~an audit contains a significant finding,~~ the district school board, the Florida College System institution board of trustees, or the university board of trustees, within 60 days after the delivery of the audit report to the school district, Florida College System institution, or university, shall indicate ~~conduct an audit overview~~ during a regularly scheduled public meeting whether it intends to take corrective action, the intended corrective action, and the timeframe for the corrective action. If the district school board, Florida College System institution board of trustees, or university board of trustees indicates that it does not intend to take corrective action, it shall explain its decision at the public meeting.

Section 28. Subsection (3) of section 218.503, Florida Statutes, is amended to read:

218.503 Determination of financial emergency.—

(3) Upon notification that one or more of the conditions in subsection (1) have occurred or will occur if action is not taken to assist the local governmental entity or district school


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board, the Governor or his or her designee shall contact the local governmental entity or the Commissioner of Education or his or her designee shall contact the district school board, as appropriate, to determine what actions have been taken by the local governmental entity or the district school board to resolve or prevent the condition. The information requested must be provided within 45 days after the date of the request. If the local governmental entity or the district school board does not comply with the request, the Governor or his or her designee or the Commissioner of Education or his or her designee shall notify ~~the members of~~ the Legislative Auditing Committee, which ~~who~~ may take action pursuant to s. 11.40(2) ~~s. 11.40~~. The Governor or the Commissioner of Education, as appropriate, shall determine whether the local governmental entity or the district school board needs state assistance to resolve or prevent the condition. If state assistance is needed, the local governmental entity or district school board is considered to be in a state of financial emergency. The Governor or the Commissioner of Education, as appropriate, has the authority to implement measures as set forth in ss. 218.50-218.504 to assist the local governmental entity or district school board in resolving the financial emergency. Such measures may include, but are not limited to:

(a) Requiring approval of the local governmental entity's budget by the Governor or approval of the district school board's budget by the Commissioner of Education.

(b) Authorizing a state loan to a local governmental entity and providing for repayment of same.

(c) Prohibiting a local governmental entity or district

school board from issuing bonds, notes, certificates of indebtedness, or any other form of debt until such time as it is no longer subject to this section.

(d) Making such inspections and reviews of records, information, reports, and assets of the local governmental entity or district school board as are needed. The appropriate local officials shall cooperate in such inspections and reviews.

(e) Consulting with officials and auditors of the local governmental entity or the district school board and the appropriate state officials regarding any steps necessary to bring the books of account, accounting systems, financial procedures, and reports into compliance with state requirements.

(f) Providing technical assistance to the local governmental entity or the district school board.

(g)1. Establishing a financial emergency board to oversee the activities of the local governmental entity or the district school board. If a financial emergency board is established for a local governmental entity, the Governor shall appoint board members and select a chair. If a financial emergency board is established for a district school board, the State Board of Education shall appoint board members and select a chair. The financial emergency board shall adopt such rules as are necessary for conducting board business. The board may:

a. Make such reviews of records, reports, and assets of the local governmental entity or the district school board as are needed.

b. Consult with officials and auditors of the local governmental entity or the district school board and the appropriate state officials regarding any steps necessary to

bring the books of account, accounting systems, financial procedures, and reports of the local governmental entity or the district school board into compliance with state requirements.

c. Review the operations, management, efficiency, productivity, and financing of functions and operations of the local governmental entity or the district school board.

d. Consult with other governmental entities for the consolidation of all administrative direction and support services, including, but not limited to, services for asset sales, economic and community development, building inspections, parks and recreation, facilities management, engineering and construction, insurance coverage, risk management, planning and zoning, information systems, fleet management, and purchasing.

2. The recommendations and reports made by the financial emergency board must be submitted to the Governor for local governmental entities or to the Commissioner of Education and the State Board of Education for district school boards for appropriate action.

(h) Requiring and approving a plan, to be prepared by officials of the local governmental entity or the district school board in consultation with the appropriate state officials, prescribing actions that will cause the local governmental entity or district school board to no longer be subject to this section. The plan must include, but need not be limited to:

1. Provision for payment in full of obligations outlined in subsection (1), designated as priority items, which are currently due or will come due.

2. Establishment of priority budgeting or zero-based

budgeting in order to eliminate items that are not affordable.

3. The prohibition of a level of operations which can be sustained only with nonrecurring revenues.

4. Provisions implementing the consolidation, sourcing, or discontinuance of all administrative direction and support services, including, but not limited to, services for asset sales, economic and community development, building inspections, parks and recreation, facilities management, engineering and construction, insurance coverage, risk management, planning and zoning, information systems, fleet management, and purchasing.

Section 29. Subsection (2) of section 1002.455, Florida Statutes, is amended to read:

1002.455 Student eligibility for K-12 virtual instruction.—

(2) A student is eligible to participate in virtual instruction if:

(a) The student spent the prior school year in attendance at a public school in the state and was enrolled and reported by the school district for funding during October and February for purposes of the Florida Education Finance Program surveys;

(b) The student is a dependent child of a member of the United States Armed Forces who was transferred within the last 12 months to this state from another state or from a foreign country pursuant to a permanent change of station order;

(c) The student was enrolled during the prior school year in a virtual instruction program under s. 1002.45 or a full-time Florida Virtual School program under s. 1002.37(9)(a) ~~s. 1002.37(8)(a)~~;

(d) The student has a sibling who is currently enrolled in a virtual instruction program and the sibling was enrolled in

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that program at the end of the prior school year;

(e) The student is eligible to enter kindergarten or first grade; or

(f) The student is eligible to enter grades 2 through 5 and is enrolled full-time in a school district virtual instruction program, virtual charter school, or the Florida Virtual School.

Section 30. The Legislature finds that a proper and legitimate state purpose is served when internal controls are established to prevent and detect fraud, waste, and abuse and to safeguard and account for government funds and property. Therefore, the Legislature determines and declares that this act fulfills an important state interest.

Section 31. This act shall take effect October 1, 2016.

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to government accountability; amending s. 11.40, F.S.; specifying that the Governor, the Commissioner of Education, or the designee of the Governor or of the Commissioner of Education may notify the Legislative Auditing Committee of an entity's failure to comply with certain auditing and financial reporting requirements; amending s. 11.45, F.S.; defining the terms "abuse," "fraud," and "waste"; revising the definition of the term "local governmental entity"; excluding water management

districts from certain audit requirements; removing a cross-reference; authorizing the Auditor General to conduct audits of tourist development councils and county tourism promotion agencies; revising reporting requirements applicable to the Auditor General; amending s. 28.35, F.S.; revising reporting requirements applicable to the Florida Clerks of Court Operations Corporation; amending s. 43.16, F.S.; revising the responsibilities of the Justice Administrative Commission, each state attorney, each public defender, a criminal conflict and civil regional counsel, a capital collateral regional counsel, and the Guardian Ad Litem Program, to include the establishment and maintenance of certain internal controls; amending s. 112.31455, F.S.; revising provisions governing collection methods for unpaid automatic fines for failure to timely file disclosure of financial interests to include school districts; amending s. 112.3261, F.S.; revising terms to conform to changes made by the act; expanding the types of governmental entities that are subject to lobbyist registration requirements; requiring a governmental entity to create a lobbyist registration form; amending ss. 129.03, 129.06, 166.241, and 189.016, F.S.; requiring counties, municipalities, and special districts to maintain certain budget documents on the entities' websites for a specified period; amending s. 215.425, F.S.; defining the term "public funds"; revising exceptions to the prohibition on extra

compensation claims; revising minimum requirements for any policy, ordinance, rule, or resolution designed to implement a bonus scheme; requiring certain contracts into which a unit of government or state university enters to contain certain provisions regarding severance pay; requiring a unit of government to investigate and take reasonable action to recover prohibited compensation; specifying methods of recovery for unintentional and willful violations; specifying applicability of procedures regarding suspension and removal of an officer who commits a willful violation; specifying circumstances under which an employee has a cause of action under the Whistle-blower's Act; providing for applicability; amending s. 215.86, F.S.; revising the purposes for which management systems and internal controls must be established and maintained by each state agency and the judicial branch; amending s. 215.97, F.S.; revising the definition of the term "audit threshold"; amending s. 215.985, F.S.; revising the requirements for a monthly financial statement provided by a water management district; amending s. 218.32, F.S.; revising the requirements of the annual financial audit report of a local governmental entity; authorizing the Department of Financial Services to request additional information from a local governmental entity; requiring a local governmental entity to respond to such requests within a specified timeframe; requiring the department to notify the


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Legislative Auditing Committee of noncompliance; amending s. 218.33, F.S.; requiring local governmental entities to establish and maintain internal controls to achieve specified purposes; amending s. 218.39, F.S.; requiring an audited entity to respond to audit recommendations under specified circumstances; amending s. 218.391, F.S.; revising the composition of an audit committee; prohibiting an audit committee member from being an employee, a chief executive officer, or a chief financial officer of the respective governmental entity; requiring the chair of an audit committee to sign and execute an affidavit affirming compliance with auditor selection procedures; prescribing procedures in the event of noncompliance with auditor selection procedures; amending s. 286.0114, F.S.; prohibiting a board or commission from requiring an advance copy of testimony or comments from a member of the public as a precondition to being given the opportunity to be heard at a public meeting; amending s. 288.92, F.S.; prohibiting specified officers and board members of Enterprise Florida, Inc., from representing a person or entity for compensation before Enterprise Florida, Inc., and associated entities thereof, for a specified timeframe; amending s. 288.9604, F.S.; prohibiting a director of the Florida Development Finance Corporation from representing a person or an entity for compensation before the corporation for a specified timeframe; amending s. 373.536, F.S.;


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deleting obsolete language; requiring water management districts to maintain certain budget documents on the districts' websites for a specified period; amending s. 1001.42, F.S.; authorizing additional internal audits as directed by the district school board; specifying duties of the district school board regarding visitation of schools; amending s. 1002.33, F.S.; revising the responsibilities of the governing board of a charter school to include the establishment and maintenance of internal controls; amending s. 1002.37, F.S.; requiring completion of an annual financial audit of the Florida Virtual School; specifying audit requirements; requiring an audit report to be submitted to the board of trustees of the Florida Virtual School and the Auditor General; removing obsolete provisions; amending s. 1010.01, F.S.; requiring each school district, Florida College System institution, and state university to establish and maintain certain internal controls; amending s. 1010.30, F.S.; requiring a district school board, Florida College System institution board of trustees, or university board of trustees to respond to audit recommendations under certain circumstances; amending ss. 218.503 and 1002.455, F.S.; conforming cross-references; declaring that the act fulfills an important state interest; providing an effective date.

By the Committees on Governmental Oversight and Accountability; and Ethics and Elections; and Senator Gaetz

585-03241-16 2016686c2

A bill to be entitled

An act relating to government accountability; amending s. 11.40, F.S.; specifying that the Governor, the Commissioner of Education, or the designee of the Governor or of the Commissioner of Education may notify the Legislative Auditing Committee of an entity's failure to comply with certain auditing and financial reporting requirements; amending s. 11.45, F.S.; defining the terms "abuse," "fraud," and "waste"; revising the definition of the term "local governmental entity"; excluding water management districts from certain audit requirements; removing a cross-reference; authorizing the Auditor General to conduct audits of tourist development councils and county tourism promotion agencies; revising reporting requirements applicable to the Auditor General; creating s. 20.602, F.S.; specifying the applicability of certain provisions of the Code of Ethics for Public Officers and Employees to officers and board members of corporate entities associated with the Department of Economic Opportunity; prohibiting such officers and board members from representing a person or an entity for compensation before certain bodies for a specified timeframe; providing for construction; amending s. 28.35, F.S.; revising reporting requirements applicable to the Florida Clerks of Court Operations Corporation; amending s. 43.16, F.S.; revising the responsibilities of the Justice Administrative Commission, each state attorney, each public defender, a criminal conflict and civil regional counsel, a capital collateral regional counsel, and the Guardian

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Ad Litem Program, to include the establishment and maintenance of certain internal controls; creating s. 112.3126, F.S.; defining the term "private entity"; prohibiting a member of the Legislature or a candidate for legislative office from accepting employment with a private entity that directly receives funding through state revenues under certain circumstances; authorizing employment with a private entity if certain conditions are met; amending s. 112.313, F.S.; specifying that prohibitions on conflicting employment or contractual relationships for public officers or employees of an agency apply to contractual relationships held by certain business entities; amending s. 112.3144, F.S.; requiring elected municipal officers to file a full and public disclosure of financial interests, rather than a statement of financial interests; providing for applicability; amending s. 112.31455, F.S.; revising provisions governing collection methods for unpaid automatic fines for failure to timely file disclosure of financial interests to include school districts; amending s. 112.3261, F.S.; revising terms to conform to changes made by the act; expanding the types of governmental entities that are subject to lobbyist registration requirements; requiring a governmental entity to create a lobbyist registration form; amending ss. 129.03, 129.06, 166.241, and 189.016, F.S.; requiring counties, municipalities, and special districts to maintain certain budget documents on the

entities' websites for a specified period; amending s. 215.425, F.S.; defining the term "public funds"; revising exceptions to the prohibition on extra compensation claims; revising minimum requirements for any policy, ordinance, rule, or resolution designed to implement a bonus scheme; requiring certain contracts into which a unit of government or state university enters to contain certain provisions regarding severance pay; requiring a unit of government to investigate and take reasonable action to recover prohibited compensation; specifying methods of recovery for unintentional and willful violations; specifying applicability of procedures regarding suspension and removal of an officer who commits a willful violation; specifying circumstances under which an employee has a cause of action under the Whistle-blower's Act; providing for applicability; amending s. 215.86, F.S.; revising the purposes for which management systems and internal controls must be established and maintained by each state agency and the judicial branch; amending s. 215.97, F.S.; revising the definition of the term "audit threshold"; amending s. 215.985, F.S.; revising the requirements for a monthly financial statement provided by a water management district; amending s. 218.32, F.S.; revising the requirements of the annual financial audit report of a local governmental entity; authorizing the Department of Financial Services to request additional information from a local

governmental entity; requiring a local governmental entity to respond to such requests within a specified timeframe; requiring the department to notify the Legislative Auditing Committee of noncompliance; amending s. 218.33, F.S.; requiring local governmental entities to establish and maintain internal controls to achieve specified purposes; amending s. 218.39, F.S.; requiring an audited entity to respond to audit recommendations under specified circumstances; amending s. 218.391, F.S.; revising the composition of an audit committee; prohibiting an audit committee member from being an employee, a chief executive officer, or a chief financial officer of the respective governmental entity; requiring the chair of an audit committee to sign and execute an affidavit affirming compliance with auditor selection procedures; prescribing procedures in the event of noncompliance with auditor selection procedures; amending s. 286.0114, F.S.; prohibiting a board or commission from requiring an advance copy of testimony or comments from a member of the public as a precondition to being given the opportunity to be heard at a public meeting; amending s. 288.92, F.S.; prohibiting specified officers and board members of Enterprise Florida, Inc., from representing a person or entity for compensation before Enterprise Florida, Inc., and associated entities thereof, for a specified timeframe; amending s. 288.9604, F.S.; prohibiting a director of the Florida Development Finance

Corporation from representing a person or an entity for compensation before the corporation for a specified timeframe; amending s. 373.536, F.S.; deleting obsolete language; requiring water management districts to maintain certain budget documents on the districts' websites for a specified period; amending s. 838.014, F.S.; revising and providing definitions; amending s. 838.015, F.S.; revising the definition of the term "bribery"; revising requirements for prosecution; amending s. 838.016, F.S.; revising the prohibition against unlawful compensation or reward for official behavior to conform to changes made by the act; amending s. 838.022, F.S.; revising the prohibition against official misconduct to conform to changes made by the act; revising applicability of the offense to include public contractors; amending s. 838.22, F.S.; revising the prohibition against bid tampering to conform to changes made by the act; revising applicability of the offense to include specified public contractors; amending s. 1001.42, F.S.; authorizing additional internal audits as directed by the district school board; specifying duties of the district school board regarding visitation of schools; amending s. 1002.33, F.S.; revising the responsibilities of the governing board of a charter school to include the establishment and maintenance of internal controls; amending s. 1002.37, F.S.; requiring completion of an annual financial audit of the Florida Virtual School; specifying audit

requirements; requiring an audit report to be submitted to the board of trustees of the Florida Virtual School and the Auditor General; removing obsolete provisions; amending s. 1010.01, F.S.; requiring each school district, Florida College System institution, and state university to establish and maintain certain internal controls; amending s. 1010.30, F.S.; requiring a district school board, Florida College System institution board of trustees, or university board of trustees to respond to audit recommendations under certain circumstances; amending ss. 99.061, 218.503, and 1002.455, F.S.; conforming provisions and cross-references to changes made by the act; reenacting s. 112.534(2)(a), F.S., relating to official misconduct, and s. 117.01(4)(d), F.S., relating to appointment, application, suspension, revocation, application fee, bond, and oath of notaries public, to incorporate the amendment made by the act to s. 838.022, F.S., in references thereto; reenacting s. 817.568(11), F.S., relating to criminal use of personal identification information, to incorporate the amendment made by the act to s. 838.014, F.S., in a reference thereto; reenacting s. 921.0022(3)(d) and (g), F.S., relating to the Criminal Punishment Code offense severity ranking chart, to incorporate the amendments made by the act to ss. 838.015, 838.016, 838.022, and 838.22, F.S., in references thereto; providing for applicability; declaring that the act fulfills an important state

interest; providing an effective date.

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

Section 1. Subsection (2) of section 11.40, Florida Statutes, is amended to read:

11.40 Legislative Auditing Committee.—

(2) Following notification by the Auditor General, the Department of Financial Services, ~~or~~ the Division of Bond Finance of the State Board of Administration, the Governor or his or her designee, or the Commissioner of Education or his or her designee of the failure of a local governmental entity, district school board, charter school, or charter technical career center to comply with the applicable provisions within s. 11.45(5)-(7), s. 218.32(1), s. 218.38, or s. 218.503(3), the Legislative Auditing Committee may schedule a hearing to determine if the entity should be subject to further state action. If the committee determines that the entity should be subject to further state action, the committee shall:

(a) In the case of a local governmental entity or 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 which are payable to such entity until the entity complies with the law. The committee shall specify the date that such action must ~~shall~~ begin, and the directive must be received by the Department of Revenue and the Department of Financial Services 30 days before the date of the distribution mandated by law. The Department of Revenue and the Department of Financial Services may implement

~~the provisions of~~ this paragraph.

(b) In the case of a special district created by:

1. A special act, notify the President of the Senate, the Speaker of the House of Representatives, the standing committees of the Senate and the House of Representatives charged with special district oversight as determined by the presiding officers of each respective chamber, the legislators who represent a portion of the geographical jurisdiction of the special district pursuant to s. 189.034(2), and the Department of Economic Opportunity that the special district has failed to comply with the law. Upon receipt of notification, the Department of Economic Opportunity shall proceed pursuant to s. 189.062 or s. 189.067. If the special district remains in noncompliance after the process set forth in s. 189.034(3), or if a public hearing is not held, the Legislative Auditing Committee may request the department to proceed pursuant to s. 189.067(3).

2. A local ordinance, notify the chair or equivalent of the local general-purpose government pursuant to s. 189.035(2) and the Department of Economic Opportunity that the special district has failed to comply with the law. Upon receipt of notification, the department shall proceed pursuant to s. 189.062 or s. 189.067. If the special district remains in noncompliance after the process set forth in s. 189.034(3), or if a public hearing is not held, the Legislative Auditing Committee may request the department to proceed pursuant to s. 189.067(3).

3. Any manner other than a special act or local ordinance, notify the Department of Economic Opportunity that the special district has failed to comply with the law. Upon receipt of

notification, the department shall proceed pursuant to s. 189.062 or s. 189.067(3).

(c) In the case of a charter school or charter technical career center, notify the appropriate sponsoring entity, which may terminate the charter pursuant to ss. 1002.33 and 1002.34.

Section 2. Subsection (1), paragraph (j) of subsection (2), paragraph (u) of subsection (3), and paragraph (i) of subsection (7) of section 11.45, Florida Statutes, are amended, and paragraph (x) is added to subsection (3) of that section, to read:

11.45 Definitions; duties; authorities; reports; rules.—

(1) DEFINITIONS.—As used in ss. 11.40-11.51, the term:

(a) "Abuse" means behavior that is deficient or improper when compared with behavior that a prudent person would consider a reasonable and necessary operational practice given the facts and circumstances. The term includes the misuse of authority or position for personal gain.

(b) ~~(a)~~ "Audit" means a financial audit, operational audit, or performance audit.

(c) ~~(b)~~ "County agency" means a board of county commissioners or other legislative and governing body of a county, however styled, including that of a consolidated or metropolitan government, a clerk of the circuit court, a separate or ex officio clerk of the county court, a sheriff, a property appraiser, a tax collector, a supervisor of elections, or any other officer in whom any portion of the fiscal duties of a body or officer expressly stated in this paragraph are ~~the above are under law~~ separately placed by law.

(d) ~~(c)~~ "Financial audit" means an examination of financial

statements in order to express an opinion on the fairness with which they are presented in conformity with generally accepted accounting principles and an examination to determine whether operations are properly conducted in accordance with legal and regulatory requirements. Financial audits must be conducted in accordance with auditing standards generally accepted in the United States and government auditing standards as adopted by the Board of Accountancy. When applicable, the scope of financial audits must ~~shall~~ encompass the additional activities necessary to establish compliance with the Single Audit Act Amendments of 1996, 31 U.S.C. ss. 7501-7507, and other applicable federal law.

(e) "Fraud" means obtaining something of value through willful misrepresentation, including, but not limited to, the intentional misstatements or omissions of amounts or disclosures in financial statements to deceive users of financial statements, theft of an entity's assets, bribery, or the use of one's position for personal enrichment through the deliberate misuse or misapplication of an organization's resources.

(f) ~~(d)~~ "Governmental entity" means a state agency, a county agency, or any other entity, however styled, that independently exercises any type of state or local governmental function.

(g) ~~(e)~~ "Local governmental entity" means a county agency, municipality, tourist development council, county tourism promotion agency, or special district as defined in s. 189.012. The term~~, but~~ does not include any housing authority established under chapter 421.

(h) ~~(f)~~ "Management letter" means a statement of the auditor's comments and recommendations.

(i) ~~(g)~~ "Operational audit" means an audit whose purpose is to evaluate management's performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste, and abuse, and in administering assigned responsibilities in accordance with applicable laws, administrative rules, contracts, grant agreements, and other guidelines. Operational audits must be conducted in accordance with government auditing standards. Such audits examine internal controls that are designed and placed in operation to promote and encourage the achievement of management's control objectives in the categories of compliance, economic and efficient operations, reliability of financial records and reports, and safeguarding of assets, and identify weaknesses in those internal controls.

(j) ~~(h)~~ "Performance audit" means an examination of a program, activity, or function of a governmental entity, conducted in accordance with applicable government auditing standards or auditing and evaluation standards of other appropriate authoritative bodies. The term includes an examination of issues related to:

1. Economy, efficiency, or effectiveness of the program.

2. Structure or design of the program to accomplish its goals and objectives.

3. Adequacy of the program to meet the needs identified by the Legislature or governing body.

4. Alternative methods of providing program services or products.

5. Goals, objectives, and performance measures used by the agency to monitor and report program accomplishments.

6. The accuracy or adequacy of public documents, reports, or requests prepared under the program by state agencies.

7. Compliance of the program with appropriate policies, rules, or laws.

8. Any other issues related to governmental entities as directed by the Legislative Auditing Committee.

(k) ~~(i)~~ "Political subdivision" means a separate agency or unit of local government created or established by law and includes, but is not limited to, the following and the officers thereof: authority, board, branch, bureau, city, commission, consolidated government, county, department, district, institution, metropolitan government, municipality, office, officer, public corporation, town, or village.

(l) ~~(j)~~ "State agency" means a separate agency or unit of state government created or established by law and includes, but is not limited to, the following and the officers thereof: authority, board, branch, bureau, commission, department, division, institution, office, officer, or public corporation, as the case may be, except any such agency or unit within the legislative branch of state government other than the Florida Public Service Commission.

(m) "Waste" means the act of using or expending resources unreasonably, carelessly, extravagantly, or for no useful purpose.

(2) DUTIES.—The Auditor General shall:

(j) Conduct audits of local governmental entities when determined to be necessary by the Auditor General, when directed by the Legislative Auditing Committee, or when otherwise required by law. No later than 18 months after the release of

the audit report, the Auditor General shall perform such appropriate followup procedures as he or she deems necessary to determine the audited entity's progress in addressing the findings and recommendations contained within the Auditor General's previous report. The Auditor General shall notify each member of the audited entity's governing body and the Legislative Auditing Committee of the results of his or her determination. For purposes of this paragraph, local governmental entities do not include water management districts.

The Auditor General shall perform his or her duties independently but under the general policies established by the Legislative Auditing Committee. This subsection does not limit the Auditor General's discretionary authority to conduct other audits or engagements of governmental entities as authorized in subsection (3).

(3) AUTHORITY FOR AUDITS AND OTHER ENGAGEMENTS.—The Auditor General may, pursuant to his or her own authority, or at the direction of the Legislative Auditing Committee, conduct audits or other engagements as determined appropriate by the Auditor General of:

(u) The Florida Virtual School ~~pursuant to s. 1002.37~~.

(x) Tourist development councils and county tourism promotion agencies.

(7) AUDITOR GENERAL REPORTING REQUIREMENTS.—

(i) The Auditor General shall annually transmit by July 15, to the President of the Senate, the Speaker of the House of Representatives, and the Department of Financial Services, a list of all school districts, charter schools, charter technical

career centers, Florida College System institutions, state universities, and local governmental entities ~~water management districts~~ that have failed to comply with the transparency requirements as identified in the audit reports reviewed pursuant to paragraph (b) and those conducted pursuant to subsection (2).

Section 3. Section 20.602, Florida Statutes, is created to read:

20.602 Standards of conduct; officers and board members of Department of Economic Opportunity corporate entities.—

(1) The following officers and board members are subject to ss. 112.313(1)-(8), (10), (12), and (15); 112.3135; and 112.3143(2):

(a) Officers and members of the board of directors of:

1. Any corporation created under chapter 288;

2. Space Florida;

3. CareerSource Florida, Inc., or the programs or entities created by CareerSource Florida, Inc., pursuant to s. 445.004;

4. The Florida Housing Finance Corporation; or

5. Any other corporation created by the Department of Economic Opportunity in accordance with its powers and duties under s. 20.60.

(b) Officers and members of the board of directors of a corporate parent or subsidiary corporation of a corporation described in paragraph (a).

(c) Officers and members of the board of directors of a corporation created to carry out the missions of a corporation described in paragraph (a).

(d) Officers and members of the board of directors of a

corporation with which a corporation described in paragraph (a) is required by law to contract with to carry out its missions.

(2) For purposes of applying ss. 112.313(1)-(8), (10), (12), and (15); 112.3135; and 112.3143(2) to activities of the officers and members of the board of directors specified in subsection (1), those persons shall be considered public officers or employees and the corporation shall be considered their agency.

(3) For a period of 2 years after retirement from or termination of service, or for a period of 10 years if removed or terminated for cause or for misconduct, as defined in s. 443.036(29), an officer or a member of the board of directors specified in subsection (1) may not represent another person or entity for compensation before:

(a) His or her corporation;

(b) A division, a subsidiary, or the board of directors of a corporation created to carry out the mission of his or her corporation; or

(c) A corporation with which the corporation is required by law to contract to carry out its missions.

(4) This section does not supersede any additional or more stringent standards of conduct applicable to an officer or a member of the board of directors of an entity specified in subsection (1) prescribed by any other provision of law.

Section 4. Paragraph (d) of subsection (2) of section 28.35, Florida Statutes, is amended to read:

28.35 Florida Clerks of Court Operations Corporation.—

(2) The duties of the corporation shall include the following:

(d) Developing and certifying a uniform system of workload measures and applicable workload standards for court-related functions as developed by the corporation and clerk workload performance in meeting the workload performance standards. These workload measures and workload performance standards shall be designed to facilitate an objective determination of the performance of each clerk in accordance with minimum standards for fiscal management, operational efficiency, and effective collection of fines, fees, service charges, and court costs. The corporation shall develop the workload measures and workload performance standards in consultation with the Legislature. When the corporation finds a clerk has not met the workload performance standards, the corporation shall identify the nature of each deficiency and any corrective action recommended and taken by the affected clerk of the court. For quarterly periods ending on the last day of March, June, September, and December of each year, the corporation shall notify the Legislature of any clerk not meeting workload performance standards and provide a copy of any corrective action plans. Such notifications shall be submitted no later than 45 days after the end of the preceding quarterly period. As used in this subsection, the term:

1. "Workload measures" means the measurement of the activities and frequency of the work required for the clerk to adequately perform the court-related duties of the office as defined by the membership of the Florida Clerks of Court Operations Corporation.

2. "Workload performance standards" means the standards developed to measure the timeliness and effectiveness of the

activities that are accomplished by the clerk in the performance of the court-related duties of the office as defined by the membership of the Florida Clerks of Court Operations Corporation.

Section 5. Present subsections (6) and (7) of section 43.16, Florida Statutes, are redesignated as subsections (7) and (8), respectively, and a new subsection (6) is added to that section, to read:

43.16 Justice Administrative Commission; membership, powers and duties.—

(6) The commission, each state attorney, each public defender, the criminal conflict and civil regional counsel, the capital collateral regional counsel, and the Guardian Ad Litem Program shall establish and maintain internal controls designed to:

(a) Prevent and detect fraud, waste, and abuse.

(b) Promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best practices.

(c) Support economical and efficient operations.

(d) Ensure reliability of financial records and reports.

(e) Safeguard assets.

Section 6. Section 112.3126, Florida Statutes, is created to read:

112.3126 Employment restrictions; legislators.—

(1) As used in this section, the term "private entity" means any nongovernmental entity, such as a corporation, partnership, company or nonprofit organization, any other legal entity, or any natural person.

(2)(a) A member of, or candidate for, the Legislature may

not accept employment with a private entity that directly receives funding through state revenues appropriated by the General Appropriations Act if he or she knows, or with the exercise of reasonable care should know, that the position is being offered by the employer for the purpose of gaining influence or other advantage based on the legislator's office or candidacy. Any employment with a private entity that directly receives funding through state revenues appropriated by the General Appropriations Act accepted by a member or candidate must meet all of the following conditions:

1. The position was already in existence or was created by the employer without the knowledge or anticipation of the legislator's interest in such position;

2. The position was open to other applicants;

3. The legislator was subject to the same application and hiring process as other candidates for the position; and

4. The legislator meets or exceeds the required qualifications for the position.

(b) A member of the Legislature who is employed by such private entity before his or her legislative service begins may continue his or her employment. However, he or she may not accept promotion, advancement, additional compensation, or anything of value that he or she knows, or with the exercise of reasonable care should know, is provided or given to influence or attempt to influence his or her legislative office, or that is otherwise inconsistent with the promotion, advancement, additional compensation, or anything of value provided or given an employee who is similarly situated.

Section 7. Subsection (7) of section 112.313, Florida

Statutes, is amended to read:

112.313 Standards of conduct for public officers, employees of agencies, and local government attorneys.—

(7) CONFLICTING EMPLOYMENT OR CONTRACTUAL RELATIONSHIP.—

(a) A ~~No~~ public officer or employee of an agency may not ~~shall~~ have or hold any employment or contractual relationship with any business entity or any agency that ~~which~~ is subject to the regulation of, or is doing business with, an agency of which he or she is an officer or employee, excluding those organizations and their officers who, when acting in their official capacity, enter into or negotiate a collective bargaining contract with the state or any municipality, county, or other political subdivision of the state; and ~~nor shall~~ an officer or employee of an agency may not have or hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties or that would impede the full and faithful discharge of his or her public duties. For purposes of this subsection, if a public officer or employee of an agency holds a controlling interest in a business entity or is an officer, a director, or a member who manages such an entity, contractual relationships held by the business entity are deemed to be held by the public officer or employee.

1. When the agency referred to is a ~~that certain kind of~~ special tax district created by general or special law and is limited specifically to constructing, maintaining, managing, and financing improvements in the land area over which the agency has jurisdiction, or when the agency has been organized pursuant

to chapter 298, ~~then~~ employment with, or entering into a contractual relationship with, such a business entity by a public officer or employee of such an agency is ~~shall~~ not ~~be~~ prohibited by this subsection or ~~be~~ deemed a conflict per se. However, conduct by such officer or employee that is prohibited by, or otherwise frustrates the intent of, this section must ~~shall~~ be deemed a conflict of interest in violation of the standards of conduct set forth by this section.

2. When the agency referred to is a legislative body and the regulatory power over the business entity resides in another agency, or when the regulatory power that ~~which~~ the legislative body exercises over the business entity or agency is strictly through the enactment of laws or ordinances, ~~then~~ employment or a contractual relationship with such a business entity by a public officer or employee of a legislative body is ~~shall~~ not ~~be~~ prohibited by this subsection or ~~be~~ deemed a conflict.

(b) This subsection does ~~shall~~ not prohibit a public officer or employee from practicing in a particular profession or occupation when such practice by persons holding such public office or employment is required or permitted by law or ordinance.

Section 8. Subsections (1) and (2) of section 112.3144, Florida Statutes, are amended to read:

112.3144 Full and public disclosure of financial interests.—

(1) In addition to officers specified in s. 8, Art. II of the State Constitution or other state law, all elected municipal officers are required to file a full and public disclosure of their financial interests. An officer who is required ~~by s. 8,~~

~~Art. II of the State Constitution~~ to file a full and public disclosure of ~~his or her~~ financial interests for any calendar or fiscal year shall file that disclosure with the ~~Florida~~ Commission on Ethics. ~~Additionally, beginning January 1, 2015,~~ An officer who is required to complete annual ethics training pursuant to s. 112.3142 must certify on his or her full and public disclosure of financial interests that he or she has completed the required training.

(2) A person who is required~~, pursuant to s. 8, Art. II of the State Constitution,~~ to file a full and public disclosure of financial interests and who has filed a full and public disclosure of financial interests for any calendar or fiscal year is ~~shall~~ not ~~be~~ required to file a statement of financial interests pursuant to s. 112.3145(2) and (3) for the same year or for any part thereof notwithstanding any requirement of this part. If an incumbent in an elective office has filed the full and public disclosure of financial interests to qualify for election to the same office or if a candidate for office holds another office subject to the annual filing requirement, the qualifying officer shall forward an electronic copy of the full and public disclosure of financial interests to the commission no later than July 1. The electronic copy of the full and public disclosure of financial interests satisfies the annual disclosure requirement of this section. A candidate who does not qualify until after the annual full and public disclosure of financial interests has been filed pursuant to this section shall file a copy of his or her disclosure with the officer before whom he or she qualifies.

Section 9. The amendment made to s. 112.3144, Florida

Statutes, by this act applies to disclosures filed for the 2016 calendar year and all subsequent calendar years.

Section 10. Subsection (1) of section 112.31455, Florida Statutes, is amended to read:

112.31455 Collection methods for unpaid automatic fines for failure to timely file disclosure of financial interests.—

(1) Before referring any unpaid fine accrued pursuant to s. 112.3144(5) or s. 112.3145(7) to the Department of Financial Services, the commission shall attempt to determine whether the individual owing such a fine is a current public officer or current public employee. If so, the commission may notify the Chief Financial Officer or the governing body of the appropriate county, municipality, school district, or special district of the total amount of any fine owed to the commission by such individual.

(a) After receipt and verification of the notice from the commission, the Chief Financial Officer or the governing body of the county, municipality, school district, or special district shall begin withholding the lesser of 10 percent or the maximum amount allowed under federal law from any salary-related payment. The withheld payments shall be remitted to the commission until the fine is satisfied.

(b) The Chief Financial Officer or the governing body of the county, municipality, school district, or special district may retain an amount of each withheld payment, as provided in s. 77.0305, to cover the administrative costs incurred under this section.

Section 11. Section 112.3261, Florida Statutes, is amended to read:

112.3261 Lobbying before governmental entities ~~water management districts~~; registration and reporting.—

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

(a) "Governmental entity" or "entity" ~~"District"~~ means a water management district created in s. 373.069 and operating under the authority of chapter 373, a hospital district, a children's services district, an expressway authority as the term "authority" is defined in s. 348.0002, the term "port authority" as defined in s. 315.02, a county or municipality that has not adopted lobbyist registration and reporting requirements, or an independent special district with annual revenues of more than $5 million which exercises ad valorem taxing authority.

(b) "Lobbies" means seeking, on behalf of another person, to influence a governmental entity ~~district~~ with respect to a decision of the entity ~~district~~ in an area of policy or procurement or an attempt to obtain the goodwill of an ~~a district~~ official or employee of a governmental entity. The term ~~"lobbies"~~ shall be interpreted and applied consistently with the rules of the commission implementing s. 112.3215.

(c) "Lobbyist" has the same meaning as provided in s. 112.3215.

(d) "Principal" has the same meaning as provided in s. 112.3215.

(2) A person may not lobby a governmental entity ~~district~~ until such person has registered as a lobbyist with that entity ~~district~~. Such registration shall be due upon initially being retained to lobby and is renewable on a calendar-year basis thereafter. Upon registration, the person shall provide a

statement signed by the principal or principal's representative stating that the registrant is authorized to represent the principal. The principal shall also identify and designate its main business on the statement authorizing that lobbyist pursuant to a classification system approved by the governmental entity ~~district~~. Any changes to the information required by this section must be disclosed within 15 days by filing a new registration form. The registration form must ~~shall~~ require each lobbyist to disclose, under oath, the following:

(a) The lobbyist's name and business address.

(b) The name and business address of each principal represented.

(c) The existence of any direct or indirect business association, partnership, or financial relationship with an official ~~any officer~~ or employee of a governmental entity ~~district~~ with which he or she lobbies or intends to lobby.

(d) A governmental entity shall create a lobbyist registration form modeled after the ~~In lieu of creating its own lobbyist registration forms, a district may accept a completed~~ legislative branch or executive branch lobbyist registration form, which must be returned to the governmental entity.

(3) A governmental entity ~~district~~ shall make lobbyist registrations available to the public. If a governmental entity ~~district~~ maintains a website, a database of currently registered lobbyists and principals must be available on the entity's ~~district's~~ website.

(4) A lobbyist shall promptly send a written statement to the governmental entity ~~district~~ canceling the registration for a principal upon termination of the lobbyist's representation of

that principal. A governmental entity ~~district~~ may remove the name of a lobbyist from the list of registered lobbyists if the principal notifies the entity ~~district~~ that a person is no longer authorized to represent that principal.

(5) A governmental entity ~~district~~ may establish an annual lobbyist registration fee, not to exceed $40, for each principal represented. The governmental entity ~~district~~ may use registration fees only to administer this section.

(6) A governmental entity ~~district~~ shall be diligent to ascertain whether persons required to register pursuant to this section have complied. A governmental entity ~~district~~ may not knowingly authorize a person who is not registered pursuant to this section to lobby the entity ~~district~~.

(7) Upon receipt of a sworn complaint alleging that a lobbyist or principal has failed to register with a governmental entity ~~district~~ or has knowingly submitted false information in a report or registration required under this section, the commission shall investigate a lobbyist or principal pursuant to the procedures established under s. 112.324. The commission shall provide the Governor with a report of its findings and recommendations in any investigation conducted pursuant to this subsection. The Governor is authorized to enforce the commission's findings and recommendations.

(8) A governmental entity ~~Water management districts~~ may adopt rules to establish procedures to govern the registration of lobbyists, including the adoption of forms and the establishment of a lobbyist registration fee.

Section 12. Paragraph (c) of subsection (3) of section 129.03, Florida Statutes, is amended to read:

129.03 Preparation and adoption of budget.—

(3) The county budget officer, after tentatively ascertaining the proposed fiscal policies of the board for the next fiscal year, shall prepare and present to the board a tentative budget for the next 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.

(c) The board shall hold public hearings to adopt tentative and final budgets pursuant to s. 200.065. The hearings shall be primarily for the purpose of hearing requests and complaints from the public regarding the budgets and the proposed tax levies and for explaining the budget and any proposed or adopted amendments. The tentative budget must be posted on the county's official website at least 2 days before the public hearing to consider such budget and must remain on the website for at least 45 days. The final budget must be posted on the website within 30 days after adoption and must remain on the website for at least 2 years. The tentative budgets, adopted tentative budgets, and final budgets shall be filed in the office of the county auditor as a public record. Sufficient reference in words and figures to identify the particular transactions must ~~shall~~ be made in the minutes of the board to record its actions with reference to the budgets.

Section 13. 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) Unless otherwise prohibited by law, if an amendment to a budget is required for a purpose not specifically authorized in paragraphs (a)-(e), the amendment may be authorized by resolution or ordinance of the board of county commissioners adopted following a public hearing.

1. 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 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. 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 fund's appropriations.

2. If the board amends the budget pursuant to this paragraph, the adopted amendment must be posted on the county's official website within 5 days after adoption and must remain on the website for at least 2 years.

Section 14. Subsections (3) and (5) of section 166.241, Florida Statutes, are amended to read:

166.241 Fiscal years, budgets, and budget amendments.—

(3) The tentative budget must be posted on the municipality's official website at least 2 days before the budget hearing, held pursuant to s. 200.065 or other law, to consider such budget, and must remain on the website for at least 45 days. The final adopted budget must be posted on the municipality's official website within 30 days after adoption

and must remain on the website for at least 2 years. If the municipality does not operate an official website, the municipality must, within a reasonable period of time as established by the county or counties in which the municipality is located, transmit the tentative budget and final budget to the manager or administrator of such county or counties who shall post the budgets on the county's website.

(5) If the governing body of a municipality amends the budget pursuant to paragraph (4)(c), the adopted amendment must be posted on the official website of the municipality within 5 days after adoption and must remain on the website for at least 2 years. If the municipality does not operate an official website, the municipality must, within a reasonable period of time as established by the county or counties in which the municipality is located, transmit the adopted amendment to the manager or administrator of such county or counties who shall post the adopted amendment on the county's website.

Section 15. Subsections (4) and (7) of section 189.016, Florida Statutes, are amended to read:

189.016 Reports; budgets; audits.—

(4) The tentative budget must be posted on the special district's official website at least 2 days before the budget hearing, held pursuant to s. 200.065 or other law, to consider such budget, and must remain on the website for at least 45 days. The final adopted budget must be posted on the special district's official website within 30 days after adoption and must remain on the website for at least 2 years. If the special district does not operate an official website, the special district must, within a reasonable period of time as established

by the local general-purpose government or governments in which the special district is located or the local governing authority to which the district is dependent, transmit the tentative budget or final budget to the manager or administrator of the local general-purpose government or the local governing authority. The manager or administrator shall post the tentative budget or final budget on the website of the local general-purpose government or governing authority. This subsection and subsection (3) do not apply to water management districts as defined in s. 373.019.

(7) If the governing body of a special district amends the budget pursuant to paragraph (6)(c), the adopted amendment must be posted on the official website of the special district within 5 days after adoption and must remain on the website for at least 2 years. If the special district does not operate an official website, the special district must, within a reasonable period of time as established by the local general-purpose government or governments in which the special district is located or the local governing authority to which the district is dependent, transmit the adopted amendment to the manager or administrator of the local general-purpose government or governing authority. The manager or administrator shall post the adopted amendment on the website of the local general-purpose government or governing authority.

Section 16. Section 215.425, Florida Statutes, is amended to read:

215.425 Extra compensation claims prohibited; bonuses; severance pay.—

(1) As used in this section, the term "public funds" means

any taxes, tuition, state grants, fines, fees, or other charges or any other type of revenue collected by the state or any county, municipality, special district, school district, Florida College System institution, state university, or other separate unit of government created pursuant to law, including any office, department, agency, division, subdivision, political subdivision, board, bureau, or commission of such entities. However, if the payment and receipt does not otherwise violate part III of chapter 112, the following are not considered public funds:

(a) Revenues received by the Board of Governors or state universities through or from faculty practice plans; health services support organizations; hospitals with which state universities are affiliated; direct-support organizations; or federal, auxiliary, or private sources, except for tuition.

(b) Revenues received by Florida College System institutions through or from faculty practice plans; health services support organizations; direct-support organizations; or federal, auxiliary, or private sources, except for tuition.

(c) Revenues that are received by a hospital licensed under chapter 395 which has entered into a Medicaid provider contract and that:

1. Are not derived from the levy of an ad valorem tax;

2. Are not derived from patient services paid through the Medicaid or Medicare program;

3. Are derived from patient services pursuant to contracts with private insurers or private managed care entities, or paid by the patient or private entities; or

4. Are not appropriated by the Legislature or by any

county, municipality, special district, school district, Florida College System institution, state university, or other separate unit of government created pursuant to law, including any office, department, agency, division, subdivision, political subdivision, board, bureau, commission, authority, or institution of such entities, except for revenues otherwise authorized to be used pursuant to subparagraphs 2. and 3.

(d) A clothing and maintenance allowance given to plainclothes deputies pursuant to s. 30.49.

(e) Revenues or fees received by a seaport or airport from sources other than through the levy of a tax, or funds appropriated by any county or municipality or the Legislature.

(2) ~~(1)~~ Except as provided in subsections (3) and (4), no extra compensation shall be made from public funds to any officer, agent, employee, or contractor after the service has been rendered or the contract made; nor shall any public funds ~~money~~ be appropriated or paid on any claim the subject matter of which has not been provided for by preexisting laws, unless such compensation or claim is allowed by a law enacted by two-thirds of the members elected to each house of the Legislature. However, when adopting salary schedules for a fiscal year, a district school board or community college district board of trustees may apply the schedule for payment of all services rendered subsequent to July 1 of that fiscal year.

~~(2) This section does not apply to:~~

~~(a) a bonus or severance pay that is paid wholly from nontax revenues and nonstate appropriated funds, the payment and receipt of which does not otherwise violate part III of chapter 112, and which is paid to an officer, agent, employee, or~~

~~contractor of a public hospital that is operated by a county or a special district; or~~

~~(b) A clothing and maintenance allowance given to plainclothes deputies pursuant to s. 30.49.~~

(3) Any policy, ordinance, rule, or resolution designed to implement a bonus scheme must:

(a) Base the award of a bonus on work performance;

(b) Describe the performance standards and evaluation process by which a bonus will be awarded;

(c) Notify all employees who meet the prescribed criteria for a particular bonus scheme of the policy, ordinance, rule, or resolution before the beginning of the evaluation period on which a bonus will be based; and

(d) Consider all employees who meet the prescribed criteria for a particular bonus scheme for the bonus.

(4)(a) ~~On or after July 1, 2011,~~ A unit of government, on or after July 1, 2011, or a state university, on or after July 1, 2012, which ~~that~~ enters into a contract or employment agreement, or a renewal or renegotiation of an existing contract or employment agreement, which ~~that~~ contains a provision for severance pay with an officer, agent, employee, or contractor must include the following provisions in the contract:

1. A requirement that severance pay paid from public funds ~~provided~~ may not exceed an amount greater than 20 weeks of compensation.

2. A prohibition of provision of severance pay paid from public funds when the officer, agent, employee, or contractor has been fired for misconduct, as defined in s. 443.036(29), by the unit of government. However, the existence of a contract

that includes a provision providing for severance pay does not limit the application of paragraph (b) to the settlement of a dispute.

(b) On or after July 1, 2011, an officer, agent, employee, or contractor may receive severance pay that is not provided for in a contract or employment agreement if the severance pay represents the settlement of an employment dispute. In determining the amount of severance pay that may be paid in accordance with this section, the unit of government or the state university shall consider the nature of the claim, the circumstances giving rise to the dispute, and the potential cost of resolving the dispute ~~Such severance pay may not exceed an amount greater than 6 weeks of compensation~~. The settlement may not include provisions that limit the ability of any party to the settlement to discuss the dispute or settlement.

(5) Any agreement or contract~~,~~ executed on or after July 1, 2011, which involves extra compensation between a unit of government and an officer, agent, employee, or contractor may not include provisions that limit the ability of any party to the agreement or contract to discuss the agreement or contract.

(6) Upon discovery or notification that a unit of government has provided prohibited compensation to any officer, agent, employee, or contractor in violation of this section, such unit of government shall investigate and take all reasonable action to recover the prohibited compensation.

(a) If the violation was unintentional, the unit of government shall take all reasonable action to recover the prohibited compensation from the individual receiving the prohibited compensation through normal recovery methods for

overpayments.

(b) If the violation was willful, the unit of government shall take all reasonable action to recover the prohibited compensation from the individual receiving the prohibited compensation or the employee or employees of the unit of government who willfully violated this section. Each individual determined to have willfully violated this section is jointly and severally liable for repayment of the prohibited compensation.

(7) An officer who exercises the powers and duties of a state or county officer and willfully violates this section is subject to the Governor's power under s. 7(a), Art. IV of the State Constitution. An officer who exercises powers and duties other than those of a state or county officer and willfully violates this section is subject to the suspension and removal procedures under s. 112.51.

(8) An employee who is discharged, demoted, suspended, threatened, harassed, or in any manner discriminated against in the terms and conditions of employment by his or her employer because of lawful acts done by the employee on behalf of the employee or others in furtherance of an action under this section, including investigation for initiation of, testimony for, or assistance in an action filed or to be filed under this section, has a cause of action under s. 112.3187.

(9) Subsections (6), (7), and (8) apply prospectively to contracts and employment agreements, and the renewal or renegotiation of an existing contract or employment agreement, effective on or after October 1, 2016.

Section 17. Section 215.86, Florida Statutes, is amended to

read:

215.86 Management systems and controls.—Each state agency and the judicial branch as defined in s. 216.011 shall establish and maintain management systems and internal controls designed to:

(1) Prevent and detect fraud, waste, and abuse. ~~that~~

(2) Promote and encourage compliance with applicable laws, rules, contracts, and grant agreements.~~;~~

(3) Support economical and ~~economic,~~ efficient~~, and effective~~ operations.~~;~~

(4) Ensure reliability of financial records and reports.~~;~~

(5) Safeguard ~~and safeguarding of~~ assets. ~~Accounting systems and procedures shall be designed to fulfill the requirements of generally accepted accounting principles.~~

Section 18. Paragraph (a) of subsection (2) of section 215.97, Florida Statutes, is amended to read:

215.97 Florida Single Audit Act.—

(2) Definitions; as used in this section, the term:

(a) "Audit threshold" means the threshold amount used to determine when a state single audit or project-specific audit of a nonstate entity shall be conducted in accordance with this section. Each nonstate entity that expends a total amount of state financial assistance equal to or in excess of $750,000 ~~$500,000~~ in any fiscal year of such nonstate entity shall be required to have a state single audit~~,~~ or a project-specific audit~~,~~ for such fiscal year in accordance with the requirements of this section. ~~Every 2 years the Auditor General,~~ After consulting with the Executive Office of the Governor, the Department of Financial Services, and all state awarding

agencies, the Auditor General shall periodically review the threshold amount for requiring audits under this section and may recommend any appropriate statutory change to revise the threshold amount in the annual report submitted pursuant to s. 11.45(7)(h) to the Legislature ~~may adjust such threshold amount consistent with the purposes of this section~~.

Section 19. Subsection (11) of section 215.985, Florida Statutes, is amended to read:

215.985 Transparency in government spending.—

(11) Each water management district shall provide a monthly financial statement in the form and manner prescribed by the Department of Financial Services to the district's ~~its~~ governing board and make such monthly financial statement available for public access on its website.

Section 20. Paragraph (d) of subsection (1) and subsection (2) of section 218.32, Florida Statutes, are amended to read:

218.32 Annual financial reports; local governmental entities.—

(1)

(d) Each local governmental entity that is required to provide for an audit under s. 218.39(1) must submit a copy of the audit report and annual financial report to the department within 45 days after the completion of the audit report but no later than 9 months after the end of the fiscal year. In conducting an audit of a local governmental entity pursuant to s. 218.39, an independent certified public accountant shall determine whether the entity's annual financial report is in agreement with the audited financial statements. The accountant's audit report must be supported by the same level of

detail as required for the annual financial report. If the accountant's audit report is not in agreement with the annual financial report, the accountant shall specify and explain the significant differences that exist between the annual financial report and the audit report.

(2) The department shall annually by December 1 file a verified report with the Governor, the Legislature, the Auditor General, and the Special District Accountability Program of the Department of Economic Opportunity showing the revenues, both locally derived and derived from intergovernmental transfers, and the expenditures of each local governmental entity, regional planning council, local government finance commission, and municipal power corporation that is required to submit an annual financial report. In preparing the verified report, the department may request additional information from the local governmental entity. The information requested must be provided to the department within 45 days after the request. If the local governmental entity does not comply with the request, the department shall notify the Legislative Auditing Committee, which may take action pursuant to s. 11.40(2). The report must include, but is not limited to:

(a) The total revenues and expenditures of each local governmental entity that is a component unit included in the annual financial report of the reporting entity.

(b) The amount of outstanding long-term debt by each local governmental entity. For purposes of this paragraph, the term "long-term debt" means any agreement or series of agreements to pay money, which, at inception, contemplate terms of payment exceeding 1 year in duration.

Section 21. Present subsection (3) of section 218.33, Florida Statutes, is redesignated as subsection (4), and a new subsection (3) is added to that section, to read:

218.33 Local governmental entities; establishment of uniform fiscal years and accounting practices and procedures.—

(3) Each local governmental entity shall establish and maintain internal controls designed to:

(a) Prevent and detect fraud, waste, and abuse.

(b) Promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best practices.

(c) Support economical and efficient operations.

(d) Ensure reliability of financial records and reports.

(e) Safeguard assets.

Section 22. Present subsections (8) through (12) of section 218.39, Florida Statutes, are redesignated as subsections (9) through (13), respectively, and a new subsection (8) is added to that section, to read:

218.39 Annual financial audit reports.—

(8) If the audit report includes a recommendation that was included in the preceding financial audit report but remains unaddressed, the governing body of the audited entity, within 60 days after the delivery of the audit report to the governing body, shall indicate during a regularly scheduled public meeting whether it intends to take corrective action, the intended corrective action, and the timeframe for the corrective action. If the governing body indicates that it does not intend to take corrective action, it shall explain its decision at the public meeting.

Section 23. Subsection (2) of section 218.391, Florida

Statutes, is amended, and subsection (9) is added to that section, to read:

218.391 Auditor selection procedures.—

(2) The governing body of a ~~charter~~ county, municipality, special district, district school board, charter school, or charter technical career center shall establish an audit committee.

(a) The audit committee for a county ~~Each noncharter county shall establish an audit committee that~~, at a minimum, shall consist of each of the county officers elected pursuant to the county charter or s. 1(d), Art. VIII of the State Constitution~~,~~ or their respective designees ~~a designee,~~ and one member of the board of county commissioners or its designee.

(b) The audit committee for a municipality, special district, district school board, charter school, or charter technical career center shall consist of at least three members. One member of the audit committee must be a member of the governing body of an entity specified in this paragraph, who shall also serve as the chair of the committee.

(c) An employee, chief executive officer, or chief financial officer of the county, municipality, special district, district school board, charter school, or charter technical career center may not serve as a member of an audit committee established under this subsection.

(d) The primary purpose of the audit committee is to assist the governing body in selecting an auditor to conduct the annual financial audit required in s. 218.39; however, the audit committee may serve other audit oversight purposes as determined by the entity's governing body. The public may ~~shall~~ not be

excluded from the proceedings under this section.

(9) An audit report submitted pursuant to s. 218.39 must include an affidavit executed by the chair of the audit committee affirming that the committee complied with the requirements of subsections (3)-(6) in selecting an auditor. If the Auditor General determines that an entity failed to comply with the requirements of subsections (3)-(6) in selecting an auditor, the entity shall select a replacement auditor in accordance with this section to conduct audits for subsequent fiscal years if the original audit was performed under a multiyear contract. If the replacement of an auditor would preclude the entity from timely completing the annual financial audit required by s. 218.39, the entity shall replace an auditor in accordance with this section for the subsequent annual financial audit. A multiyear contract between an entity or an auditor may not prohibit or restrict an entity from complying with this subsection.

Section 24. Subsection (2) of section 286.0114, Florida Statutes, is amended to read:

286.0114 Public meetings; reasonable opportunity to be heard; attorney fees.—

(2) Members of the public shall be given a reasonable opportunity to be heard on a proposition before a board or commission. The opportunity to be heard need not occur at the same meeting at which the board or commission takes official action on the proposition if the opportunity occurs at a meeting that is during the decisionmaking process and is within reasonable proximity in time before the meeting at which the board or commission takes the official action. A board or

commission may not require a member of the public to provide an advance written copy of his or her testimony or comments as a precondition of being given the opportunity to be heard at a meeting. This section does not prohibit a board or commission from maintaining orderly conduct or proper decorum in a public meeting. The opportunity to be heard is subject to rules or policies adopted by the board or commission, as provided in subsection (4).

Section 25. Paragraph (b) of subsection (2) of section 288.92, Florida Statutes, is amended to read:

288.92 Divisions of Enterprise Florida, Inc.—

(2)

(b)1. The following officers and board members are subject to ss. 112.313(1)-(8), (10), (12), and (15); 112.3135; and 112.3143(2):

a. Officers and members of the board of directors of the divisions of Enterprise Florida, Inc.

b. Officers and members of the board of directors of subsidiaries of Enterprise Florida, Inc.

c. Officers and members of the board of directors of corporations created to carry out the missions of Enterprise Florida, Inc.

d. Officers and members of the board of directors of corporations with which a division is required by law to contract to carry out its missions.

2. For a period of 2 years after retirement from or termination of service to a division, or for a period of 10 years if removed or terminated for cause or for misconduct, as defined in s. 443.036(29), the officers and board members

specified in subparagraph 1. may not represent another person or entity for compensation before:

a. Enterprise Florida, Inc.;

b. A division, a subsidiary, or the board of directors of corporations created to carry out the missions of Enterprise Florida, Inc.; or

c. A division with which Enterprise Florida, Inc., is required by law to contract to carry out its missions.

3.~~2.~~ For purposes of applying ss. 112.313(1)-(8), (10), (12), and (15); 112.3135; and 112.3143(2) to activities of the officers and members of the board of directors specified in subparagraph 1., those persons shall be considered public officers or employees and the corporation shall be considered their agency.

4.~~3.~~ It is not a violation of s. 112.3143(2) or (4) for the officers or members of the board of directors of the Florida Tourism Industry Marketing Corporation to:

a. Vote on the 4-year marketing plan required under s. 288.923 or vote on any individual component of or amendment to the plan.

b. Participate in the establishment or calculation of payments related to the private match requirements of s. 288.904(3). The officer or member must file an annual disclosure describing the nature of his or her interests or the interests of his or her principals, including corporate parents and subsidiaries of his or her principal, in the private match requirements. This annual disclosure requirement satisfies the disclosure requirement of s. 112.3143(4). This disclosure must be placed ~~either~~ on the Florida Tourism Industry Marketing

Corporation's website or included in the minutes of each meeting of the Florida Tourism Industry Marketing Corporation's board of directors at which the private match requirements are discussed or voted upon.

Section 26. Paragraph (a) of subsection (3) of section 288.9604, Florida Statutes, is amended to read:

288.9604 Creation of the authority.—

(3)(a)1. A director may not receive compensation for his or her services, but is entitled to necessary expenses, including travel expenses, incurred in the discharge of his or her duties. Each director shall hold office until his or her successor has been appointed.

2. Directors are subject to ss. 112.313(1)-(8), (10), (12), and (15); 112.3135; and 112.3143(2). For purposes of applying ss. 112.313(1)-(8), (10), (12), and (15); 112.3135; and 112.3143(2) to activities of directors, directors shall be considered public officers and the corporation shall be considered their agency.

3. A director of the corporation may not represent another person or entity for compensation before the corporation for a period of 2 years following his or her service on the board of directors.

Section 27. Paragraph (e) of subsection (4), paragraph (d) of subsection (5), and paragraph (d) of subsection (6) of section 373.536, Florida Statutes, are amended to read:

373.536 District budget and hearing thereon.—

(4) BUDGET CONTROLS; FINANCIAL INFORMATION.—

(e) ~~By September 1, 2012,~~ Each district shall provide a monthly financial statement in the form and manner prescribed by

the Department of Financial Services to the district's governing board and make such monthly financial statement available for public access on its website.

(5) TENTATIVE BUDGET CONTENTS AND SUBMISSION; REVIEW AND APPROVAL.—

(d) Each district shall, by August 1 of each year, submit for review a tentative budget and a description of any significant changes from the preliminary budget submitted to the Legislature pursuant to s. 373.535 to the Governor, the President of the Senate, the Speaker of the House of Representatives, the chairs of all legislative committees and subcommittees having substantive or fiscal jurisdiction over water management districts, as determined by the President of the Senate or the Speaker of the House of Representatives, as applicable, the secretary of the department, and the governing body of each county in which the district has jurisdiction or derives any funds for the operations of the district. The tentative budget must be posted on the district's official website at least 2 days before budget hearings held pursuant to s. 200.065 or other law and must remain on the website for at least 45 days.

(6) FINAL BUDGET; ANNUAL AUDIT; CAPITAL IMPROVEMENTS PLAN; WATER RESOURCE DEVELOPMENT WORK PROGRAM.—

(d) The final adopted budget must be posted on the water management district's official website within 30 days after adoption and must remain on the website for at least 2 years.

Section 28. Subsection (7) of section 838.014, Florida Statutes, is renumbered as subsection (8), present subsections (4) and (6) are amended, and a new subsection (6) is added to

that section, to read:

838.014 Definitions.—As used in this chapter, the term:

(4) "Governmental entity" means an agency or entity of the state, a county, municipality, or special district or any other public entity created or authorized by law ~~"Corruptly" or "with corrupt intent" means acting knowingly and dishonestly for a wrongful purpose~~.

(6) "Public contractor" means, for purposes of ss. 838.022 and 838.22 only:

(a) Any person, as defined in s. 1.01(3), who has entered into a contract with a governmental entity; or

(b) Any officer or employee of a person, as defined in s. 1.01(3), who has entered into a contract with a governmental entity.

(7)~~(6)~~ "Public servant" means:

(a) Any officer or employee of a governmental ~~state, county, municipal, or special district agency or~~ entity~~,~~ including

~~(b)~~ any executive, legislative, or judicial branch officer or employee;

(b)~~(c)~~ Any person, except a witness, who acts as a general or special magistrate, receiver, auditor, arbitrator, umpire, referee, consultant, or hearing officer while performing a governmental function; or

(c)~~(d)~~ A candidate for election or appointment to any of the officer positions listed in this subsection, or an individual who has been elected to, but has yet to officially assume the responsibilities of, public office.

Section 29. Subsection (1) of section 838.015, Florida

Statutes, is amended to read:

838.015 Bribery.—

(1) "Bribery" means ~~corruptly~~ to knowingly and intentionally give, offer, or promise to any public servant, or, if a public servant, ~~corruptly~~ to knowingly and intentionally request, solicit, accept, or agree to accept for himself or herself or another, any pecuniary or other benefit not authorized by law with an intent or purpose to influence the performance of any act or omission which the person believes to be, or the public servant represents as being, within the official discretion of a public servant, in violation of a public duty, or in performance of a public duty.

Section 30. Subsections (1) and (2) of section 838.016, Florida Statutes, are amended to read:

838.016 Unlawful compensation or reward for official behavior.—

(1) It is unlawful for any person ~~corruptly~~ to knowingly and intentionally give, offer, or promise to any public servant, or, if a public servant, ~~corruptly~~ to knowingly and intentionally request, solicit, accept, or agree to accept, any pecuniary or other benefit not authorized by law, for the past, present, or future performance, nonperformance, or violation of any act or omission which the person believes to have been, or the public servant represents as having been, either within the official discretion of the public servant, in violation of a public duty, or in performance of a public duty. This section does not ~~Nothing herein shall be construed to~~ preclude a public servant from accepting rewards for services performed in apprehending any criminal.

(2) It is unlawful for any person ~~corruptly~~ to knowingly and intentionally give, offer, or promise to any public servant, or, if a public servant, ~~corruptly~~ to knowingly and intentionally request, solicit, accept, or agree to accept, any pecuniary or other benefit not authorized by law for the past, present, or future exertion of any influence upon or with any other public servant regarding any act or omission which the person believes to have been, or which is represented to him or her as having been, either within the official discretion of the other public servant, in violation of a public duty, or in performance of a public duty.

Section 31. Subsection (1) of section 838.022, Florida Statutes, is amended, and subsection (2) of that section is republished, to read:

838.022 Official misconduct.—

(1) It is unlawful for a public servant or public contractor, ~~with corrupt intent~~ to knowingly and intentionally obtain a benefit for any person or to cause unlawful harm to another, by ~~to~~:

(a) Falsifying ~~Falsify~~, or causing ~~cause~~ another person to falsify, any official record or official document;

(b) Concealing, covering up, destroying, mutilating, or altering ~~Conceal, cover up, destroy, mutilate, or alter~~ any official record or official document, except as authorized by law or contract, or causing ~~cause~~ another person to perform such an act; or

(c) Obstructing, delaying, or preventing ~~Obstruct, delay, or prevent~~ the communication of information relating to the commission of a felony that directly involves or affects the

government ~~public agency or public~~ entity served by the public servant or public contractor.

(2) For the purposes of this section:

(a) The term "public servant" does not include a candidate who does not otherwise qualify as a public servant.

(b) An official record or official document includes only public records.

Section 32. Section 838.22, Florida Statutes, is amended to read:

838.22 Bid tampering.—

(1) It is unlawful for a public servant or a public contractor who has contracted with a governmental entity to assist in a competitive procurement~~, with corrupt intent~~ to knowingly and intentionally influence or attempt to influence the competitive solicitation ~~bidding process~~ undertaken by any governmental ~~state, county, municipal, or special district agency, or any other public~~ entity~~,~~ for the procurement of commodities or services, by ~~to~~:

(a) Disclosing, except as authorized by law, ~~Disclose~~ material information concerning a vendor's response, any evaluation results, ~~bid~~ or other aspects of the competitive solicitation ~~bidding process~~ when such information is not publicly disclosed.

(b) Altering or amending ~~Alter or amend~~ a submitted response ~~bid~~, documents or other materials supporting a submitted response ~~bid~~, or any evaluation ~~bid~~ results relating to the competitive solicitation for the purpose of intentionally providing a competitive advantage to any person who submits a response ~~bid~~.

(2) It is unlawful for a public servant or a public contractor who has contracted with a governmental entity to assist in a competitive procurement~~, with corrupt intent~~ to knowingly and intentionally obtain a benefit for any person or to cause unlawful harm to another by circumventing~~, to circumvent~~ a competitive solicitation ~~bidding~~ process required by law or rule through the use of ~~by using~~ a sole-source contract for commodities or services.

(3) It is unlawful for any person to knowingly agree, conspire, combine, or confederate, directly or indirectly, with a public servant or a public contractor who has contracted with a governmental entity to assist in a competitive procurement to violate subsection (1) or subsection (2).

(4) It is unlawful for any person to knowingly enter into a contract for commodities or services which was secured by a public servant or a public contractor who has contracted with a governmental entity to assist in a competitive procurement acting in violation of subsection (1) or subsection (2).

(5) Any person who violates this section commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 33. Paragraph (l) of subsection (12) of section 1001.42, Florida Statutes, is amended, a new subsection (27) is added to that section, and present subsection (27) of that section is renumbered as subsection (28), to read:

1001.42 Powers and duties of district school board.—The district school board, acting as a board, shall exercise all powers and perform all duties listed below:

(12) FINANCE.—Take steps to assure students adequate

educational facilities through the financial procedure authorized in chapters 1010 and 1011 and as prescribed below:

(l) *Internal auditor.*—May employ an internal auditor to perform ongoing financial verification of the financial records of the school district and such other audits and reviews as the district school board directs for the purpose of determining:

1. The adequacy of internal controls designed to prevent and detect fraud, waste, and abuse.

2. Compliance with applicable laws, rules, contracts, grant agreements, district school board-approved policies, and best practices.

3. The efficiency of operations.

4. The reliability of financial records and reports.

5. The safeguarding of assets.

The internal auditor shall report directly to the district school board or its designee.

(27) VISITATION OF SCHOOLS.—Visit the schools, observe the management and instruction, give suggestions for improvement, and advise citizens with the view of promoting interest in education and improving the school.

Section 34. Paragraph (j) of subsection (9) of section 1002.33, Florida Statutes, is amended to read:

1002.33 Charter schools.—

(9) CHARTER SCHOOL REQUIREMENTS.—

(j) The governing body of the charter school shall be responsible for:

1. Establishing and maintaining internal controls designed to:

a. Prevent and detect fraud, waste, and abuse.

b. Promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best practices.

c. Support economical and efficient operations.

d. Ensure reliability of financial records and reports.

e. Safeguard assets.

2.~~1.~~ Ensuring that the charter school has retained the services of a certified public accountant or auditor for the annual financial audit, pursuant to s. 1002.345(2), who shall submit the report to the governing body.

3.~~2.~~ Reviewing and approving the audit report, including audit findings and recommendations for the financial recovery plan.

4.a.~~3.a.~~ Performing the duties in s. 1002.345, including monitoring a corrective action plan.

b. Monitoring a financial recovery plan in order to ensure compliance.

5.~~4.~~ Participating in governance training approved by the department which must include government in the sunshine, conflicts of interest, ethics, and financial responsibility.

Section 35. Present subsections (6) through (10) of section 1002.37, Florida Statutes, are redesignated as subsections (7) through (11), respectively, a new subsection (6) is added to that section, and present subsections (6) and (11) of that section are amended, to read:

1002.37 The Florida Virtual School.—

(6) The Florida Virtual School shall have an annual financial audit of its accounts and records conducted by an independent auditor who is a certified public accountant

licensed under chapter 473. The independent auditor shall conduct the audit in accordance with rules adopted by the Auditor General pursuant to s. 11.45 and, upon completion of the audit, shall prepare an audit report in accordance with such rules. The audit report must include a written statement of the board of trustees describing corrective action to be taken in response to each of the recommendations of the independent auditor included in the audit report. The independent auditor shall submit the audit report to the board of trustees and the Auditor General no later than 9 months after the end of the preceding fiscal year.

(7)~~(6)~~ The board of trustees shall annually submit to the Governor, the Legislature, the Commissioner of Education, and the State Board of Education the audit report prepared pursuant to subsection (6) and a complete and detailed report setting forth:

(a) The operations and accomplishments of the Florida Virtual School within the state and those occurring outside the state as Florida Virtual School Global.

(b) The marketing and operational plan for the Florida Virtual School and Florida Virtual School Global, including recommendations regarding methods for improving the delivery of education through the Internet and other distance learning technology.

(c) The assets and liabilities of the Florida Virtual School and Florida Virtual School Global at the end of the fiscal year.

(d) ~~A copy of an annual financial audit of the accounts and records of the Florida Virtual School and Florida Virtual School~~

~~Global, conducted by an independent certified public accountant and performed in accordance with rules adopted by the Auditor General.~~

~~(c)~~ Recommendations regarding the unit cost of providing services to students through the Florida Virtual School and Florida Virtual School Global. In order to most effectively develop public policy regarding any future funding of the Florida Virtual School, it is imperative that the cost of the program is accurately identified. The identified cost of the program must be based on reliable data.

(e) ~~(f)~~ Recommendations regarding an accountability mechanism to assess the effectiveness of the services provided by the Florida Virtual School and Florida Virtual School Global.

~~(11) The Auditor General shall conduct an operational audit of the Florida Virtual School, including Florida Virtual School Global. The scope of the audit shall include, but not be limited to, the administration of responsibilities relating to personnel; procurement and contracting; revenue production; school funds, including internal funds; student enrollment records; franchise agreements; information technology utilization, assets, and security; performance measures and standards; and accountability. The final report on the audit shall be submitted to the President of the Senate and the Speaker of the House of Representatives no later than January 31, 2014.~~

Section 36. Subsection (5) is added to section 1010.01, Florida Statutes, to read:

1010.01 Uniform records and accounts.—

(5) Each school district, Florida College System

institution, and state university shall establish and maintain internal controls designed to:

(a) Prevent and detect fraud, waste, and abuse.

(b) Promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best practices.

(c) Support economical and efficient operations.

(d) Ensure reliability of financial records and reports.

(e) Safeguard assets.

Section 37. Subsection (2) of section 1010.30, Florida Statutes, is amended to read:

1010.30 Audits required.—

(2) If a school district, Florida College System institution, or university audit report includes a recommendation that was included in the preceding financial audit report but remains unaddressed, ~~an audit contains a significant finding,~~ the district school board, the Florida College System institution board of trustees, or the university board of trustees, within 60 days after the delivery of the audit report to the school district, Florida College System institution, or university, shall indicate ~~conduct an audit overview~~ during a regularly scheduled public meeting whether it intends to take corrective action, the intended corrective action, and the timeframe for the corrective action. If the district school board, Florida College System institution board of trustees, or university board of trustees indicates that it does not intend to take corrective action, it shall explain its decision at the public meeting.

Section 38. Subsection (5) of section 99.061, Florida Statutes, is amended to read:

99.061 Method of qualifying for nomination or election to federal, state, county, or district office.—

(5) At the time of qualifying for office, each candidate for a constitutional office or an elected municipal office shall file a full and public disclosure of financial interests pursuant to s. 8, Art. II of the State Constitution, which must be verified under oath or affirmation pursuant to s. 92.525(1)(a), and a candidate for any other office~~, including local elective office,~~ shall file a statement of financial interests pursuant to s. 112.3145.

Section 39. Subsection (3) of section 218.503, Florida Statutes, is amended to read:

218.503 Determination of financial emergency.—

(3) Upon notification that one or more of the conditions in subsection (1) have occurred or will occur if action is not taken to assist the local governmental entity or district school board, the Governor or his or her designee shall contact the local governmental entity or the Commissioner of Education or his or her designee shall contact the district school board, as appropriate, to determine what actions have been taken by the local governmental entity or the district school board to resolve or prevent the condition. The information requested must be provided within 45 days after the date of the request. If the local governmental entity or the district school board does not comply with the request, the Governor or his or her designee or the Commissioner of Education or his or her designee shall notify ~~the members of~~ the Legislative Auditing Committee, which ~~who~~ may take action pursuant to s. 11.40(2) ~~s. 11.40~~. The Governor or the Commissioner of Education, as appropriate, shall

determine whether the local governmental entity or the district school board needs state assistance to resolve or prevent the condition. If state assistance is needed, the local governmental entity or district school board is considered to be in a state of financial emergency. The Governor or the Commissioner of Education, as appropriate, has the authority to implement measures as set forth in ss. 218.50-218.504 to assist the local governmental entity or district school board in resolving the financial emergency. Such measures may include, but are not limited to:

(a) Requiring approval of the local governmental entity's budget by the Governor or approval of the district school board's budget by the Commissioner of Education.

(b) Authorizing a state loan to a local governmental entity and providing for repayment of same.

(c) Prohibiting a local governmental entity or district school board from issuing bonds, notes, certificates of indebtedness, or any other form of debt until such time as it is no longer subject to this section.

(d) Making such inspections and reviews of records, information, reports, and assets of the local governmental entity or district school board as are needed. The appropriate local officials shall cooperate in such inspections and reviews.

(e) Consulting with officials and auditors of the local governmental entity or the district school board and the appropriate state officials regarding any steps necessary to bring the books of account, accounting systems, financial procedures, and reports into compliance with state requirements.

(f) Providing technical assistance to the local

governmental entity or the district school board.

(g)1. Establishing a financial emergency board to oversee the activities of the local governmental entity or the district school board. If a financial emergency board is established for a local governmental entity, the Governor shall appoint board members and select a chair. If a financial emergency board is established for a district school board, the State Board of Education shall appoint board members and select a chair. The financial emergency board shall adopt such rules as are necessary for conducting board business. The board may:

a. Make such reviews of records, reports, and assets of the local governmental entity or the district school board as are needed.

b. Consult with officials and auditors of the local governmental entity or the district school board and the appropriate state officials regarding any steps necessary to bring the books of account, accounting systems, financial procedures, and reports of the local governmental entity or the district school board into compliance with state requirements.

c. Review the operations, management, efficiency, productivity, and financing of functions and operations of the local governmental entity or the district school board.

d. Consult with other governmental entities for the consolidation of all administrative direction and support services, including, but not limited to, services for asset sales, economic and community development, building inspections, parks and recreation, facilities management, engineering and construction, insurance coverage, risk management, planning and zoning, information systems, fleet management, and purchasing.

2. The recommendations and reports made by the financial emergency board must be submitted to the Governor for local governmental entities or to the Commissioner of Education and the State Board of Education for district school boards for appropriate action.

(h) Requiring and approving a plan, to be prepared by officials of the local governmental entity or the district school board in consultation with the appropriate state officials, prescribing actions that will cause the local governmental entity or district school board to no longer be subject to this section. The plan must include, but need not be limited to:

1. Provision for payment in full of obligations outlined in subsection (1), designated as priority items, which are currently due or will come due.

2. Establishment of priority budgeting or zero-based budgeting in order to eliminate items that are not affordable.

3. The prohibition of a level of operations which can be sustained only with nonrecurring revenues.

4. Provisions implementing the consolidation, sourcing, or discontinuance of all administrative direction and support services, including, but not limited to, services for asset sales, economic and community development, building inspections, parks and recreation, facilities management, engineering and construction, insurance coverage, risk management, planning and zoning, information systems, fleet management, and purchasing.

Section 40. Subsection (2) of section 1002.455, Florida Statutes, is amended to read:

1002.455 Student eligibility for K-12 virtual instruction.—

(2) A student is eligible to participate in virtual instruction if:

(a) The student spent the prior school year in attendance at a public school in the state and was enrolled and reported by the school district for funding during October and February for purposes of the Florida Education Finance Program surveys;

(b) The student is a dependent child of a member of the United States Armed Forces who was transferred within the last 12 months to this state from another state or from a foreign country pursuant to a permanent change of station order;

(c) The student was enrolled during the prior school year in a virtual instruction program under s. 1002.45 or a full-time Florida Virtual School program under s. 1002.37(9)(a) ~~s. 1002.37(8)(a)~~;

(d) The student has a sibling who is currently enrolled in a virtual instruction program and the sibling was enrolled in that program at the end of the prior school year;

(e) The student is eligible to enter kindergarten or first grade; or

(f) The student is eligible to enter grades 2 through 5 and is enrolled full-time in a school district virtual instruction program, virtual charter school, or the Florida Virtual School.

Section 41. For the purpose of incorporating the amendment made by this act to section 838.022, Florida Statutes, in a reference thereto, paragraph (a) of subsection (2) of section 112.534, Florida Statutes, is reenacted to read:

112.534 Failure to comply; official misconduct.—

(2)(a) All the provisions of s. 838.022 shall apply to this part.

Section 42. For the purpose of incorporating the amendment made by this act to section 838.022, Florida Statutes, in a reference thereto, paragraph (d) of subsection (4) of section 117.01, Florida Statutes, is reenacted to read:

117.01 Appointment, application, suspension, revocation, application fee, bond, and oath.—

(4) The Governor may suspend a notary public for any of the grounds provided in s. 7, Art. IV of the State Constitution. Grounds constituting malfeasance, misfeasance, or neglect of duty include, but are not limited to, the following:

(d) Official misconduct as defined in s. 838.022.

Section 43. For the purpose of incorporating the amendment made by this act to section 838.014, Florida Statutes, in a reference thereto, subsection (11) of section 817.568, Florida Statutes, is reenacted to read:

817.568 Criminal use of personal identification information.—

(11) A person who willfully and without authorization fraudulently uses personal identification information concerning an individual who is 60 years of age or older; a disabled adult as defined in s. 825.101; a public servant as defined in s. 838.014; a veteran as defined in s. 1.01; a first responder as defined in s. 125.01045; an individual who is employed by the State of Florida; or an individual who is employed by the Federal Government without first obtaining the consent of that individual commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 44. For the purpose of incorporating the amendments made by this act to sections 838.015, 838.016, and 838.22,

Florida Statutes, in references thereto, paragraph (g) of subsection (3) of section 921.0022, Florida Statutes, is reenacted to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(g) LEVEL 7

Florida Statute	Felony Degree	Description
316.027(2)(c)	1st	Accident involving death, failure to stop; leaving scene.
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.

402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
409.920 (2)(b)1.a.	3rd	Medicaid provider fraud; $10,000 or less.
409.920 (2)(b)1.b.	2nd	Medicaid provider fraud; more than $10,000, but less than $50,000.
456.065(2)	3rd	Practicing a health care profession without a license.
456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
458.327(1)	3rd	Practicing medicine without a license.
459.013(1)	3rd	Practicing osteopathic medicine without a license.
460.411(1)	3rd	Practicing chiropractic

		medicine without a license.
461.012(1)	3rd	Practicing podiatric medicine without a license.
462.17	3rd	Practicing naturopathy without a license.
463.015(1)	3rd	Practicing optometry without a license.
464.016(1)	3rd	Practicing nursing without a license.
465.015(2)	3rd	Practicing pharmacy without a license.
466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
467.201	3rd	Practicing midwifery without a license.
468.366	3rd	Delivering respiratory care services without a license.
483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.

483.901(9)	3rd	Practicing medical physics without a license.
484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.
484.053	3rd	Dispensing hearing aids without a license.
494.0018(2)	1st	Conviction of any violation of chapter 494 in which the total money and property unlawfully obtained exceeded $50,000 and there were five or more victims.
560.123(8)(b)1.	3rd	Failure to report currency or payment instruments exceeding $300 but less than $20,000 by a money services business.
560.125(5)(a)	3rd	Money services business by unauthorized person, currency or payment instruments exceeding $300 but less than $20,000.
655.50(10)(b)1.	3rd	Failure to report financial

		transactions exceeding $300 but less than $20,000 by financial institution.
775.21(10)(a)	3rd	Sexual predator; failure to register; failure to renew driver license or identification card; other registration violations.
775.21(10)(b)	3rd	Sexual predator working where children regularly congregate.
775.21(10)(g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).

782.071	2nd	Killing of a human being or unborn child by the operation of a motor vehicle in a reckless manner (vehicular homicide).
782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.
784.048(7)	3rd	Aggravated stalking; violation of court order.
784.07(2)(d)	1st	Aggravated battery on law enforcement officer.

784.074(1)(a)	1st	Aggravated battery on sexually violent predators facility staff.
784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
784.081(1)	1st	Aggravated battery on specified official or employee.
784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
784.083(1)	1st	Aggravated battery on code inspector.
787.06(3)(a)2.	1st	Human trafficking using coercion for labor and services of an adult.
787.06(3)(e)2.	1st	Human trafficking using coercion for labor and services by the transfer or transport of an adult from outside Florida to within the state.
790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
790.16(1)	1st	Discharge of a machine gun under specified circumstances.
790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
790.23	1st,PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.

794.08(4)	3rd	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
796.05(1)	1st	Live on earnings of a prostitute; 2nd offense.
796.05(1)	1st	Live on earnings of a prostitute; 3rd and subsequent offense.
800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim younger than 12 years of age; offender younger than 18 years of age.
800.04(5)(c)2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years of age; offender 18 years of age or older.
800.04(5)(e)	1st	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years; offender 18 years or older;

		prior conviction for specified sex offense.
806.01(2)	2nd	Maliciously damage structure by fire or explosive.
810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
810.02(3)(e)	2nd	Burglary of authorized emergency vehicle.
812.014(2)(a)1.	1st	Property stolen, valued at $100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.
812.014(2)(b)2.	2nd	Property stolen, cargo valued

		at less than $50,000, grand theft in 2nd degree.
812.014(2)(b)3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
812.014(2)(b)4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
812.0145(2)(a)	1st	Theft from person 65 years of age or older; $50,000 or more.
812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
812.131(2)(a)	2nd	Robbery by sudden snatching.
812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
817.034(4)(a)1.	1st	Communications fraud, value greater than $50,000.
817.234(8)(a)	2nd	Solicitation of motor vehicle accident victims with intent to

		defraud.
817.234(9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
817.234(11)(c)	1st	Insurance fraud; property value $100,000 or more.
817.2341(2)(b) & (3)(b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
817.535(2)(a)	3rd	Filing false lien or other unauthorized document.
825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
825.103(3)(b)	2nd	Exploiting an elderly person or disabled adult and property is valued at $10,000 or more, but less than $50,000.

827.03(2)(b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
827.04(3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
837.05(2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
838.015	2nd	Bribery.
838.016	2nd	Unlawful compensation or reward for official behavior.
838.021(3)(a)	2nd	Unlawful harm to a public servant.
838.22	2nd	Bid tampering.
843.0855(2)	3rd	Impersonation of a public officer or employee.
843.0855(3)	3rd	Unlawful simulation of legal process.

843.0855(4)	3rd	Intimidation of a public officer or employee.
847.0135(3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
847.0135(4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
872.06	2nd	Abuse of a dead human body.
874.05(2)(b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
874.10	1st,PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.
893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility, school, or

			state, county, or municipal park or publicly owned recreational facility or community center.
1850			
	893.13(1)(e)1.	1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., within 1,000 feet of property used for religious services or a specified business site.
1851			
	893.13(4)(a)	1st	Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).
1852			
	893.135(1)(a)1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
1853			
	893.135(1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
1854			
	893.135(1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14

			grams.
1855			
	893.135(1)(c)2.a.	1st	Trafficking in hydrocodone, 14 grams or more, less than 28 grams.
1856			
	893.135(1)(c)2.b.	1st	Trafficking in hydrocodone, 28 grams or more, less than 50 grams.
1857			
	893.135(1)(c)3.a.	1st	Trafficking in oxycodone, 7 grams or more, less than 14 grams.
1858			
	893.135(1)(c)3.b.	1st	Trafficking in oxycodone, 14 grams or more, less than 25 grams.
1859			
	893.135(1)(d)1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
1860			
	893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
1861			
	893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.

893.135(1)(g)1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
893.135(1)(h)1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
893.135(1)(j)1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
893.135(1)(k)2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
893.1351(2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
896.101(5)(a)	3rd	Money laundering, financial transactions exceeding $300 but less than $20,000.
896.104(4)(a)1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding $300 but less than $20,000.
943.0435(4)(c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.
943.0435(8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
943.0435(9)(a)	3rd	Sexual offender; failure to comply with reporting requirements.
943.0435(13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
943.0435(14)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
944.607(9)	3rd	Sexual offender; failure to

		comply with reporting requirements.
944.607(10)(a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
944.607(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
944.607(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
985.4815(10)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
985.4815(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
985.4815(13)	3rd	Sexual offender; failure to report and reregister; failure

		to respond to address verification; providing false registration information.

Section 45. For the purpose of incorporating the amendment made by this act to section 838.022, Florida Statutes, in a reference thereto, paragraph (d) of subsection (3) of section 921.0022, Florida Statutes, is reenacted to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(d) LEVEL 4

Florida Statute	Felony Degree	Description
316.1935(3)(a)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
499.0051(1)	3rd	Failure to maintain or deliver pedigree papers.
499.0051(2)	3rd	Failure to authenticate pedigree papers.

499.0051(6)	2nd	Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.
517.07(1)	3rd	Failure to register securities.
517.12(1)	3rd	Failure of dealer, associated person, or issuer of securities to register.
784.07(2)(b)	3rd	Battery of law enforcement officer, firefighter, etc.
784.074(1)(c)	3rd	Battery of sexually violent predators facility staff.
784.075	3rd	Battery on detention or commitment facility staff.
784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
784.08(2)(c)	3rd	Battery on a person 65 years of age or older.
784.081(3)	3rd	Battery on specified official or employee.

784.082(3)	3rd	Battery by detained person on visitor or other detainee.
784.083(3)	3rd	Battery on code inspector.
784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.
787.03(1)	3rd	Interference with custody; wrongly takes minor from appointed guardian.
787.04(2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.
787.04(3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
787.07	3rd	Human smuggling.
790.115(1)	3rd	Exhibiting firearm or weapon

		within 1,000 feet of a school.
790.115(2)(b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
790.115(2)(c)	3rd	Possessing firearm on school property.
800.04(7)(c)	3rd	Lewd or lascivious exhibition; offender less than 18 years.
810.02(4)(a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
810.02(4)(b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.
810.06	3rd	Burglary; possession of tools.
810.08(2)(c)	3rd	Trespass on property, armed with firearm or dangerous weapon.

812.014(2)(c)3.	3rd	Grand theft, 3rd degree $10,000 or more but less than $20,000.
812.014(2)(c)4.-10.	3rd	Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc.
812.0195(2)	3rd	Dealing in stolen property by use of the Internet; property stolen $300 or more.
817.563(1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.
817.568(2)(a)	3rd	Fraudulent use of personal identification information.
817.625(2)(a)	3rd	Fraudulent use of scanning device or reencoder.
828.125(1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.
837.02(1)	3rd	Perjury in official proceedings.

837.021(1)	3rd	Make contradictory statements in official proceedings.
838.022	3rd	Official misconduct.
839.13(2)(a)	3rd	Falsifying records of an individual in the care and custody of a state agency.
839.13(2)(c)	3rd	Falsifying records of the Department of Children and Families.
843.021	3rd	Possession of a concealed handcuff key by a person in custody.
843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
843.15(1)(a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
847.0135(5)(c)	3rd	Lewd or lascivious exhibition using computer; offender less than 18 years.
874.05(1)(a)	3rd	Encouraging or recruiting another to join a criminal gang.
893.13(2)(a)1.	2nd	Purchase of cocaine (or other s. 893.03(1)(a), (b), or (d), (2)(a), (2)(b), or (2)(c)4. drugs).
914.14(2)	3rd	Witnesses accepting bribes.
914.22(1)	3rd	Force, threaten, etc., witness, victim, or informant.
914.23(2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
918.12	3rd	Tampering with jurors.
934.215	3rd	Use of two-way communications device to facilitate commission of a crime.

Section 46. As provided in s. 112.322(3), Florida Statutes, the Commission on Ethics is authorized to render advisory opinions to any public officer, candidate for public office, or

public employee regarding the application of part III of chapter 112, Florida Statutes, including the amendments made by this act.

Section 47. The Legislature finds that a proper and legitimate state purpose is served when internal controls are established to prevent and detect fraud, waste, and abuse and to safeguard and account for government funds and property. Therefore, the Legislature determines and declares that this act fulfills an important state interest.

Section 48. This act shall take effect October 1, 2016.

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/03/16
Meeting Date

SB 686
Bill Number (if applicable)

Topic Government Accountability

Amendment Barcode (if applicable)

Name Debbie Harrison Rumberger

Job Title Legislative Liaison

Address 540 Beverly Ct.
Street

Phone 850-224-2545

Tallahassee FL 32301
City *State* *Zip*

Email lwvfadvocacy@gmail.com

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

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

Representing Florida League of Women Voters

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

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

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

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

S-001 (10/14/14)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	PCS/CS/SB 750 (743014)
INTRODUCER:	Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services); Children, Families, and Elder Affairs Committee; and Senators Hutson and Bean
SUBJECT:	Temporary Cash Assistance Program
DATE:	March 2, 2016
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hendon	Hendon	CF	**Fav/CS**
2.	Brown	Pigott	AHS	**Recommend: Fav/CS**
3.	Brown	Kynoch	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 750 makes changes to the state's main economic assistance program for families in poverty, Temporary Assistance for Needy Families (TANF), administered by the Department of Children and Families (DCF). The program supports families in poverty by providing cash assistance. The bill changes the way income from noncitizen parents is counted in determining eligibility.

The bill is estimated to have a positive fiscal impact to the state.

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

II. Present Situation:

The TANF is a block grant that provides federal funding to states for a wide range of benefits and activities to support needy families. It is best known for providing cash assistance to needy families with children. The TANF program was created in the 1996 welfare reform law as part of the Personal Responsibility and Work Opportunity Reconciliation Act.[1] In Florida, the 1996

[1] Temporary Assistance for Needy Families, An Overview of Program Requirements. January 2016. Department of Children and Families, see http://www.dcf.state.fl.us/programs/access/docs/TANF%20101%20final.pdf (last visited Feb. 18, 2016).

Legislature passed the Work and Gain Economic Self-Sufficiency Act in anticipation of passage of federal welfare reform.

The purpose of TANF is to:

- Provide assistance to needy families with children so that they can live in their own home or the homes of relatives;
- End the dependency of needy parents on government benefits through work, job preparation, and marriage;
- Reduce the incidence of out-of-wedlock pregnancies; and
- Promote the formation and maintenance of two-parent families.[2]

Eligibility

Florida law specifies two major categories of families that are eligible for TANF cash assistance: families that are work-eligible and those with child-only cases.[3] While many of the basic eligibility requirements apply to both of these categories, there are some distinctions in terms of requirements and restrictions.

Work-Eligible Cases

Within TANF work-eligible cases, there are single-parent families and two-parent families. Single-parent families can receive cash assistance for the parent and the children. The parent is subject to all of the financial and non-financial requirements described below, including the work requirements and time limits. Single parents with a child under age six are required to meet the participation rate with 20 hours of work participation per week.

Two-parent families with children are eligible on the same basis as single-parent families except the work requirement for two-parent families includes a higher number of hours of participation per week (35 hours, or 55 hours if child care is subsidized) than what is required for single-parent families (30 hours).

Child-Only Cases

There are two types of child-only TANF cases. The first is where the child is living with a relative or situations where a custodial parent is not eligible to be included in the eligibility group.[4] In the majority of situations, the child is living with a grandparent or other relative. Child-only families also include situations where a parent is receiving federal Supplemental Security Income (SSI) payments and situations where the parent is not a U.S. citizen and is ineligible due to immigration status. Grandparents or other relatives receiving child-only payments are not subject to the TANF work requirement or the TANF time limit.

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[2] U.S. Department of Health and Human Services, see http://www.acf.hhs.gov/programs/ofa/programs/tanf/about (last visited Dec. 18, 2015).
[3] Section 414.045(1), Florida Statutes.
[4] Department of Children and Families, *Temporary Assistance for Needy Families, An Overview of Program Requirements*, June 2015, available at http://www.dcf.state.fl.us/programs/access/docs/TANF%20101%20final.pdf (last visited Dec. 18, 2015).

The second type of child-only TANF case is called the relative caregiver case, in which the child has been adjudicated dependent due to the original parents' inability to care for the child and the child has been placed with relatives by a court. These relatives are eligible for a payment that is higher than the typical child-only payment but less than the payment for licensed foster care. As with other child-only families, grandparents or relatives receiving relative caregiver payments are not subject to the TANF work requirements or time limits.

To be eligible for TANF, families must meet both financial and non-financial requirements established in state law. In general, families must include a child (or a pregnant woman) and be residents of Florida. Children under age 5 must be current with childhood immunizations, and children age 6 to 18 must attend school and their parents or caretakers must participate in school conferences. Countable assets must be $2,000 or less, and licensed vehicles needed for individuals subject to the work requirement may not exceed $8,500.[5]

Noncitizens

Florida law currently excludes a pro-rata share of the income from a parent who is an "illegal noncitizen or ineligible noncitizen."[6] This means that a portion of the income that an illegal noncitizen parent contributes to the family is not counted toward the family's income for TANF eligibility.

Work requirements

Adults in families receiving cash assistance must work or participate in work-related activities for a specified number of hours per week, depending on the number of work-eligible adults in the family and the age of children.[7]

Type of Family	**Work participation Hours Required**
Other single parent families or two-parent families where one parent is disabled	30 hours weekly with at least 20 hours in core activities
Married teen or teen head of household under age 20	Maintains satisfactory attendance at secondary school or the equivalent or participates in education related to employment for at least 20 hours weekly
Two-parent families who do not receive subsidized child care	35 hours per week (total among both parents) with at least 30 hours in core activities
Two-parent families who receive subsidized child care	55 hours per week with at least 50 hours in core activities

Federal law includes 12 work activities, nine of which are "core" activities in that they may be used to satisfy any of the average weekly participation requirements and three of which are "supplemental" in that they may only be used to satisfy the work activity requirement after the "core" requirement is met.

Core activities include:

[5] *Id.*
[6] Section 414.095(3)(d), F.S.
[7] *Id.*

- Unsubsidized employment;
- Subsidized private sector employment;
- Subsidized public sector employment;
- Job search and job readiness (limited to not more than six weeks in a federal fiscal year with not more than four weeks consecutive);
- Community service;
- Work experience;
- On-the-job training;
- Vocational educational training (limited to 12 months for an individual); and
- Caring for a child of a recipient in community service.[8]

Supplemental Activities include:
- Job skills training directly related to employment;
- Education directly related to employment (for those without a high school or equivalent degree); and
- Completion of a secondary school program.[9]

The DCF works with CareerSource Florida, Inc., which is Florida's statewide workforce policy board, and local workforce development boards, to serve the families defined as work-eligible. Local workforce boards assist clients with employment training and securing employment. The boards also document whether clients meet the work requirements under TANF and report this information to the DCF. If a client does not meet his or her work requirements, the DCF will sanction the client by reducing or eliminating cash assistance.

Amount of Assistance

The amount of temporary cash assistance received by a family depends on family size and whether the family must pay for housing each month. The following monthly amounts are specified in s. 414.095(10), F.S.

Family Size	Amount If There Is No Obligation to Pay for Shelter	Amount If Shelter Costs Are Less than $50	Amount If Shelter Costs Are Greater than $50
1	$95	$153	$180
2	$158	$205	$241
3	$198	$258	$303
4	$254	$309	$364
5	$289	$362	$426

Time Limits

Federal law restricts receipt of federal TANF benefits to not more than 60 months of assistance. States may exempt up to 20 percent of the caseload from the time limit due to state-defined hardship. Florida law limits receipt of assistance to not more than 48 cumulative months of assistance with exemptions to the time limit provided for hardships.

[8] Id
[9] Id

III. Effect of Proposed Changes:

Section 1 amends s. 414.095, F.S., to make changes to the eligibility standards for TANF. The bill deletes the requirement that the DCF pro-rate a share of income provided by a parent that is an illegal noncitizen or an ineligible noncitizen in determining family income eligibility for TANF, applicable to new TANF applicants or to persons reapplying for TANF benefits. This would allow the DCF to consider the total family income regardless of whether one parent is a noncitizen but will not be applied to persons and families currently receiving TANF benefits. The bill also clarifies the age for children whose income is not included in the family income for eligibility for TANF if they are students under the age of 19. This matches the definition in s. 414.0252(8), F.S.

Section 2 reenacts s. 445.045, F.S., relating to TANF, to incorporate the bill's amendments to s. 414.095, F.S.

Section 3 provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Fewer families would be eligible for Temporary Assistance for Needy Families (TANF) under PCS/CS/SB 750.

C. Government Sector Impact:

The bill would have a positive fiscal impact on the state due to fewer clients receiving TANF benefits. For CS/SB 750, the Department of Children and Families (DCF) estimated that, considering all the income of noncitizen parents in determining TANF eligibility, the bill would reduce program costs by $239,518 in recurring general

revenue.[10] Under the PCS, the cost savings would likely be somewhat less than the original estimate by an unknown amount.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 414.095, 414.105, and 445.024.

This bill reenacts the following sections of the Florida Statutes: 414.045, 414.065, and 445.051.

IX. Additional Information:

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

Recommended CS/CS by Appropriations Subcommittee on Health and Human Services on February 24, 2016:
The proposed CS applies the bill's new TANF eligibility criteria to new applicants and to persons reapplying for TANF benefits, not to persons currently receiving benefits.

CS by Children, Families, and Elder Affairs on February 17, 2016:
- The committee substitute removes language that would have required TANF participants to apply for three jobs prior to receiving benefits.
- The committee substitute removes language that would have reduced the lifetime limit on the number of months of TANF benefits from 48 to 30.

B. Amendments:

None.

[10] Department of Children and Families Bill Analysis for SB 750, dated Nov. 5, 2015. On file with the Senate Committee on Children, Families, and Elder Affairs.

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LEGISLATIVE ACTION

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

The Committee on Appropriations (Hukill) recommended the following:

Senate Amendment (with title amendment)

Delete lines 16 - 139
and insert:
Section 1. Effective October 1, 2016, paragraph (d) of subsection (3), and subsection (11) of section 414.095, Florida Statutes, are amended to read:
414.095 Determining eligibility for temporary cash assistance.—
(3) ELIGIBILITY FOR NONCITIZENS.—A "qualified noncitizen"

is an individual who is admitted to the United States as a refugee under s. 207 of the Immigration and Nationality Act or who is granted asylum under s. 208 of the Immigration and Nationality Act; a noncitizen whose deportation is withheld under s. 243(h) or s. 241(b)(3) of the Immigration and Nationality Act; a noncitizen who is paroled into the United States under s. 212(d)(5) of the Immigration and Nationality Act, for at least 1 year; a noncitizen who is granted conditional entry pursuant to s. 203(a)(7) of the Immigration and Nationality Act as in effect prior to April 1, 1980; a Cuban or Haitian entrant; or a noncitizen who has been admitted as a permanent resident. In addition, a "qualified noncitizen" includes an individual who, or an individual whose child or parent, has been battered or subject to extreme cruelty in the United States by a spouse, a parent, or other household member under certain circumstances, and has applied for or received protection under the federal Violence Against Women Act of 1994, Pub. L. No. 103-322, if the need for benefits is related to the abuse and the batterer no longer lives in the household. A "nonqualified noncitizen" is a nonimmigrant noncitizen, including a tourist, business visitor, foreign student, exchange visitor, temporary worker, or diplomat. In addition, a "nonqualified noncitizen" includes an individual paroled into the United States for less than 1 year. A qualified noncitizen who is otherwise eligible may receive temporary cash assistance to the extent permitted by federal law. The income or resources of a sponsor and the sponsor's spouse shall be included in determining eligibility to the maximum extent permitted by federal law.

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(d) The income of an illegal noncitizen or ineligible noncitizen who is a mandatory member of a family~~, less a pro rata share for the illegal noncitizen or ineligible noncitizen,~~ counts in full in determining a family's eligibility to participate in the program.

(11) DISREGARDS.—

(a) As an incentive to employment, the first $200 plus one-half of the remainder of earned income shall be disregarded. In order to be eligible for earned income to be disregarded, the individual must be:

1. A current participant in the program; ~~or~~

2. Eligible for participation in the program without the earnings disregard; or

3. The ineligible noncitizen parent of a child who is a recipient or who would be eligible without the disregarded earned income.

(b) A child's earned income shall be disregarded if the child is a family member, attends high school or the equivalent, and is less than 19 years of age ~~or younger~~.

Section 2. For the purpose of incorporating the amendment made by this act to section 414.095, Florida Statutes, in a reference thereto, paragraph (b) of subsection (1) of section 414.045, Florida Statutes, is reenacted to read:

414.045 Cash assistance program.—Cash assistance families include any families receiving cash assistance payments from the state program for temporary assistance for needy families as defined in federal law, whether such funds are from federal funds, state funds, or commingled federal and state funds. Cash assistance families may also include families receiving cash


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assistance through a program defined as a separate state program.

(1) For reporting purposes, families receiving cash assistance shall be grouped into the following categories. The department may develop additional groupings in order to comply with federal reporting requirements, to comply with the data-reporting needs of the board of directors of CareerSource Florida, Inc., or to better inform the public of program progress.

(b) *Child-only cases.*—Child-only cases include cases that do not have an adult or teen head of household as defined in federal law. Such cases include:

1. Children in the care of caretaker relatives, if the caretaker relatives choose to have their needs excluded in the calculation of the amount of cash assistance.

2. Families in the Relative Caregiver Program as provided in s. 39.5085.

3. Families in which the only parent in a single-parent family or both parents in a two-parent family receive supplemental security income (SSI) benefits under Title XVI of the Social Security Act, as amended. To the extent permitted by federal law, individuals receiving SSI shall be excluded as household members in determining the amount of cash assistance, and such cases shall not be considered families containing an adult. Parents or caretaker relatives who are excluded from the cash assistance group due to receipt of SSI may choose to participate in work activities. An individual whose ability to participate in work activities is limited who volunteers to participate in work activities shall be assigned to work

activities consistent with such limitations. An individual who volunteers to participate in a work activity may receive child care or support services consistent with such participation.

4. Families in which the only parent in a single-parent family or both parents in a two-parent family are not eligible for cash assistance due to immigration status or other limitation of federal law. To the extent required by federal law, such cases shall not be considered families containing an adult.

5. To the extent permitted by federal law and subject to appropriations, special needs children who have been adopted pursuant to s. 409.166 and whose adopting family qualifies as a needy family under the state program for temporary assistance for needy families. Notwithstanding any provision to the contrary in s. 414.075, s. 414.085, or s. 414.095, a family shall be considered a needy family if:

a. The family is determined by the department to have an income below 200 percent of the federal poverty level;

b. The family meets the requirements of s. 414.095(2) and (3) related to residence, citizenship, or eligible noncitizen status; and

c. The family provides any information that may be necessary to meet federal reporting requirements specified under Part A of Title IV of the Social Security Act.

Families described in subparagraph 1., subparagraph 2., or subparagraph 3. may receive child care assistance or other supports or services so that the children may continue to be cared for in their own homes or in the homes of relatives. Such

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assistance or services may be funded from the temporary assistance for needy families block grant to the extent permitted under federal law and to the extent funds have been provided in the General Appropriations Act.

Section 3. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2016.

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

And the title is amended as follows:

Delete lines 7 - 12

and insert:

cash assistance; revising the eligibility requirements for earned-income disregards for certain persons; revising the age of a child whose earned income is disregarded; reenacting s. 414.045(1)(b), F.S., relating to the cash assistance program, to incorporate the amendment made to s. 414.095, F.S., in a reference thereto; providing effective dates.


743014

576-04125-16

Proposed Committee Substitute by the Committee on Appropriations (Appropriations Subcommittee on Health and Human Services)

A bill to be entitled

An act relating to the temporary cash assistance program; amending s. 414.095, F.S.; revising the consideration of income from certain illegal noncitizen or ineligible noncitizen family members in determining the family's eligibility for temporary cash assistance on or after a specified date; revising the age of a child whose earned income is disregarded; reenacting s. 414.045(1)(b), F.S., relating to the cash assistance program, to incorporate the amendment made to s. 414.095, F.S., in a reference thereto; providing an effective date.

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

Section 1. Paragraph (d) of subsection (3), and subsection (11) of section 414.095, Florida Statutes, are amended to read:

414.095 Determining eligibility for temporary cash assistance.—

(3) ELIGIBILITY FOR NONCITIZENS.—A "qualified noncitizen" is an individual who is admitted to the United States as a refugee under s. 207 of the Immigration and Nationality Act or who is granted asylum under s. 208 of the Immigration and Nationality Act; a noncitizen whose deportation is withheld under s. 243(h) or s. 241(b)(3) of the Immigration and Nationality Act; a noncitizen who is paroled into the United States under s. 212(d)(5) of the Immigration and Nationality


743014

576-04125-16

Act, for at least 1 year; a noncitizen who is granted conditional entry pursuant to s. 203(a)(7) of the Immigration and Nationality Act as in effect prior to April 1, 1980; a Cuban or Haitian entrant; or a noncitizen who has been admitted as a permanent resident. In addition, a "qualified noncitizen" includes an individual who, or an individual whose child or parent, has been battered or subject to extreme cruelty in the United States by a spouse, a parent, or other household member under certain circumstances, and has applied for or received protection under the federal Violence Against Women Act of 1994, Pub. L. No. 103-322, if the need for benefits is related to the abuse and the batterer no longer lives in the household. A "nonqualified noncitizen" is a nonimmigrant noncitizen, including a tourist, business visitor, foreign student, exchange visitor, temporary worker, or diplomat. In addition, a "nonqualified noncitizen" includes an individual paroled into the United States for less than 1 year. A qualified noncitizen who is otherwise eligible may receive temporary cash assistance to the extent permitted by federal law. The income or resources of a sponsor and the sponsor's spouse shall be included in determining eligibility to the maximum extent permitted by federal law.

(d) Effective July 1, 2016, the income of an illegal noncitizen or ineligible noncitizen who is a mandatory member of a family~~, less a pro rata share for the illegal noncitizen or ineligible noncitizen,~~ counts in full for a new applicant or for a person reapplying in determining a family's eligibility to participate in the program.

(11) DISREGARDS.—

(a) As an incentive to employment, the first $200 plus one-half of the remainder of earned income shall be disregarded. In order to be eligible for earned income to be disregarded, the individual must be:

1. A current participant in the program; or

2. Eligible for participation in the program without the earnings disregard.

(b) A child's earned income shall be disregarded if the child is a family member, attends high school or the equivalent, and is less than 19 years of age ~~or younger~~.

Section 2. For the purpose of incorporating the amendment made by this act to section 414.095, Florida Statutes, in a reference thereto, paragraph (b) of subsection (1) of section 414.045, Florida Statutes, is reenacted to read:

414.045 Cash assistance program.—Cash assistance families include any families receiving cash assistance payments from the state program for temporary assistance for needy families as defined in federal law, whether such funds are from federal funds, state funds, or commingled federal and state funds. Cash assistance families may also include families receiving cash assistance through a program defined as a separate state program.

(1) For reporting purposes, families receiving cash assistance shall be grouped into the following categories. The department may develop additional groupings in order to comply with federal reporting requirements, to comply with the data-reporting needs of the board of directors of CareerSource Florida, Inc., or to better inform the public of program progress.

(b) *Child-only cases.*—Child-only cases include cases that do not have an adult or teen head of household as defined in federal law. Such cases include:

1. Children in the care of caretaker relatives, if the caretaker relatives choose to have their needs excluded in the calculation of the amount of cash assistance.

2. Families in the Relative Caregiver Program as provided in s. 39.5085.

3. Families in which the only parent in a single-parent family or both parents in a two-parent family receive supplemental security income (SSI) benefits under Title XVI of the Social Security Act, as amended. To the extent permitted by federal law, individuals receiving SSI shall be excluded as household members in determining the amount of cash assistance, and such cases shall not be considered families containing an adult. Parents or caretaker relatives who are excluded from the cash assistance group due to receipt of SSI may choose to participate in work activities. An individual whose ability to participate in work activities is limited who volunteers to participate in work activities shall be assigned to work activities consistent with such limitations. An individual who volunteers to participate in a work activity may receive child care or support services consistent with such participation.

4. Families in which the only parent in a single-parent family or both parents in a two-parent family are not eligible for cash assistance due to immigration status or other limitation of federal law. To the extent required by federal law, such cases shall not be considered families containing an adult.

5. To the extent permitted by federal law and subject to appropriations, special needs children who have been adopted pursuant to s. 409.166 and whose adopting family qualifies as a needy family under the state program for temporary assistance for needy families. Notwithstanding any provision to the contrary in s. 414.075, s. 414.085, or s. 414.095, a family shall be considered a needy family if:

a. The family is determined by the department to have an income below 200 percent of the federal poverty level;

b. The family meets the requirements of s. 414.095(2) and (3) related to residence, citizenship, or eligible noncitizen status; and

c. The family provides any information that may be necessary to meet federal reporting requirements specified under Part A of Title IV of the Social Security Act.

Families described in subparagraph 1., subparagraph 2., or subparagraph 3. may receive child care assistance or other supports or services so that the children may continue to be cared for in their own homes or in the homes of relatives. Such assistance or services may be funded from the temporary assistance for needy families block grant to the extent permitted under federal law and to the extent funds have been provided in the General Appropriations Act.

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

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	CS/CS/SB 750
INTRODUCER:	Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services); Children, Families, and Elder Affairs Committee; and Senators Hutson and Bean
SUBJECT:	Temporary Cash Assistance Program
DATE:	March 3, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hendon	Hendon	CF	**Fav/CS**
2.	Brown	Pigott	AHS	**Recommend: Fav/CS**
3.	Brown	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 750 makes changes to the state's main economic assistance program for families in poverty, Temporary Assistance for Needy Families (TANF), administered by the Department of Children and Families (DCF). The program supports families in poverty by providing cash assistance. The bill changes the way income from noncitizen parents is counted in determining eligibility.

The bill has an unknown fiscal impact to the state.

The bill has an effective date of July 1, 2016, except as otherwise expressly provided.

II. Present Situation:

The TANF is a block grant that provides federal funding to states for a wide range of benefits and activities to support needy families. It is best known for providing cash assistance to needy families with children. The TANF program was created in the 1996 welfare reform law as part of the Personal Responsibility and Work Opportunity Reconciliation Act.[1] In Florida, the 1996

[1] Temporary Assistance for Needy Families, An Overview of Program Requirements. January 2016. Department of Children and Families, see http://www.dcf.state.fl.us/programs/access/docs/TANF%20101%20final.pdf (last visited Feb. 18, 2016).

Legislature passed the Work and Gain Economic Self-Sufficiency Act in anticipation of passage of federal welfare reform.

The purpose of TANF is to:

- Provide assistance to needy families with children so that they can live in their own home or the homes of relatives;
- End the dependency of needy parents on government benefits through work, job preparation, and marriage;
- Reduce the incidence of out-of-wedlock pregnancies; and
- Promote the formation and maintenance of two-parent families.[2]

Eligibility

Florida law specifies two major categories of families that are eligible for TANF cash assistance: families that are work-eligible and those with child-only cases.[3] While many of the basic eligibility requirements apply to both of these categories, there are some distinctions in terms of requirements and restrictions.

Work-Eligible Cases

Within TANF work-eligible cases, there are single-parent families and two-parent families. Single-parent families can receive cash assistance for the parent and the children. The parent is subject to all of the financial and non-financial requirements described below, including the work requirements and time limits. Single parents with a child under age six are required to meet the participation rate with 20 hours of work participation per week.

Two-parent families with children are eligible on the same basis as single-parent families except the work requirement for two-parent families includes a higher number of hours of participation per week (35 hours, or 55 hours if child care is subsidized) than what is required for single-parent families (30 hours).

Child-only Cases

There are two types of child-only TANF cases. The first is where the child is living with a relative or situations where a custodial parent is not eligible to be included in the eligibility group.[4] In the majority of situations, the child is living with a grandparent or other relative. Child-only families also include situations where a parent is receiving federal Supplemental Security Income (SSI) payments and situations where the parent is not a U.S. citizen and is ineligible due to immigration status. Grandparents or other relatives receiving child-only payments are not subject to the TANF work requirement or the TANF time limit.

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[2] U.S. Department of Health and Human Services, see http://www.acf.hhs.gov/programs/ofa/programs/tanf/about (last visited Dec. 18, 2015).
[3] Section 414.045(1), Florida Statutes.
[4] Department of Children and Families, *Temporary Assistance for Needy Families, An Overview of Program Requirements*, June 2015, available at http://www.dcf.state.fl.us/programs/access/docs/TANF%20101%20final.pdf (last visited Dec. 18, 2015).

The second type of child-only TANF case is called the relative caregiver case, in which the child has been adjudicated dependent due to the original parents' inability to care for the child and the child has been placed with relatives by a court. These relatives are eligible for a payment that is higher than the typical child-only payment but less than the payment for licensed foster care. As with other child-only families, grandparents or relatives receiving relative caregiver payments are not subject to the TANF work requirements or time limits.

To be eligible for TANF, families must meet both financial and non-financial requirements established in state law. In general, families must include a child (or a pregnant woman) and be residents of Florida. Children under age 5 must be current with childhood immunizations, and children age 6 to 18 must attend school and their parents or caretakers must participate in school conferences. Countable assets must be $2,000 or less, and licensed vehicles needed for individuals subject to the work requirement may not exceed $8,500.[5]

Noncitizens

Florida law currently excludes a pro-rata share of the income from a parent who is an "illegal noncitizen or ineligible noncitizen."[6] This means that a portion of the income that an illegal noncitizen parent contributes to the family is not counted toward the family's income for TANF eligibility.

Work requirements

Adults in families receiving cash assistance must work or participate in work-related activities for a specified number of hours per week, depending on the number of work-eligible adults in the family and the age of children.[7]

Type of Family	**Work participation Hours Required**
Other single parent families or two-parent families where one parent is disabled	30 hours weekly with at least 20 hours in core activities
Married teen or teen head of household under age 20	Maintains satisfactory attendance at secondary school or the equivalent or participates in education related to employment for at least 20 hours weekly
Two-parent families who do not receive subsidized child care	35 hours per week (total among both parents) with at least 30 hours in core activities
Two-parent families who receive subsidized child care	55 hours per week with at least 50 hours in core activities

Federal law includes 12 work activities, nine of which are "core" activities in that they may be used to satisfy any of the average weekly participation requirements and three of which are "supplemental" in that they may only be used to satisfy the work activity requirement after the "core" requirement is met.

Core activities include:

[5] *Id.*
[6] Section 414.095(3)(d), F.S.
[7] *Id.*

- Unsubsidized employment;
- Subsidized private sector employment;
- Subsidized public sector employment;
- Job search and job readiness (limited to not more than six weeks in a federal fiscal year with not more than four weeks consecutive);
- Community service;
- Work experience;
- On-the-job training;
- Vocational educational training (limited to 12 months for an individual); and
- Caring for a child of a recipient in community service.[8]

Supplemental Activities include:
- Job skills training directly related to employment;
- Education directly related to employment (for those without a high school or equivalent degree); and
- Completion of a secondary school program.[9]

The DCF works with CareerSource Florida, Inc., which is Florida's statewide workforce policy board, and local workforce development boards, to serve the families defined as work-eligible. Local workforce boards assist clients with employment training and securing employment. The boards also document whether clients meet the work requirements under TANF and report this information to the DCF. If a client does not meet his or her work requirements, the DCF will sanction the client by reducing or eliminating cash assistance.

Amount of Assistance

The amount of temporary cash assistance received by a family depends on family size and whether the family must pay for housing each month. The following monthly amounts are specified in s. 414.095(10), F.S.

Family Size	Amount If There Is No Obligation to Pay for Shelter	Amount If Shelter Costs Are Less than $50	Amount If Shelter Costs Are Greater than $50
1	$95	$153	$180
2	$158	$205	$241
3	$198	$258	$303
4	$254	$309	$364
5	$289	$362	$426

Time Limits

Federal law restricts receipt of federal TANF benefits to not more than 60 months of assistance. States may exempt up to 20 percent of the caseload from the time limit due to state-defined hardship. Florida law limits receipt of assistance to not more than 48 cumulative months of assistance with exemptions to the time limit provided for hardships.

[8] Id
[9] Id

Earned Income Disregard

Section 414.095(11), F.S., provides that, as an incentive to employment, the first $200 of a TANF recipient's earned income, plus one-half of the remainder of the recipient's earned income, will be disregarded for the purpose of determining the recipient's monthly benefit. To be eligible for the earned income disregard, the recipient must be a current participant in the program or be eligible for the program without application of the earned income disregard.

III. Effect of Proposed Changes:

Section 1 amends s. 414.095, F.S., to make changes to the eligibility standards for TANF. All such changes are effective October 1, 2016.

The bill deletes the requirement that the DCF pro-rate a share of income provided by a parent that is an illegal noncitizen or an ineligible noncitizen in determining family income eligibility for TANF. This would allow the DCF to consider the total family income regardless of whether one parent is a noncitizen but will not be applied to persons and families currently receiving TANF benefits.

The bill adds a third criterion under which TANF recipients can qualify for the program's earned income disregard. The new criterion will also be used to help determine eligibility in some cases. Under the bill, a noncitizen who is not eligible for TANF can qualify for the earned income disregard on behalf of his or her child who is a recipient or would be eligible for TANF if the earned income in question were to be disregarded.

The bill also clarifies the age for children whose income is not included in the family income for eligibility for TANF if they are students under the age of 19. This matches the definition in s. 414.0252(8), F.S.

Section 2 reenacts s. 445.045, F.S., relating to TANF, to incorporate the bill's amendments to s. 414.095, F.S.

Section 3 provides that, except as otherwise expressly provided, the bill's effective date is July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Fewer families would be eligible for Temporary Assistance for Needy Families (TANF) under CS/CS/SB 750.

C. Government Sector Impact:

One aspect of the bill would have a positive fiscal impact on the state due to fewer clients receiving TANF benefits. For CS/SB 750, the Department of Children and Families (DCF) estimated that, by requiring the DCF to consider all the income of noncitizen parents in determining TANF eligibility as of July 1, 2016, the bill would reduce program costs by $239,518 in recurring general revenue.[10] CS/CS/SB 750 makes that change effective October 1, 2016, which could have the effect of reducing that estimate by 25 percent, for an estimated savings of $179,638 in the 2016-2017 fiscal year.

The bill also provides that more TANF recipients may qualify for the earned income disregard or may qualify for TANF eligibility by having the earned income disregard applied for the purpose of eligibility determination. The fiscal impact of this provision is unknown at this time.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 414.095 of the Florida Statutes.

This bill reenacts section 414.045 of the Florida Statutes.

[10] Department of Children and Families Bill Analysis for SB 750, dated Nov. 5, 2015. On file with the Senate Committee on Children, Families, and Elder Affairs.

IX. Additional Information:

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

CS/CS by Appropriations on March 3, 2016:
The CS adds a third criterion under which TANF recipients can qualify for the program's earned income disregard. The new criterion will also be used to help determine eligibility in some cases. Under the bill, a noncitizen who is not eligible for TANF can qualify for the earned income disregard on behalf of his or her child who is a recipient or would be eligible for TANF if the earned income in question were to be disregarded. The bill also provides that all changes to eligibility and earned income disregard criteria are effective October 1, 2016.

CS by Children, Families, and Elder Affairs on February 17, 2016:
- The committee substitute removes language that would have required TANF participants to apply for three jobs prior to receiving benefits.
- The committee substitute removes language that would have reduced the lifetime limit on the number of months of TANF benefits from 48 to 30.

B. Amendments:

None.

By the Committee on Children, Families, and Elder Affairs; and Senators Hutson and Bean

586-03746A-16 2016750c1

A bill to be entitled

An act relating to the temporary cash assistance program; amending s. 414.095, F.S.; revising the consideration of income from illegal noncitizen or ineligible noncitizen family members in determining eligibility for temporary cash assistance; reenacting s. 414.045(1)(b), F.S., relating to the cash assistance program, to incorporate the amendment made to s. 414.095, F.S., in a reference thereto; providing an effective date.

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

Section 1. Paragraph (d) of subsection (3), and subsection (11) of section 414.095, Florida Statutes, are amended to read:

414.095 Determining eligibility for temporary cash assistance.—

(3) ELIGIBILITY FOR NONCITIZENS.—A "qualified noncitizen" is an individual who is admitted to the United States as a refugee under s. 207 of the Immigration and Nationality Act or who is granted asylum under s. 208 of the Immigration and Nationality Act; a noncitizen whose deportation is withheld under s. 243(h) or s. 241(b)(3) of the Immigration and Nationality Act; a noncitizen who is paroled into the United States under s. 212(d)(5) of the Immigration and Nationality Act, for at least 1 year; a noncitizen who is granted conditional entry pursuant to s. 203(a)(7) of the Immigration and Nationality Act as in effect prior to April 1, 1980; a Cuban or Haitian entrant; or a noncitizen who has been admitted as a permanent resident. In addition, a "qualified noncitizen" includes an individual who, or an individual whose child or

586-03746A-16 2016750c1

parent, has been battered or subject to extreme cruelty in the United States by a spouse, a parent, or other household member under certain circumstances, and has applied for or received protection under the federal Violence Against Women Act of 1994, Pub. L. No. 103-322, if the need for benefits is related to the abuse and the batterer no longer lives in the household. A "nonqualified noncitizen" is a nonimmigrant noncitizen, including a tourist, business visitor, foreign student, exchange visitor, temporary worker, or diplomat. In addition, a "nonqualified noncitizen" includes an individual paroled into the United States for less than 1 year. A qualified noncitizen who is otherwise eligible may receive temporary cash assistance to the extent permitted by federal law. The income or resources of a sponsor and the sponsor's spouse shall be included in determining eligibility to the maximum extent permitted by federal law.

(d) The income of an illegal noncitizen or ineligible noncitizen who is a mandatory member of a family~~, less a pro rata share for the illegal noncitizen or ineligible noncitizen,~~ counts in full in determining a family's eligibility to participate in the program.

(11) DISREGARDS.—

(a) As an incentive to employment, the first $200 plus one-half of the remainder of earned income shall be disregarded. In order to be eligible for earned income to be disregarded, the individual must be:

1. A current participant in the program; or

2. Eligible for participation in the program without the earnings disregard.

(b) A child's earned income shall be disregarded if the child is a family member, attends high school or the equivalent, and is less than 19 years of age ~~or younger~~.

Section 2. For the purpose of incorporating the amendment made by this act to section 414.095, Florida Statutes, in a reference thereto, paragraph (b) of subsection (1) of section 414.045, Florida Statutes, is reenacted to read:

414.045 Cash assistance program.—Cash assistance families include any families receiving cash assistance payments from the state program for temporary assistance for needy families as defined in federal law, whether such funds are from federal funds, state funds, or commingled federal and state funds. Cash assistance families may also include families receiving cash assistance through a program defined as a separate state program.

(1) For reporting purposes, families receiving cash assistance shall be grouped into the following categories. The department may develop additional groupings in order to comply with federal reporting requirements, to comply with the data-reporting needs of the board of directors of CareerSource Florida, Inc., or to better inform the public of program progress.

(b) *Child-only cases.*—Child-only cases include cases that do not have an adult or teen head of household as defined in federal law. Such cases include:

1. Children in the care of caretaker relatives, if the caretaker relatives choose to have their needs excluded in the calculation of the amount of cash assistance.

2. Families in the Relative Caregiver Program as provided

in s. 39.5085.

3. Families in which the only parent in a single-parent family or both parents in a two-parent family receive supplemental security income (SSI) benefits under Title XVI of the Social Security Act, as amended. To the extent permitted by federal law, individuals receiving SSI shall be excluded as household members in determining the amount of cash assistance, and such cases shall not be considered families containing an adult. Parents or caretaker relatives who are excluded from the cash assistance group due to receipt of SSI may choose to participate in work activities. An individual whose ability to participate in work activities is limited who volunteers to participate in work activities shall be assigned to work activities consistent with such limitations. An individual who volunteers to participate in a work activity may receive child care or support services consistent with such participation.

4. Families in which the only parent in a single-parent family or both parents in a two-parent family are not eligible for cash assistance due to immigration status or other limitation of federal law. To the extent required by federal law, such cases shall not be considered families containing an adult.

5. To the extent permitted by federal law and subject to appropriations, special needs children who have been adopted pursuant to s. 409.166 and whose adopting family qualifies as a needy family under the state program for temporary assistance for needy families. Notwithstanding any provision to the contrary in s. 414.075, s. 414.085, or s. 414.095, a family shall be considered a needy family if:

a. The family is determined by the department to have an income below 200 percent of the federal poverty level;

b. The family meets the requirements of s. 414.095(2) and (3) related to residence, citizenship, or eligible noncitizen status; and

c. The family provides any information that may be necessary to meet federal reporting requirements specified under Part A of Title IV of the Social Security Act.

Families described in subparagraph 1., subparagraph 2., or subparagraph 3. may receive child care assistance or other supports or services so that the children may continue to be cared for in their own homes or in the homes of relatives. Such assistance or services may be funded from the temporary assistance for needy families block grant to the extent permitted under federal law and to the extent funds have been provided in the General Appropriations Act.

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

The Florida Senate

Committee Agenda Request

To: Senator Tom Lee, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 24, 2016

I respectfully request that **Senate Bill #750**, relating to Temporary Cash Assistance, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator Travis Hutson
Florida Senate, District 6

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/2016
Meeting Date

SB 750
Bill Number (if applicable)

491150
Amendment Barcode (if applicable)

Topic TANF

Name Pamela Gamez

Job Title Central FL Community Organizer

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Email pamela@floridaimmigrant.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Immigrant Coalition (Tampa)

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

03/03/2016
Meeting Date

SB 750
Bill Number (if applicable)

491150
Amendment Barcode (if applicable)

Topic TANF

Name Francesca Menes

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Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Immigrant Coalition (Statewide)

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/16
Meeting Date

CS/SB 750
Bill Number (if applicable)

491150
Amendment Barcode (if applicable)

Topic Temporary Cash Assistance

Name Karen Woodall

Job Title Executive Director

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Speaking: ☑ For ☐ Against ☐ Information

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

Representing Florida Center for Fiscal & Economic Policy

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/2016
Meeting Date

Topic _____ Bill Number 750 *(if applicable)*

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

Job Title TRUSTEE

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

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

Speaking: ☑ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/2016
Meeting Date

SB750
Bill Number (if applicable)

Topic TANF

Amendment Barcode (if applicable)

Name Ritu Patel

Job Title Community Organizer

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Email rpatel622@ymail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing [redacted]

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/2016
Meeting Date

SB 756
Bill Number (if applicable)

Topic TANF

Amendment Barcode (if applicable)

Name Jose Palacios

Job Title

Address [redacted] Sefner
Street

Phone (813) 526-6713

City *State* *Zip*

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Immigrant coalition (Tampa)

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/16
Meeting Date

SB 750
Bill Number (if applicable)

Topic TANF

Amendment Barcode (if applicable)

Name Pamela Gomez

Job Title Community Organizer

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Phone 813-850-1076

Miami FL 33137
City *State* *Zip*

Email pamela@floridaimmigrant.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Immigrant Coalition (Tampa)

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

03/03/2016
Meeting Date

SB 750
Bill Number (if applicable)

Topic TANF

Amendment Barcode (if applicable)

Name Francesca Meyes

Job Title Director of Policy and Advocacy

Address 2800 Biscayne Blvd., Suite 800
Street

Phone

Miami FL 33137
City *State* *Zip*

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Immigrant Coalition (statewide)

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/16
Meeting Date

CS/SB 750
Bill Number (if applicable)

Topic Temporary Cash Assistance

Amendment Barcode (if applicable)

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Speaking: ☑ For ☐ Against ☐ Information

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

Representing Florida Center for Fiscal & Economic Policy

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/16
Meeting Date

750
Bill Number (if applicable)

Topic App. Need Families

Amendment Barcode (if applicable)

Name Greg Hood

Job Title

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Street

Largo Fla. 33773
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Phone

Email

Speaking: ☐ For ☐ Against ☒ Information

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

Representing Pinellas County Florida Government Corruption

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	PCS/SB 770 (389166)
INTRODUCER:	Appropriations Committee (Recommended by Appropriations Subcommittee on General Government); and Senators Simpson and Flores
SUBJECT:	Local Government Environmental Financing
DATE:	March 2, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	**Favorable**
2.	Howard	DeLoach	AGG	**Recommend: Fav/CS**
3.	Howard	Kynoch	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 770, the Florida Keys Stewardship Act, provides the following:

- Expands the use of the local government infrastructure surtax to include acquiring any interest in lands meeting specific criteria.
- Adds the City of Key West Area of Critical State Concern to the list of eligible areas for which Everglades restoration bonds may be issued and expands the range of uses to include projects that protect, restore, or enhance nearshore water quality and fisheries, such as storm water or canal restoration projects, and projects to protect and enhance the water supply to the Florida Keys. The period for which Everglades bonds may be issued is extended seven years, from Fiscal Year 2019-2020 to Fiscal Year 2026-2027.
- Provides that when Everglades restoration bonds are authorized to exceed the $100 million annual threshold, the amount designated for the Florida Keys Area of Critical State Concern is reduced from $50 million to $20 million per fiscal year and includes the City of Key West Area of Critical State Concern.
- Allows for lands that are purchased in the Florida Keys Area of Critical State Concern and the City of Key West Area of Critical State Concern from Everglades restoration bond proceeds to be surplused under certain circumstances.
- Revises the Department of Environmental Protection's (DEP) criteria relating to the purchase of lands in an area of critical state concern.
- Requires that of the funds appropriated to the DEP as distributed in the Florida Forever Act for land acquisition and capital projects, a minimum of $5 million annually is allocated

within the Florida Keys Area of Critical State Concern beginning in Fiscal Year 2016-2017 through Fiscal Year 2026-2027.
- Expands the powers of the land authority related to private property rights' claims resulting from limitations imposed by the designation of an areas of critical state concern.

The bill extends the timeframe in which Everglades bonds may be issued by seven years and reduces the annual amount of bonds that may be authorized from $50 million to $20 million for the Florida Keys and City of Key West Areas of Critical State Concern.

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

II. Present Situation:

Areas of Critical State Concern

The Areas of Critical State Concern Program was created by the "Florida Environmental Land and Water Management Act of 1972."[1] The program is intended to protect resources and public facilities of major statewide significance, within designated geographic areas, from uncontrolled development that would cause substantial deterioration of such resources.[2]

An Area of Critical State Concern may be designated only for an area:
- Containing, or having a significant impact upon, environmental or natural resources of regional or statewide importance, including, but not limited to, state or federal parks, forests, wildlife refuges, wilderness areas, aquatic preserves, major rivers and estuaries, state environmentally endangered lands, Outstanding Florida Waters, and aquifer recharge areas, of which the uncontrolled private or public development would cause substantial deterioration of such resources; or
- Containing, or having a significant impact upon, historical or archaeological resources, sites, or statutorily defined historical or archaeological districts, of which the private or public development would cause substantial deterioration or complete loss of such resources, sites, or districts.[3]

The designated Areas of Critical State Concern are the Apalachicola Bay Area,[4] the Green Swamp Area,[5] the Big Cypress Area,[6] and the Florida Keys Area and the City of Key West Area.[7]

As the state land planning agency, the Department of Economic Opportunity (DEO) has the authority to review all development permits in the Areas of Critical State Concern. If the DEO determines that the administration of the local land development regulations or local

[1] Chapter 72-317, s. 1, Laws of Fla.
[2] Department of Economic Opportunity, *Areas of Critical State Concern Program*, http://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/areas-of-critical-state-concern (last visited Nov. 23, 2015).
[3] Section 380.05(2), F.S.
[4] Section 380.0555, F.S.
[5] Section 380.0551, F.S.
[6] Section 380.055, F.S.
[7] Section 380.0552, F.S.

comprehensive plan within the area is inadequate to protect the state or regional interest, the agency may institute appropriate judicial proceedings to complete proper enforcement of the land development regulations or plans.[8]

The Florida Keys and the City of Key West Areas of Critical State Concern

The Legislature designated the Florida Keys (Monroe County and its municipalities) and the City of Key West as Areas of Critical State Concern in 1975 due to the area's environmental sensitivity and mounting development pressures.[9] The legislative intent was to establish a land use management system for the Florida Keys that would achieve the following:

- Protect the natural environment and improve the nearshore water[10] quality;
- Support a diverse economic base that promotes balanced growth in accordance with the capacity of public facilities;
- Promote public land acquisition and ensure that the population of the Florida Keys can be safely evacuated;
- Provide affordable housing in close proximity to places of employment; and
- Protect property rights and promote coordination among governmental agencies that have permitting jurisdiction.[11]

In the early 1990s, Monroe County revised its comprehensive plan to be consistent with the 1985 Growth Management Act.[12] The plan drew legal challenges from numerous parties, with litigation lasting several years. In 1996, the litigation was resolved through a stipulated settlement agreement and the adoption by the Administration Commission of Rule 28-20, Florida Administrative Code.[13] The rule contained a work program which, when complete, would improve water quality, better protect habitat for threatened and endangered species, resolve challenges that were raised by the various parties, and ultimately provide for the repeal of the designation. These administrative challenges highlighted specific aspects of the Florida Keys ecosystem as having limited capacity to sustain additional impacts from development. Of particular concern was the declining water quality of the nearshore environment due to a lack of central sewer facilities, the loss of habitat for state and federally listed species, public safety, adequate evacuation in the event of hurricanes, and a deficit of affordable housing. Rules containing work program tasks were adopted for Marathon and Islamorada after their subsequent incorporation.[14]

[8] Section 380.05(13), F.S.
[9] Department of Economic Opportunity, *Florida Keys Area of Critical State Concern Annual Report*, 3 (2013), *available at* http://www.floridajobs.org/docs/default-source/2015-community-development/2015-cmty-plan-acsc/2013annualreport.pdf?sfvrsn=2.
[10] Nearshore and inshore Florida waters is defined as "all Florida waters inside a line three miles seaward of the coastline along the Gulf of Mexico and inside a line one mile seaward of the coastline along the Atlantic Ocean." Fla. Const. art. X, s. 16.
[11] *Id.* at 4.
[12] *Id.*
[13] *Id.*
[14] *Id.*

Concerns about water quality

Concerns about water quality resulted in legislative action which established requirements that by December 2015, all sewage disposal in the Florida Keys must be upgraded to meet advanced wastewater treatment standards that reduce the amount of nitrogen, phosphorus, biological oxygen demand, and total suspended solids.[15] When the construction of central sewer systems is concluded, approximately 249 small package plants, 23,000 septic tanks and 2,800 cesspits will be eliminated and replaced with connections to central sewer systems providing advanced wastewater treatment.[16] The bond financing in the Save the Everglades Program, approved by the Florida Legislature in 2012, and the extension of the Monroe County Infrastructure Sales Tax will provide the funds to complete central sewer by 2015.[17]

Water quality and the economy are inextricably linked in the Florida Keys. Tourism is the chief economic engine with over $1.2 billion being spent annually by over 3.7 million visitors.[18] Surrounded by sensitive coral reefs and highly productive marine nurseries, the Keys are an international destination for fishing and wildlife viewing. Recreational and commercial fishing are the next most important sectors of the local economy, annually contributing an estimated $557 million.[19] Hotel and motel properties alone constitute over $1 billion in taxable property value and 90 percent of the top property taxpayers are tourism-related businesses.[20] In the Florida Keys, nearly half of all taxable sales are direct purchases by tourists.[21]

Maintenance of the Keys' natural resources is necessary for a sustainable economy which is dependent upon clean water and abundant natural resources and essential to maintaining a strong tourist industry.[22] The Florida Keys contain the Florida Reef Tract which is the third largest barrier reef ecosystem in the world.[23] The water surrounding the Florida Keys is biologically rich and diverse, and sensitive to the impacts of development and land uses.[24] Excessive levels of nutrients in the water stress marine life and make them prone to disease.[25] The Florida Bay contains the most expansive seagrass meadow in the world.[26] Seagrass monitoring trends in the Florida Bay suggest that increased nutrient levels are resulting in decreased species diversity.

More than 35,000 jobs in the Keys are supported by ocean recreation and tourism and account for 58 percent of the local economy.[27]

[15] *Id.*
[16] *Id.*
[17] *Id.* at 5.
[18] *Id.*
[19] *Id.*
[20] *Id.*
[21] *Id.*
[22] *Id.*
[23] *Id.*
[24] *Id.*
[25] *Id.*
[26] *Id.*
[27] *Id.*

Development of Private Property

In 1992, Monroe County created and implemented the Rate of Growth Ordinance.[28] The Rate of Growth Ordinance is designed to control growth in a manner that is beneficial to the local environment, as well as the local residents. Land development in the Florida Keys is severely limited because the Florida Keys are home to many endangered and threatened species, and all residents of the Florida Keys are required to be evacuated within 24 hours before a hurricane making landfall.[29] As of 2013, the state had allotted only 350 building permits per year to the Florida Keys for 10 years, for a total of 3,500 building permits.[30] If the state does not go beyond its current allotment, no further development will be permitted in the Florida Keys beginning in 2023. At that point, there would be approximately 7,800 undeveloped, privately-owned parcels that would be prohibited from development.[31] The prohibition on land development could potentially result in litigation under the Takings Clause of the United States Constitution[32] which requires the government to compensate a property owner when it takes his or her property for public use or when the state excessively regulates his or her property.

Everglades Restoration Bonds

Everglades restoration bonds are bonds that are used to finance or refinance the cost of acquisition and improvement of land, water areas, and related property interests and resources to implement the Comprehensive Everglades Restoration Plan, the Lake Okeechobee Watershed Protection Plan, the Caloosahatchee River Watershed Protection Plan, the St. Lucie River Watershed Protection Plan, and the Florida Keys Area of Critical State Concern protection plan.[33] Everglades restoration bonds may be issued in amounts up to $100 million per fiscal year through fiscal year 2019-2020, and in greater annual amounts upon request by the Department of Environmental Protection (DEP) in order to achieve cost savings or accelerate land purchases.[34] In addition, up to $50 million per fiscal year may be issued specifically for the purpose of funding the Florida Keys Area of Critical State Concern protection program.[35] Everglades restoration bonds are payable from, and secured as a first lien on, documentary stamp taxes distributed under s. 201.15(3)(b), F.S., and are not a general obligation or pledge of the full faith and credit of the state.

Local Government Infrastructure Sales Surtax

The Local Government Infrastructure Surtax is one of eight local discretionary sales surtaxes authorized by s. 212.055, F.S., which may be levied by the governing authority in each county

[28] Monroe County Growth Management Division, *A Layman's Guide to Residential ROGO, available at* http://www.floridakeyskeywestrealestate.com/pdf/laymansguideROGO.pdf.
[29] Section 380.0552 (9)(a)2., F.S.
[30] Presentation in Senate Appropriations Subcommittee on General Government by Heather Carruthers, Monroe County Board of County Commissioners, *Florida Keys Area of Critical State Concern Update,* (Nov. 18, 2015), available at https://www.flsenate.gov/media/videoplayer?EventID=2443575804_2015111205
[31] *Id.*
[32] U.S. Const. amend. V.
[33] Section 215.619(1), F.S.
[34] Section 215.619(1)(a), F.S.
[35] *Id.*

after a majority vote of the electorate through a local referendum.[36] The surtax may be levied at 0.5 percent or 1.0 percent.[37] Proceeds are distributed to the county and the municipalities within the county according to an interlocal agreement between the county governing authority and the governing bodies of the municipalities representing a majority of the county's municipal population, or if there is no interlocal agreement, according to the formula in s. 218.62, F.S.[38]

The proceeds of the surtax must be expended only to:

- Finance, plan, and construct infrastructure;
- Acquire land for public recreation, conservation, or protection of natural resources;
- Provide loans, grants, or rebates to residential or commercial property owners who make energy efficiency improvements to their residential or commercial property, if a local government ordinance authorizing the use is approved by referendum; or
- Finance the closure of county-owned or municipally-owned solid waste landfills that have been closed or are required to be closed by order of the DEP.[39]

Counties are also authorized to use surtax proceeds for other purposes under certain circumstances. Proceeds and accrued interest may not be used for the operational expenses of infrastructure.[40] The Attorney General (AG) has considered whether land improvement or design expenses could properly be purchased with the proceeds of this surtax. The AG determined that such items as fencing, swings, lumber for bleachers and lighting fixtures, and the materials for landscape design and tree and shrubbery planting would not be appropriate expenditures of surtax proceeds because they are more in the nature of day-to-day operational expenses.[41]

However, land improvement or design expenses that occur in conjunction with a fixed capital expenditure or fixed capital outlay associated with the construction, reconstruction or improvement of public facilities, or an expenditure for such things as materials for landscape design may be purchased with the proceeds of the surtax when a new public facility is being built or an existing public facility is being improved. In 2012, the AG issued an opinion determining that a city would be authorized to use these surtax funds for a beach erosion control project, involving both the construction of fixtures and fixed equipment and also the studies, design, and planning involved in the construction of such capital projects.[42]

While all counties are authorized to levy the surtax, only 18 counties currently do so. Two counties levy the surtax at the rate of 0.5 percent: Duval and Hillsborough. Sixteen counties levy the surtax at the rate of 1 percent: Charlotte, Clay, Escambia, Glades, Highlands, Indian River, Lake, Leon, Monroe, Osceola, Pasco, Pinellas, Putnam, Sarasota, Seminole, and Wakulla. During the 2015-2016 fiscal year, these counties are expected to receive combined county

[36] Section 212.055(2)(a)1., F.S.
[37] However, the Local Government Infrastructure Surtax, Small County Surtax, Indigent Care and Trauma Center Surtax, and County Public Hospital Surtax are limited to a maximum combined rate of 1 percent. Section 212.055(2)(h), F.S.
[38] Section 212.055(2)(c)1., F.S. The agreement may include a school district with the consent of the county governing authority and the governing bodies of the municipalities.
[39] Section 212.055(2)(d), F.S.
[40] Except in certain circumstances involving landfill maintenance associated with closure, or county bond indebtedness.
[41] Op. Att'y Gen. Fla. 94-79 (1994).
[42] Op. Att'y Gen. Fla. 2012-19 (2012).

revenues of $691,831,985.[43] Because the Local Government Infrastructure Surtax, Small County Surtax, Indigent Care and Trauma Center Surtax, and County Public Hospital Surtax are limited to a maximum combined rate of 1 percent, Flagler and Miami-Dade counties are eligible to levy the surtax in the amount of 0.5 percent. Only an additional 19 counties are eligible to levy the surtax in the amount of 1 percent.

III. Effect of Proposed Changes:

Section 1 provides that the act may be cited as the "Florida Keys Stewardship Act."

Section 2 amends s. 212.055, F.S., to provide additional uses for which the governing authority in each county may levy a discretionary sales surtax of 0.5 percent or 1 percent. Such uses include:

- Acquiring any interest in land for public recreation, conservation, or protection of natural resources; or
- Preventing or satisfying private property rights' claims resulting from limitations imposed by the designation of an area of critical state concern.

Section 212.055, F.S., is also amended to redefine infrastructure to include "any fixed capital expenditure or fixed capital outlay associated with… all other professional and related costs required to bring the public facilities into service." The impacts of this change are twofold. First, by defining the term "public facilities" as a facility that is owned by any governmental entity, the bill clarifies that the county may use its infrastructure sales tax revenue for facilities under state or county ownership. Furthermore, public facility is defined to include a wide variety of major capital improvements including transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks and recreational facilities;[44] healthcare systems and facilities;[45] and water management and control facilities, alternative water systems, and certain spoil disposal sites for maintenance dredging in waters of the state.[46] Second, this provision expands the allowable use of funds to all other professional and related costs, which may cover legal services that are often required for procurement, contract preparation, or bid protests of projects. The surtax must be enacted by ordinance and approved by a referendum.

Section 3 amends s. 215.619, F.S., relating to bonds for Everglades restoration. The City of Key West Area of Critical State Concern as designated by the Administration Commission under s. 380.05, F.S., is added to the list of eligible areas for which Everglades restoration bonds may be issued. In addition, the section expands the range of uses for which the Everglades bonds may be issued to include projects that protect, restore, or enhance nearshore water quality and fisheries, such as storm water or canal restoration projects and projects to protect and enhance the water supply to the Florida Keys. The section also extends the period until which Everglades bonds may be issued from Fiscal Year 2019-2020 to Fiscal Year 2026-2027.

The section is also amended to change the conditions under which Everglades restoration bonds may be issued in an amount exceeding $100 million per fiscal year. Beginning in Fiscal Year

[43] Dollar amounts are estimates. Florida Revenue Estimating Conference, *Florida Tax Handbook*, pg. 226 (2015).
[44] Section 163.3164(38).
[45] Section 163.3221(13).
[46] Section 189.012(5).

2016-2017, such bonds may not be issued in excess of $100 million per fiscal year unless the Department of Environmental Protection (DEP) has requested these additional amounts in order to achieve cost savings or accelerate the purchase of land; or the Legislature authorizes an additional amount of bonds not to exceed $20 million[47] per fiscal year or $200 million in total for the Florida Keys Area of Critical State Concern protection program and the City of Key West Area of Critical State Concern.

Subsection (7) is added to s. 215.619, F.S., to address the issue of surplused lands within the Florida Keys Area of Critical State Concern and the City of Key West Area of Critical State Concern.[48] If the South Florida Water Management District and the DEP determine that lands purchased using bond proceeds within the Florida Keys Area of Critical State Concern, the City of Key West Area of Critical State Concern, or outside the Florida Keys Area of Critical State Concern but which were purchased to preserve and protect the potable water supply to the Florida Keys are no longer needed for those purposes, the entity owning the lands may dispose of them. However, before the lands can be disposed of, each general-purpose local government within whose boundaries a portion of the land lies must agree to the disposal of the land and must be offered the first right to purchase those lands.

Section 4 amends s. 259.045, F.S., relating to the purchase of lands in an Area of Critical State Concern. Specifically, the section revises the criteria that the DEP shall consider in assessing what lands are appropriate for purchase. In addition to lands within an Area of Critical State Concern, the DEP may also consider as appropriate for purchase of lands outside the area of state concern that directly impact an area of state concern, such as for the purposes of water supply protection. The DEP is required to make recommendations to the board regarding the purchase of such lands that are:

- Environmentally endangered lands;
- Outdoor recreation lands;
- Lands that conserve sensitive habitat;
- Lands that protect, restore, or enhance nearshore water quality and fisheries;
- Lands used to protect and enhance water supply to the Florida Keys, including alternative water supplies such as reverse osmosis and reclaimed water systems; or
- Lands used to prevent or satisfy private property rights claims resulting from limitations imposed by the designation of an Area of Critical State Concern.

The section also adds local governments and special districts within an Area of Critical State Concern to the list of entities that may make recommendations for additional purchases that were not included in the state land planning agency recommendations.

Section 5 amends s. 259.105(3)(b), F.S., to provide that at least $5 million of the funds allocated annually by the DEP pursuant to paragraph (b) shall be spent on land acquisition within the

[47] Current law provides that the additional amount of bonds may not exceed $50 million per fiscal year or $200 million total for the Florida Keys Area of Critical State Concern protection program.
[48] Section 215.619(6) provides a similar process for surplused lands that are not needed to implement the Lake Okeechobee Watershed Protection Plan, the Caloosahatchee River Watershed Protection Plan, and the St. Lucie River Watershed Protection Plan.

Florida Keys Area of Critical State Concern. This annual allocation would begin in Fiscal Year 2016-2017 and continue through Fiscal Year 2026-2027.

Section 6 amends s. 380.0552, F.S., relating to the Florida Keys Area of Critical State Concern. Specifically, the section provides that it is the intent of the Legislature to protect and improve the water quality of the Florida Keys through federal, state, and local funding of water quality improvement projects, including the construction and operation of certain wastewater management facilities. The section also provides additional principles for guiding development in the Florida Keys Area of Critical State Concern. Specifically, any plan amendments to the Florida Keys Area of Critical State Concern must be consistent with the principle of protecting and improving water quality by providing for the construction, operation, maintenance, and replacement of other water quality and water supply projects, including direct and indirect potable reuse.

Section 7 amends s. 380.0666, F.S., relating to the powers of land authority. Specifically, the land authority is given all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this act. The section is amended to include the following additional powers:

- To acquire or dispose of property prevent or satisfy private property right claims resulting from limitations imposed by the designation of an area of critical state concern;
- To contribute funds to the DEP for the purchase of lands by the department; and
- To require that acquisitions of property or contributions to DEP by the authority cannot be used to improve public transportation facilities or otherwise increase road capacity to reduce hurricane evacuation clearance times.

Section 8 provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

If tourism increases from the improvements to water quality, the state may see an increase in tax revenue.

B. Private Sector Impact:

Improvements in water quality may result in an increase in tourism. In addition, private property owners who own land in the Florida Keys, but are unable to obtain a permit to develop the land may be compensated for their land. This may help to avoid litigation under the Takings Clause.[49]

C. Government Sector Impact:

PCS/SB 770 extends the period which Everglades restoration bonds may be issued seven years, through Fiscal Year 2026-2027. When Everglades restoration bonds are authorized to exceed the $100 million annual threshold, the amount designated for the Florida Keys Area of Critical State Concern is reduced from $50 million to $20 million per fiscal year and expanded to include the City of Key West Area of Critical State Concern beginning in Fiscal Year 2016-2017.

The bill also requires that of the funds appropriated for land acquisition and capital projects as part of the Florida Forever Act distribution to the DEP, a minimum of $5 million annually is allocated within the Florida Keys Area of Critical State Concern beginning in Fiscal Year 2016-2017 through Fiscal Year 2026-2027.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 212.055, 215.619, 259.045, 259.105, 380.0552, and 380.0666.

This bill creates an undesignated section of Florida law.

IX. Additional Information:

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

Recommended CS by Appropriations Subcommittee on General Government on February 17, 2016:
The committee substitute:

- Eliminates the requirement that $20 million must be appropriated annually to the Department of Environmental Protection (DEP) for local governments in the Florida Keys and City of Key West Areas of Critical State Concern beginning in Fiscal Year

[49] U.S. Const. amend. V.

2016-2017 through Fiscal Year 2026-2027 if $20 million of Everglades restoration bonds are not authorized each fiscal year;

- Modifies the additional uses for which the governing authority in each county may levy a discretionary sales surtax to include preventing or satisfying private property rights' claims resulting from limitations imposed by the designation of an area of critical state concern;
- Removes language that gives the governing authority in each county the authority to levy a discretionary sales surtax to reduce the impacts of additional development on hurricane evacuation clearance times;
- Removes language specifying Everglades restoration bonds can be used for alternative water supplies such as reverse osmosis and reclaimed water systems;
- Modifies the duration time that Everglades restoration bonds must mature from December 31, 2056, to December 31, 2047;
- Removes the requirement that surplused lands purchased with bond proceeds must be either surplused at not less than the appraised value or the South Florida Water Management District must use a different source of funds to pay for or reimburse the Save Our Everglades Trust Fund for that portion of lands not needed to implement the respective plans;
- Removes language relating to the Florida Forever Act legislative findings and declarations that the continued alteration and development of Florida's natural and rural areas due to an increasing population has led to the fragmentation and destruction of coral reefs and that many of Florida's unique ecosystems, including coral reefs, are facing ecological collapse;
- Removes from the powers of the land authority to acquire and dispose of real and personal property or any interest therein when such acquisitions are necessary or appropriate to reduce the impacts of additional development on hurricane evacuation clearance times;
- Adds to the powers of the land authority to prevent or satisfy private property rights claims resulting from limitations imposed by the designation of an area of critical state concern; and
- Adds a limitation to the powers of the land authority to specify that acquisitions or contributions cannot be used to improve public transportation facilities or otherwise increase road capacity to reduce hurricane evacuation clearance times.

B. Amendments:

None.


389166

576-03718-16

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on General Government)

A bill to be entitled

An act relating to local government environmental financing; providing a short title; amending s. 212.055, F.S.; expanding the uses of local government infrastructure surtaxes to include acquiring any interest in land for public recreation, conservation, or protection of natural resources or to prevent or satisfy private property rights claims resulting from limitations imposed by the designation of an area of critical state concern; revising a definition and providing a definition for purposes of using surtax proceeds; amending s. 215.619, F.S.; expanding the use of Everglades restoration bonds to include the City of Key West Area of Critical State Concern; expanding the types of water management projects eligible for funding; revising the dates for issuance and maturity of Everglades restoration bonds; reducing the annual appropriation amount dedicated to fund the Florida Keys Area of Critical State Concern protection program; authorizing bond proceeds to be spent on the City of Key West Area of Critical State Concern; expanding projects that may be funded by bond proceeds; specifying procedures to be followed for certain lands that are no longer needed for certain restoration purposes; amending s. 259.045, F.S.; requiring the Department of Environmental Protection to annually consider certain recommendations to buy


389166

576-03718-16

specific lands within and outside an area of critical state concern; authorizing certain entities to recommend additional lands for purchase; amending s. 259.105, F.S.; requiring specific Florida Forever appropriations to be used for the purchase of lands in the Florida Keys Area of Critical State Concern; amending s. 380.0552, F.S.; revising legislative intent regarding the Florida Keys Area of Critical State Concern; specifying that plan amendments in the Florida Keys must also be consistent with protecting and improving specified water quality and water supply projects; amending s. 380.0666, F.S.; expanding powers of a land authority to include acquiring lands to prevent or satisfy private property rights claims resulting from limitations imposed by the designation of an area of critical state concern and contribute funds for certain land purchases by the department; providing limitations relating to acquiring or contributing lands to improve public transportation facilities; providing an effective date.

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

Section 1. This act may be cited as the "Florida Keys Stewardship Act."

Section 2. Paragraph (d) of subsection (2) of section 212.055, Florida Statutes, is amended to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent

576-03718-16

that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

(d) The proceeds of the surtax authorized by this subsection and any accrued interest shall be expended by the school district, within the county and municipalities within the county, or, in the case of a negotiated joint county agreement, within another county, to finance, plan, and construct infrastructure; to acquire any interest in land for public recreation, conservation, or protection of natural resources or to prevent or satisfy private property rights claims resulting from limitations imposed by the designation of an area of critical state concern; to provide loans, grants, or rebates to residential or commercial property owners who make energy efficiency improvements to their residential or commercial property, if a local government ordinance authorizing such use is approved by referendum; or to finance the closure of county-owned or municipally owned solid waste landfills that have been closed or are required to be closed by order of the Department of Environmental Protection. Any use of the proceeds or interest

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for purposes of landfill closure before July 1, 1993, is ratified. The proceeds and any interest may not be used for the operational expenses of infrastructure, except that a county that has a population of fewer than 75,000 and that is required to close a landfill may use the proceeds or interest for long-term maintenance costs associated with landfill closure. Counties, as defined in s. 125.011, and charter counties may, in addition, use the proceeds or interest to retire or service indebtedness incurred for bonds issued before July 1, 1987, for infrastructure purposes, and for bonds subsequently issued to refund such bonds. Any use of the proceeds or interest for purposes of retiring or servicing indebtedness incurred for refunding bonds before July 1, 1999, is ratified.

1. For the purposes of this paragraph, the term "infrastructure" means:

a. Any fixed capital expenditure or fixed capital outlay associated with the construction, reconstruction, or improvement of public facilities that have a life expectancy of 5 or more years, ~~and~~ any related land acquisition, land improvement, design, and engineering costs, and all other professional and related costs required to bring the public facilities into service. For purposes of this sub-subparagraph, the term "public facilities" means public facilities as defined in s. 163.3164(38), s. 163.3221(13), or s. 189.012(5), regardless of whether the facilities are owned by the local taxing authority or another governmental entity.

b. A fire department vehicle, an emergency medical service vehicle, a sheriff's office vehicle, a police department vehicle, or any other vehicle, and the equipment necessary to

outfit the vehicle for its official use or equipment that has a life expectancy of at least 5 years.

c. Any expenditure for the construction, lease, or maintenance of, or provision of utilities or security for, facilities, as defined in s. 29.008.

d. Any fixed capital expenditure or fixed capital outlay associated with the improvement of private facilities that have a life expectancy of 5 or more years and that the owner agrees to make available for use on a temporary basis as needed by a local government as a public emergency shelter or a staging area for emergency response equipment during an emergency officially declared by the state or by the local government under s. 252.38. Such improvements are limited to those necessary to comply with current standards for public emergency evacuation shelters. The owner must enter into a written contract with the local government providing the improvement funding to make the private facility available to the public for purposes of emergency shelter at no cost to the local government for a minimum of 10 years after completion of the improvement, with the provision that the obligation will transfer to any subsequent owner until the end of the minimum period.

e. Any land acquisition expenditure for a residential housing project in which at least 30 percent of the units are affordable to individuals or families whose total annual household income does not exceed 120 percent of the area median income adjusted for household size, if the land is owned by a local government or by a special district that enters into a written agreement with the local government to provide such housing. The local government or special district may enter into

a ground lease with a public or private person or entity for nominal or other consideration for the construction of the residential housing project on land acquired pursuant to this sub-subparagraph.

2. For the purposes of this paragraph, the term "energy efficiency improvement" means any energy conservation and efficiency improvement that reduces consumption through conservation or a more efficient use of electricity, natural gas, propane, or other forms of energy on the property, including, but not limited to, air sealing; installation of insulation; installation of energy-efficient heating, cooling, or ventilation systems; installation of solar panels; building modifications to increase the use of daylight or shade; replacement of windows; installation of energy controls or energy recovery systems; installation of electric vehicle charging equipment; installation of systems for natural gas fuel as defined in s. 206.9951; and installation of efficient lighting equipment.

3. Notwithstanding any other provision of this subsection, a local government infrastructure surtax imposed or extended after July 1, 1998, may allocate up to 15 percent of the surtax proceeds for deposit into a trust fund within the county's accounts created for the purpose of funding economic development projects having a general public purpose of improving local economies, including the funding of operational costs and incentives related to economic development. The ballot statement must indicate the intention to make an allocation under the authority of this subparagraph.

Section 3. Subsection (1) of section 215.619, Florida

Statutes, is amended, present subsections (7) and (8) are renumbered as subsections (8) and (9), respectively, and a new subsection (7) is added to that section, to read:

215.619 Bonds for Everglades restoration.—

(1) The issuance of Everglades restoration bonds to finance or refinance the cost of the acquisition and improvement of land, water areas, and related property interests and resources for the purpose of implementing the Comprehensive Everglades Restoration Plan under s. 373.470, the Lake Okeechobee Watershed Protection Plan under s. 373.4595, the Caloosahatchee River Watershed Protection Plan under s. 373.4595, the St. Lucie River Watershed Protection Plan under s. 373.4595, the City of Key West Area of Critical State Concern as designated by the Administration Commission pursuant to s. 380.05, and the Florida Keys Area of Critical State Concern protection program under ss. 380.05 and 380.0552 in order to restore and conserve natural systems through ~~the~~ implementation of water management projects, including projects that protect, restore, or enhance nearshore water quality and fisheries, such as stormwater or canal restoration projects, projects to protect water resources available to the Florida Keys, including wastewater management projects identified in the Keys Wastewater Plan, dated November 2007, and submitted to the Florida House of Representatives on December 4, 2007, is authorized in accordance with s. 11(e), Art. VII of the State Constitution.

(a) Everglades restoration bonds, except refunding bonds, may be issued only in fiscal years 2002-2003 through 2026-2027 ~~2019-2020~~ and may not be issued in an amount exceeding $100 million per fiscal year unless:

1. The Department of Environmental Protection has requested additional amounts in order to achieve cost savings or accelerate the purchase of land; or

2. Beginning in fiscal year 2016-2017, the Legislature authorizes an additional amount of bonds not to exceed $200 million, and limited to $20 ~~$50~~ million per fiscal year, specifically for the purpose of funding the Florida Keys Area of Critical State Concern protection program and the City of Key West Area of Critical State Concern. Proceeds from the bonds shall be managed by the Department of Environmental Protection for the purpose of entering into financial assistance agreements with local governments located in the Florida Keys Area of Critical State Concern or the City of Key West Area of Critical State Concern to finance or refinance the cost of constructing sewage collection, treatment, and disposal facilities or building projects that protect, restore, or enhance nearshore water quality and fisheries, such as stormwater or canal restoration projects and projects to protect water resources available to the Florida Keys.

(b) The duration of Everglades restoration bonds may not exceed 20 annual maturities and must mature by December 31, 2047 ~~2040~~. Except for refunding bonds, a series of bonds may not be issued unless an amount equal to the debt service coming due in the year of issuance has been appropriated by the Legislature. Not more than 58.25 percent of documentary stamp taxes collected may be taken into account for the purpose of satisfying an additional bonds test set forth in any authorizing resolution for bonds issued on or after July 1, 2015. Beginning July 1, 2010, the Legislature shall analyze the ratio of the state's

debt to projected revenues before authorizing the issuance of bonds under this section.

(7) If the South Florida Water Management District and the Department of Environmental Protection determine that lands purchased using bond proceeds within the Florida Keys Area of Critical State Concern, the City of Key West Area of Critical State Concern, or outside the Florida Keys Area of Critical State Concern but which were purchased to preserve and protect the potable water supply to the Florida Keys are no longer needed for the purpose for which they were purchased, the entity owning the lands may dispose of them. However, before the lands can be disposed of, each general-purpose local government within the boundaries of which a portion of the land lies must agree to the disposal of lands within its boundaries and must be offered the first right to purchase those lands.

Section 4. Section 259.045, Florida Statutes, is amended to read:

259.045 Purchase of lands in areas of critical state concern; recommendations by department and land authorities.—Within 45 days after ~~of the designation by~~ the Administration Commission designates ~~of~~ an area as an area of critical state concern under s. 380.05, and annually thereafter, the Department of Environmental Protection shall consider the recommendations of the state land planning agency pursuant to s. 380.05(1)(a) relating to purchase of lands within an area of critical state concern or lands outside an area of critical state concern which directly impact an area of critical state concern, which may include lands used to preserve and protect water supply, ~~the proposed area~~ and shall make recommendations to the board with

respect to the purchase of the fee or any lesser interest in any such lands that are: ~~situated in such area of critical state concern as~~

(1) Environmentally endangered lands; ~~or~~

(2) Outdoor recreation lands;

(3) Lands that conserve sensitive habitat;

(4) Lands that protect, restore, or enhance nearshore water quality and fisheries;

(5) Lands used to protect and enhance water supply to the Florida Keys, including alternative water supplies such as reverse osmosis and reclaimed water systems; or

(6) Lands used to prevent or satisfy private property rights claims resulting from limitations imposed by the designation of an area of critical state concern.

The department, or a local government, special district, or ~~and a~~ land authority within an area of critical state concern ~~as authorized in chapter 380~~, may make recommendations with respect to additional purchases which were not included in the state land planning agency recommendations.

Section 5. Paragraph (b) of subsection (3) of section 259.105, Florida Statutes, is amended to read:

259.105 The Florida Forever Act.—

(3) Less the costs of issuing and the costs of funding reserve accounts and other costs associated with bonds, the proceeds of cash payments or bonds issued pursuant to this section shall be deposited into the Florida Forever Trust Fund created by s. 259.1051. The proceeds shall be distributed by the Department of Environmental Protection in the following manner:

(b) Thirty-five percent to the Department of Environmental Protection for the acquisition of lands and capital project expenditures described in this section. Of the proceeds distributed pursuant to this paragraph, it is the intent of the Legislature that an increased priority be given to those acquisitions which achieve a combination of conservation goals, including protecting Florida's water resources and natural groundwater recharge. At a minimum, 3 percent, and no more than 10 percent, of the funds allocated pursuant to this paragraph shall be spent on capital project expenditures identified during the time of acquisition which meet land management planning activities necessary for public access. Beginning in fiscal year 2016-2017 and continuing through fiscal year 2026-2027, at least $5 million of the funds allocated pursuant to this paragraph shall be spent on land acquisition within the Florida Keys Area of Critical State Concern.

Section 6. Paragraph (i) of subsection (2) and paragraph (i) of subsection (7) of section 380.0552, Florida Statutes, are amended to read:

380.0552 Florida Keys Area; protection and designation as area of critical state concern.—

(2) LEGISLATIVE INTENT.—It is the intent of the Legislature to:

(i) Protect and improve the nearshore water quality of the Florida Keys through federal, state, and local funding of water quality improvement projects, including the construction and operation of wastewater management facilities that meet the requirements of ss. 381.0065(4)(l) and 403.086(10), as applicable.

(7) PRINCIPLES FOR GUIDING DEVELOPMENT.—State, regional, and local agencies and units of government in the Florida Keys Area shall coordinate their plans and conduct their programs and regulatory activities consistent with the principles for guiding development as specified in chapter 27F-8, Florida Administrative Code, as amended effective August 23, 1984, which is adopted and incorporated herein by reference. For the purposes of reviewing the consistency of the adopted plan, or any amendments to that plan, with the principles for guiding development, and any amendments to the principles, the principles shall be construed as a whole and specific provisions may not be construed or applied in isolation from the other provisions. However, the principles for guiding development are repealed 18 months from July 1, 1986. After repeal, any plan amendments must be consistent with the following principles:

(i) Protecting and improving water quality by providing for the construction, operation, maintenance, and replacement of stormwater management facilities; central sewage collection; treatment and disposal facilities; ~~and~~ the installation and proper operation and maintenance of onsite sewage treatment and disposal systems; and other water quality and water supply projects, including direct and indirect potable reuse.

Section 7. Subsection (3) of section 380.0666, Florida Statutes, is amended to read:

380.0666 Powers of land authority.—The land authority shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this act, including the following powers, which are in addition to all other powers granted by other provisions of this act:

(3) To acquire and dispose of real and personal property or any interest therein when such acquisition is necessary or appropriate to protect the natural environment, provide public access or public recreational facilities, preserve wildlife habitat areas, provide affordable housing to families whose income does not exceed 160 percent of the median family income for the area, prevent or satisfy private property rights claims resulting from limitations imposed by the designation of an area of critical state concern, or provide access to management of acquired lands; to acquire interests in land by means of land exchanges; to contribute tourist impact tax revenues received pursuant to s. 125.0108 to its most populous municipality or the housing authority of such municipality, at the request of the commission or council of such municipality, for the construction, redevelopment, or preservation of affordable housing in an area of critical state concern within such municipality; to contribute funds to the Department of Environmental Protection for the purchase of lands by the department; and to enter into all alternatives to the acquisition of fee interests in land, including, but not limited to, the acquisition of easements, development rights, life estates, leases, and leaseback arrangements. However, the land authority shall make an ~~such~~ acquisition or contribution only if:

(a) Such acquisition or contribution is consistent with land development regulations and local comprehensive plans adopted and approved pursuant to this chapter;

(b) The property acquired is within an area designated as an area of critical state concern at the time of acquisition or

is within an area that was designated as an area of critical state concern for at least 20 consecutive years prior to removal of the designation; ~~and~~

(c) The property to be acquired has not been selected for purchase through another local, regional, state, or federal public land acquisition program. Such restriction shall not apply if the land authority cooperates with the other public land acquisition programs which listed the lands for acquisition, to coordinate the acquisition and disposition of such lands. In such cases, the land authority may enter into contractual or other agreements to acquire lands jointly or for eventual resale to other public land acquisition programs; and

(d) Such acquisition or contribution is not used to improve public transportation facilities or otherwise increase road capacity to reduce hurricane evacuation clearance times.

Section 8. This act shall take effect July 1, 2016.

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	CS/SB 770
INTRODUCER:	Appropriations Committee (Recommended by Appropriations Subcommittee on General Government); and Senators Simpson and Flores
SUBJECT:	Local Government Environmental Financing
DATE:	March 3, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	**Favorable**
2.	Howard	DeLoach	AGG	**Recommend: Fav/CS**
3.	Howard	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 770, the Florida Keys Stewardship Act, provides the following:

- Expands the use of the local government infrastructure surtax to include acquiring any interest in lands meeting specific criteria.
- Adds the City of Key West Area of Critical State Concern to the list of eligible areas for which Everglades restoration bonds may be issued and expands the range of uses to include projects that protect, restore, or enhance nearshore water quality and fisheries, such as storm water or canal restoration projects, and projects to protect and enhance the water supply to the Florida Keys. The period for which Everglades bonds may be issued is extended seven years, from Fiscal Year 2019-2020 to Fiscal Year 2026-2027.
- Provides that when Everglades restoration bonds are authorized to exceed the $100 million annual threshold, the amount designated for the Florida Keys Area of Critical State Concern is reduced from $50 million to $20 million per fiscal year and includes the City of Key West Area of Critical State Concern.
- Allows for lands that are purchased in the Florida Keys Area of Critical State Concern and the City of Key West Area of Critical State Concern from Everglades restoration bond proceeds to be surplused under certain circumstances.
- Revises the Department of Environmental Protection's (DEP) criteria relating to the purchase of lands in an area of critical state concern.
- Requires that of the funds appropriated to the DEP as distributed in the Florida Forever Act for land acquisition and capital projects, a minimum of $5 million annually is allocated

within the Florida Keys Area of Critical State Concern beginning in Fiscal Year 2016-2017 through Fiscal Year 2026-2027.
- Expands the powers of the land authority related to private property rights' claims resulting from limitations imposed by the designation of an areas of critical state concern.

The bill extends the timeframe in which Everglades bonds may be issued by seven years and reduces the annual amount of bonds that may be authorized from $50 million to $20 million for the Florida Keys and City of Key West Areas of Critical State Concern.

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

II. Present Situation:

Areas of Critical State Concern

The Areas of Critical State Concern Program was created by the "Florida Environmental Land and Water Management Act of 1972."[1] The program is intended to protect resources and public facilities of major statewide significance, within designated geographic areas, from uncontrolled development that would cause substantial deterioration of such resources.[2]

An Area of Critical State Concern may be designated only for an area:
- Containing, or having a significant impact upon, environmental or natural resources of regional or statewide importance, including, but not limited to, state or federal parks, forests, wildlife refuges, wilderness areas, aquatic preserves, major rivers and estuaries, state environmentally endangered lands, Outstanding Florida Waters, and aquifer recharge areas, of which the uncontrolled private or public development would cause substantial deterioration of such resources; or
- Containing, or having a significant impact upon, historical or archaeological resources, sites, or statutorily defined historical or archaeological districts, of which the private or public development would cause substantial deterioration or complete loss of such resources, sites, or districts.[3]

The designated Areas of Critical State Concern are the Apalachicola Bay Area,[4] the Green Swamp Area,[5] the Big Cypress Area,[6] and the Florida Keys Area and the City of Key West Area.[7]

As the state land planning agency, the Department of Economic Opportunity (DEO) has the authority to review all development permits in the Areas of Critical State Concern. If the DEO determines that the administration of the local land development regulations or local

[1] Chapter 72-317, s. 1, Laws of Fla.
[2] Department of Economic Opportunity, *Areas of Critical State Concern Program*, http://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/areas-of-critical-state-concern (last visited Nov. 23, 2015).
[3] Section 380.05(2), F.S.
[4] Section 380.0555, F.S.
[5] Section 380.0551, F.S.
[6] Section 380.055, F.S.
[7] Section 380.0552, F.S.

comprehensive plan within the area is inadequate to protect the state or regional interest, the agency may institute appropriate judicial proceedings to complete proper enforcement of the land development regulations or plans.[8]

The Florida Keys and the City of Key West Areas of Critical State Concern

The Legislature designated the Florida Keys (Monroe County and its municipalities) and the City of Key West as Areas of Critical State Concern in 1975 due to the area's environmental sensitivity and mounting development pressures.[9] The legislative intent was to establish a land use management system for the Florida Keys that would achieve the following:

- Protect the natural environment and improve the nearshore water[10] quality;
- Support a diverse economic base that promotes balanced growth in accordance with the capacity of public facilities;
- Promote public land acquisition and ensure that the population of the Florida Keys can be safely evacuated;
- Provide affordable housing in close proximity to places of employment; and
- Protect property rights and promote coordination among governmental agencies that have permitting jurisdiction.[11]

In the early 1990s, Monroe County revised its comprehensive plan to be consistent with the 1985 Growth Management Act.[12] The plan drew legal challenges from numerous parties, with litigation lasting several years. In 1996, the litigation was resolved through a stipulated settlement agreement and the adoption by the Administration Commission of Rule 28-20, Florida Administrative Code.[13] The rule contained a work program which, when complete, would improve water quality, better protect habitat for threatened and endangered species, resolve challenges that were raised by the various parties, and ultimately provide for the repeal of the designation. These administrative challenges highlighted specific aspects of the Florida Keys ecosystem as having limited capacity to sustain additional impacts from development. Of particular concern was the declining water quality of the nearshore environment due to a lack of central sewer facilities, the loss of habitat for state and federally listed species, public safety, adequate evacuation in the event of hurricanes, and a deficit of affordable housing. Rules containing work program tasks were adopted for Marathon and Islamorada after their subsequent incorporation.[14]

[8] Section 380.05(13), F.S.
[9] Department of Economic Opportunity, *Florida Keys Area of Critical State Concern Annual Report*, 3 (2013), *available at* http://www.floridajobs.org/docs/default-source/2015-community-development/2015-cmty-plan-acsc/2013annualreport.pdf?sfvrsn=2.
[10] Nearshore and inshore Florida waters is defined as "all Florida waters inside a line three miles seaward of the coastline along the Gulf of Mexico and inside a line one mile seaward of the coastline along the Atlantic Ocean." Fla. Const. art. X, s. 16.
[11] *Id.* at 4.
[12] *Id.*
[13] *Id.*
[14] *Id.*

Concerns about water quality

Concerns about water quality resulted in legislative action which established requirements that by December 2015, all sewage disposal in the Florida Keys must be upgraded to meet advanced wastewater treatment standards that reduce the amount of nitrogen, phosphorus, biological oxygen demand, and total suspended solids.[15] When the construction of central sewer systems is concluded, approximately 249 small package plants, 23,000 septic tanks and 2,800 cesspits will be eliminated and replaced with connections to central sewer systems providing advanced wastewater treatment.[16] The bond financing in the Save the Everglades Program, approved by the Florida Legislature in 2012, and the extension of the Monroe County Infrastructure Sales Tax will provide the funds to complete central sewer by 2015.[17]

Water quality and the economy are inextricably linked in the Florida Keys. Tourism is the chief economic engine with over $1.2 billion being spent annually by over 3.7 million visitors.[18] Surrounded by sensitive coral reefs and highly productive marine nurseries, the Keys are an international destination for fishing and wildlife viewing. Recreational and commercial fishing are the next most important sectors of the local economy, annually contributing an estimated $557 million.[19] Hotel and motel properties alone constitute over $1 billion in taxable property value and 90 percent of the top property taxpayers are tourism-related businesses.[20] In the Florida Keys, nearly half of all taxable sales are direct purchases by tourists.[21]

Maintenance of the Keys' natural resources is necessary for a sustainable economy which is dependent upon clean water and abundant natural resources and essential to maintaining a strong tourist industry.[22] The Florida Keys contain the Florida Reef Tract which is the third largest barrier reef ecosystem in the world.[23] The water surrounding the Florida Keys is biologically rich and diverse, and sensitive to the impacts of development and land uses.[24] Excessive levels of nutrients in the water stress marine life and make them prone to disease.[25] The Florida Bay contains the most expansive seagrass meadow in the world.[26] Seagrass monitoring trends in the Florida Bay suggest that increased nutrient levels are resulting in decreased species diversity.

More than 35,000 jobs in the Keys are supported by ocean recreation and tourism and account for 58 percent of the local economy.[27]

[15] *Id.*
[16] *Id.*
[17] *Id.* at 5.
[18] *Id.*
[19] *Id.*
[20] *Id.*
[21] *Id.*
[22] *Id.*
[23] *Id.*
[24] *Id.*
[25] *Id.*
[26] *Id.*
[27] *Id.*

Development of Private Property

In 1992, Monroe County created and implemented the Rate of Growth Ordinance.[28] The Rate of Growth Ordinance is designed to control growth in a manner that is beneficial to the local environment, as well as the local residents. Land development in the Florida Keys is severely limited because the Florida Keys are home to many endangered and threatened species, and all residents of the Florida Keys are required to be evacuated within 24 hours before a hurricane making landfall.[29] As of 2013, the state had allotted only 350 building permits per year to the Florida Keys for 10 years, for a total of 3,500 building permits.[30] If the state does not go beyond its current allotment, no further development will be permitted in the Florida Keys beginning in 2023. At that point, there would be approximately 7,800 undeveloped, privately-owned parcels that would be prohibited from development.[31] The prohibition on land development could potentially result in litigation under the Takings Clause of the United States Constitution[32] which requires the government to compensate a property owner when it takes his or her property for public use or when the state excessively regulates his or her property.

Everglades Restoration Bonds

Everglades restoration bonds are bonds that are used to finance or refinance the cost of acquisition and improvement of land, water areas, and related property interests and resources to implement the Comprehensive Everglades Restoration Plan, the Lake Okeechobee Watershed Protection Plan, the Caloosahatchee River Watershed Protection Plan, the St. Lucie River Watershed Protection Plan, and the Florida Keys Area of Critical State Concern protection plan.[33] Everglades restoration bonds may be issued in amounts up to $100 million per fiscal year through fiscal year 2019-2020, and in greater annual amounts upon request by the Department of Environmental Protection (DEP) in order to achieve cost savings or accelerate land purchases.[34] In addition, up to $50 million per fiscal year may be issued specifically for the purpose of funding the Florida Keys Area of Critical State Concern protection program.[35] Everglades restoration bonds are payable from, and secured as a first lien on, documentary stamp taxes distributed under s. 201.15(3)(b), F.S., and are not a general obligation or pledge of the full faith and credit of the state.

Local Government Infrastructure Sales Surtax

The Local Government Infrastructure Surtax is one of eight local discretionary sales surtaxes authorized by s. 212.055, F.S., which may be levied by the governing authority in each county

[28] Monroe County Growth Management Division, *A Layman's Guide to Residential ROGO, available at* http://www.floridakeyskeywestrealestate.com/pdf/laymansguideROGO.pdf.
[29] Section 380.0552 (9)(a)2., F.S.
[30] Presentation in Senate Appropriations Subcommittee on General Government by Heather Carruthers, Monroe County Board of County Commissioners, *Florida Keys Area of Critical State Concern Update,* (Nov. 18, 2015), available at https://www.flsenate.gov/media/videoplayer?EventID=2443575804_2015111205
[31] *Id.*
[32] U.S. Const. amend. V.
[33] Section 215.619(1), F.S.
[34] Section 215.619(1)(a), F.S.
[35] *Id.*

after a majority vote of the electorate through a local referendum.[36] The surtax may be levied at 0.5 percent or 1.0 percent.[37] Proceeds are distributed to the county and the municipalities within the county according to an interlocal agreement between the county governing authority and the governing bodies of the municipalities representing a majority of the county's municipal population, or if there is no interlocal agreement, according to the formula in s. 218.62, F.S.[38]

The proceeds of the surtax must be expended only to:

- Finance, plan, and construct infrastructure;
- Acquire land for public recreation, conservation, or protection of natural resources;
- Provide loans, grants, or rebates to residential or commercial property owners who make energy efficiency improvements to their residential or commercial property, if a local government ordinance authorizing the use is approved by referendum; or
- Finance the closure of county-owned or municipally-owned solid waste landfills that have been closed or are required to be closed by order of the DEP.[39]

Counties are also authorized to use surtax proceeds for other purposes under certain circumstances. Proceeds and accrued interest may not be used for the operational expenses of infrastructure.[40] The Attorney General (AG) has considered whether land improvement or design expenses could properly be purchased with the proceeds of this surtax. The AG determined that such items as fencing, swings, lumber for bleachers and lighting fixtures, and the materials for landscape design and tree and shrubbery planting would not be appropriate expenditures of surtax proceeds because they are more in the nature of day-to-day operational expenses.[41]

However, land improvement or design expenses that occur in conjunction with a fixed capital expenditure or fixed capital outlay associated with the construction, reconstruction or improvement of public facilities, or an expenditure for such things as materials for landscape design may be purchased with the proceeds of the surtax when a new public facility is being built or an existing public facility is being improved. In 2012, the AG issued an opinion determining that a city would be authorized to use these surtax funds for a beach erosion control project, involving both the construction of fixtures and fixed equipment and also the studies, design, and planning involved in the construction of such capital projects.[42]

While all counties are authorized to levy the surtax, only 18 counties currently do so. Two counties levy the surtax at the rate of 0.5 percent: Duval and Hillsborough. Sixteen counties levy the surtax at the rate of 1 percent: Charlotte, Clay, Escambia, Glades, Highlands, Indian River, Lake, Leon, Monroe, Osceola, Pasco, Pinellas, Putnam, Sarasota, Seminole, and Wakulla. During the 2015-2016 fiscal year, these counties are expected to receive combined county

[36] Section 212.055(2)(a)1., F.S.
[37] However, the Local Government Infrastructure Surtax, Small County Surtax, Indigent Care and Trauma Center Surtax, and County Public Hospital Surtax are limited to a maximum combined rate of 1 percent. Section 212.055(2)(h), F.S.
[38] Section 212.055(2)(c)1., F.S. The agreement may include a school district with the consent of the county governing authority and the governing bodies of the municipalities.
[39] Section 212.055(2)(d), F.S.
[40] Except in certain circumstances involving landfill maintenance associated with closure, or county bond indebtedness.
[41] Op. Att'y Gen. Fla. 94-79 (1994).
[42] Op. Att'y Gen. Fla. 2012-19 (2012).

revenues of $691,831,985.[43] Because the Local Government Infrastructure Surtax, Small County Surtax, Indigent Care and Trauma Center Surtax, and County Public Hospital Surtax are limited to a maximum combined rate of 1 percent, Flagler and Miami-Dade counties are eligible to levy the surtax in the amount of 0.5 percent. Only an additional 19 counties are eligible to levy the surtax in the amount of 1 percent.

III. Effect of Proposed Changes:

Section 1 provides that the act may be cited as the "Florida Keys Stewardship Act."

Section 2 amends s. 212.055, F.S., to provide additional uses for which the governing authority in each county may levy a discretionary sales surtax of 0.5 percent or 1 percent. Such uses include:

- Acquiring any interest in land for public recreation, conservation, or protection of natural resources; or
- Preventing or satisfying private property rights' claims resulting from limitations imposed by the designation of an area of critical state concern.

Section 212.055, F.S., is also amended to redefine infrastructure to include "any fixed capital expenditure or fixed capital outlay associated with… all other professional and related costs required to bring the public facilities into service." The impacts of this change are twofold. First, by defining the term "public facilities" as a facility that is owned by any governmental entity, the bill clarifies that the county may use its infrastructure sales tax revenue for facilities under state or county ownership. Furthermore, public facility is defined to include a wide variety of major capital improvements including transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks and recreational facilities;[44] healthcare systems and facilities;[45] and water management and control facilities, alternative water systems, and certain spoil disposal sites for maintenance dredging in waters of the state.[46] Second, this provision expands the allowable use of funds to all other professional and related costs, which may cover legal services that are often required for procurement, contract preparation, or bid protests of projects. The surtax must be enacted by ordinance and approved by a referendum.

Section 3 amends s. 215.619, F.S., relating to bonds for Everglades restoration. The City of Key West Area of Critical State Concern as designated by the Administration Commission under s. 380.05, F.S., is added to the list of eligible areas for which Everglades restoration bonds may be issued. In addition, the section expands the range of uses for which the Everglades bonds may be issued to include projects that protect, restore, or enhance nearshore water quality and fisheries, such as storm water or canal restoration projects and projects to protect and enhance the water supply to the Florida Keys. The section also extends the period until which Everglades bonds may be issued from Fiscal Year 2019-2020 to Fiscal Year 2026-2027.

The section is also amended to change the conditions under which Everglades restoration bonds may be issued in an amount exceeding $100 million per fiscal year. Beginning in Fiscal Year

[43] Dollar amounts are estimates. Florida Revenue Estimating Conference, *Florida Tax Handbook*, pg. 226 (2015).
[44] Section 163.3164(38).
[45] Section 163.3221(13).
[46] Section 189.012(5).

2016-2017, such bonds may not be issued in excess of $100 million per fiscal year unless the Department of Environmental Protection (DEP) has requested these additional amounts in order to achieve cost savings or accelerate the purchase of land; or the Legislature authorizes an additional amount of bonds not to exceed $20 million[47] per fiscal year or $200 million in total for the Florida Keys Area of Critical State Concern protection program and the City of Key West Area of Critical State Concern.

Subsection (7) is added to s. 215.619, F.S., to address the issue of surplused lands within the Florida Keys Area of Critical State Concern and the City of Key West Area of Critical State Concern.[48] If the South Florida Water Management District and the DEP determine that lands purchased using bond proceeds within the Florida Keys Area of Critical State Concern, the City of Key West Area of Critical State Concern, or outside the Florida Keys Area of Critical State Concern but which were purchased to preserve and protect the potable water supply to the Florida Keys are no longer needed for those purposes, the entity owning the lands may dispose of them. However, before the lands can be disposed of, each general-purpose local government within whose boundaries a portion of the land lies must agree to the disposal of the land and must be offered the first right to purchase those lands.

Section 4 amends s. 259.045, F.S., relating to the purchase of lands in an Area of Critical State Concern. Specifically, the section revises the criteria that the DEP shall consider in assessing what lands are appropriate for purchase. In addition to lands within an Area of Critical State Concern, the DEP may also consider as appropriate for purchase of lands outside the area of state concern that directly impact an area of state concern, such as for the purposes of water supply protection. The DEP is required to make recommendations to the board regarding the purchase of such lands that are:

- Environmentally endangered lands;
- Outdoor recreation lands;
- Lands that conserve sensitive habitat;
- Lands that protect, restore, or enhance nearshore water quality and fisheries;
- Lands used to protect and enhance water supply to the Florida Keys, including alternative water supplies such as reverse osmosis and reclaimed water systems; or
- Lands used to prevent or satisfy private property rights claims resulting from limitations imposed by the designation of an Area of Critical State Concern.

The section also adds local governments and special districts within an Area of Critical State Concern to the list of entities that may make recommendations for additional purchases that were not included in the state land planning agency recommendations.

Section 5 amends s. 259.105(3)(b), F.S., to provide that at least $5 million of the funds allocated annually by the DEP pursuant to paragraph (b) shall be spent on land acquisition within the

[47] Current law provides that the additional amount of bonds may not exceed $50 million per fiscal year or $200 million total for the Florida Keys Area of Critical State Concern protection program.
[48] Section 215.619(6) provides a similar process for surplused lands that are not needed to implement the Lake Okeechobee Watershed Protection Plan, the Caloosahatchee River Watershed Protection Plan, and the St. Lucie River Watershed Protection Plan.

Florida Keys Area of Critical State Concern. This annual allocation would begin in Fiscal Year 2016-2017 and continue through Fiscal Year 2026-2027.

Section 6 amends s. 380.0552, F.S., relating to the Florida Keys Area of Critical State Concern. Specifically, the section provides that it is the intent of the Legislature to protect and improve the water quality of the Florida Keys through federal, state, and local funding of water quality improvement projects, including the construction and operation of certain wastewater management facilities. The section also provides additional principles for guiding development in the Florida Keys Area of Critical State Concern. Specifically, any plan amendments to the Florida Keys Area of Critical State Concern must be consistent with the principle of protecting and improving water quality by providing for the construction, operation, maintenance, and replacement of other water quality and water supply projects, including direct and indirect potable reuse.

Section 7 amends s. 380.0666, F.S., relating to the powers of land authority. Specifically, the land authority is given all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this act. The section is amended to include the following additional powers:

- To acquire or dispose of property prevent or satisfy private property right claims resulting from limitations imposed by the designation of an area of critical state concern;
- To contribute funds to the DEP for the purchase of lands by the department; and
- To require that acquisitions of property or contributions to DEP by the authority cannot be used to improve public transportation facilities or otherwise increase road capacity to reduce hurricane evacuation clearance times.

Section 8 provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

If tourism increases from the improvements to water quality, the state may see an increase in tax revenue.

B. Private Sector Impact:

Improvements in water quality may result in an increase in tourism. In addition, private property owners who own land in the Florida Keys, but are unable to obtain a permit to develop the land may be compensated for their land. This may help to avoid litigation under the Takings Clause.[49]

C. Government Sector Impact:

CS/SB 770 extends the period which Everglades restoration bonds may be issued seven years, through Fiscal Year 2026-2027. When Everglades restoration bonds are authorized to exceed the $100 million annual threshold, the amount designated for the Florida Keys Area of Critical State Concern is reduced from $50 million to $20 million per fiscal year and expanded to include the City of Key West Area of Critical State Concern beginning in Fiscal Year 2016-2017.

The bill also requires that of the funds appropriated for land acquisition and capital projects as part of the Florida Forever Act distribution to the DEP, a minimum of $5 million annually is allocated within the Florida Keys Area of Critical State Concern beginning in Fiscal Year 2016-2017 through Fiscal Year 2026-2027.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 212.055, 215.619, 259.045, 259.105, 380.0552, and 380.0666.

This bill creates an undesignated section of Florida law.

IX. Additional Information:

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

CS by Appropriations on March 3, 2016:
The committee substitute:

- Eliminates the requirement that $20 million must be appropriated annually to the Department of Environmental Protection (DEP) for local governments in the Florida Keys and City of Key West Areas of Critical State Concern beginning in Fiscal Year

[49] U.S. Const. amend. V.

2016-2017 through Fiscal Year 2026-2027 if $20 million of Everglades restoration bonds are not authorized each fiscal year;

- Modifies the additional uses for which the governing authority in each county may levy a discretionary sales surtax to include preventing or satisfying private property rights' claims resulting from limitations imposed by the designation of an area of critical state concern;
- Removes language that gives the governing authority in each county the authority to levy a discretionary sales surtax to reduce the impacts of additional development on hurricane evacuation clearance times;
- Removes language specifying Everglades restoration bonds can be used for alternative water supplies such as reverse osmosis and reclaimed water systems;
- Modifies the duration time that Everglades restoration bonds must mature from December 31, 2056, to December 31, 2047;
- Removes the requirement that surplused lands purchased with bond proceeds must be either surplused at not less than the appraised value or the South Florida Water Management District must use a different source of funds to pay for or reimburse the Save Our Everglades Trust Fund for that portion of lands not needed to implement the respective plans;
- Removes language relating to the Florida Forever Act legislative findings and declarations that the continued alteration and development of Florida's natural and rural areas due to an increasing population has led to the fragmentation and destruction of coral reefs and that many of Florida's unique ecosystems, including coral reefs, are facing ecological collapse;
- Removes from the powers of the land authority to acquire and dispose of real and personal property or any interest therein when such acquisitions are necessary or appropriate to reduce the impacts of additional development on hurricane evacuation clearance times;
- Adds to the powers of the land authority to prevent or satisfy private property rights claims resulting from limitations imposed by the designation of an area of critical state concern; and
- Adds a limitation to the powers of the land authority to specify that acquisitions or contributions cannot be used to improve public transportation facilities or otherwise increase road capacity to reduce hurricane evacuation clearance times.

B. Amendments:

None.

By Senator Simpson

18-00925-16 2016770__

A bill to be entitled

An act relating to local government environmental financing; providing a short title; amending s. 212.055, F.S.; expanding the use of local government infrastructure surtaxes to include acquiring any interest in land for public recreation, conservation, or protection of natural resources or to reduce impacts of new development on hurricane evacuation clearance times; revising definitions for purposes of using surtax proceeds; amending s. 215.619, F.S.; expanding the use of Everglades restoration bonds to include the City of Key West Area of Critical State Concern; expanding the types of water management projects eligible for funding; revising the dates for issuance and maturity of Everglades restoration bonds; reducing the annual appropriation amount dedicated to fund the Florida Keys Area of Critical State Concern protection program; authorizing bond proceeds to be spent on the City of Key West Area of Critical State Concern; expanding projects that may be funded by bond proceeds; specifying procedures for certain lands that are no longer needed for certain restoration purposes; amending s. 259.045, F.S.; requiring the Department of Environmental Protection to annually consider certain recommendations to buy specific lands within and outside an area of critical state concern; authorizing certain local governments and special districts to recommend additional lands for purchase; amending s. 259.105, F.S.; revising Florida Forever provisions to

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recognize the diminishment of coral reefs; requiring specific Florida Forever appropriations to be used for the purchase of lands in the Florida Keys Area of Critical State Concern; amending s. 380.0552, F.S.; revising legislative intent regarding the Florida Keys Area of Critical State Concern; specifying that plan amendments in the Florida Keys must also be consistent with protecting and improving specified water quality and water supply projects; amending s. 380.0666, F.S.; expanding powers of a land authority to include acquiring lands to reduce impacts of new development on hurricane evacuation clearance times and contribute funds for certain land purchases by the department; providing a contingent appropriation; providing an effective date.

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

Section 1. This act may be cited as the "Florida Keys Stewardship Act."

Section 2. Paragraph (d) of subsection (2) of section 212.055, Florida Statutes, is amended to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the

maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

(d) The proceeds of the surtax authorized by this subsection and any accrued interest shall be expended by the school district, within the county and municipalities within the county, or, in the case of a negotiated joint county agreement, within another county, to finance, plan, and construct infrastructure; to acquire any interest in land for public recreation, conservation, or protection of natural resources; or to reduce the impacts of additional development on hurricane evacuation clearance times; to provide loans, grants, or rebates to residential or commercial property owners who make energy efficiency improvements to their residential or commercial property, if a local government ordinance authorizing such use is approved by referendum; or to finance the closure of county-owned or municipally owned solid waste landfills that have been closed or are required to be closed by order of the Department of Environmental Protection. Any use of the proceeds or interest for purposes of landfill closure before July 1, 1993, is ratified. The proceeds and any interest may not be used for the operational expenses of infrastructure, except that a county that has a population of fewer than 75,000 and that is required to close a landfill may use the proceeds or interest for long-term maintenance costs associated with landfill closure.

Counties, as defined in s. 125.011, and charter counties may, in addition, use the proceeds or interest to retire or service indebtedness incurred for bonds issued before July 1, 1987, for infrastructure purposes, and for bonds subsequently issued to refund such bonds. Any use of the proceeds or interest for purposes of retiring or servicing indebtedness incurred for refunding bonds before July 1, 1999, is ratified.

1. For the purposes of this paragraph, the term "infrastructure" means:

a. Any fixed capital expenditure or fixed capital outlay associated with the construction, reconstruction, or improvement of public facilities that have a life expectancy of 5 or more years, ~~and~~ any related land acquisition, land improvement, design, and engineering costs, and all other professional and related costs required to bring the public facilities into service. For purposes of this sub-subparagraph, the term "public facility" means a facility as defined in s. 163.3164(38), s. 163.3221(13), or s. 189.012(5), regardless of whether the facility is owned by the local taxing authority or another governmental entity.

b. A fire department vehicle, an emergency medical service vehicle, a sheriff's office vehicle, a police department vehicle, or any other vehicle, and the equipment necessary to outfit the vehicle for its official use or equipment that has a life expectancy of at least 5 years.

c. Any expenditure for the construction, lease, or maintenance of, or provision of utilities or security for, facilities, as defined in s. 29.008.

d. Any fixed capital expenditure or fixed capital outlay

associated with the improvement of private facilities that have a life expectancy of 5 or more years and that the owner agrees to make available for use on a temporary basis as needed by a local government as a public emergency shelter or a staging area for emergency response equipment during an emergency officially declared by the state or by the local government under s. 252.38. Such improvements are limited to those necessary to comply with current standards for public emergency evacuation shelters. The owner must enter into a written contract with the local government providing the improvement funding to make the private facility available to the public for purposes of emergency shelter at no cost to the local government for a minimum of 10 years after completion of the improvement, with the provision that the obligation will transfer to any subsequent owner until the end of the minimum period.

e. Any land acquisition expenditure for a residential housing project in which at least 30 percent of the units are affordable to individuals or families whose total annual household income does not exceed 120 percent of the area median income adjusted for household size, if the land is owned by a local government or by a special district that enters into a written agreement with the local government to provide such housing. The local government or special district may enter into a ground lease with a public or private person or entity for nominal or other consideration for the construction of the residential housing project on land acquired pursuant to this sub-subparagraph.

2. For the purposes of this paragraph, the term "energy efficiency improvement" means any energy conservation and

efficiency improvement that reduces consumption through conservation or a more efficient use of electricity, natural gas, propane, or other forms of energy on the property, including, but not limited to, air sealing; installation of insulation; installation of energy-efficient heating, cooling, or ventilation systems; installation of solar panels; building modifications to increase the use of daylight or shade; replacement of windows; installation of energy controls or energy recovery systems; installation of electric vehicle charging equipment; installation of systems for natural gas fuel as defined in s. 206.9951; and installation of efficient lighting equipment.

3. Notwithstanding any other provision of this subsection, a local government infrastructure surtax imposed or extended after July 1, 1998, may allocate up to 15 percent of the surtax proceeds for deposit into a trust fund within the county's accounts created for the purpose of funding economic development projects having a general public purpose of improving local economies, including the funding of operational costs and incentives related to economic development. The ballot statement must indicate the intention to make an allocation under the authority of this subparagraph.

Section 3. Subsection (1) of section 215.619, Florida Statutes, is amended, subsections (7) and (8) are renumbered as subsections (8) and (9), respectively, and a new subsection (7) is added to that section, to read:

215.619 Bonds for Everglades restoration.—

(1) The issuance of Everglades restoration bonds to finance or refinance the cost of the acquisition and improvement of

land, water areas, and related property interests and resources for the purpose of implementing the Comprehensive Everglades Restoration Plan under s. 373.470, the Lake Okeechobee Watershed Protection Plan under s. 373.4595, the Caloosahatchee River Watershed Protection Plan under s. 373.4595, the St. Lucie River Watershed Protection Plan under s. 373.4595, the City of Key West Area of Critical State Concern as designated by the Administration Commission under s. 380.05, and the Florida Keys Area of Critical State Concern protection program under ss. 380.05 and 380.0552 in order to restore and conserve natural systems through ~~the~~ implementation of water management projects, including projects that protect, restore, or enhance nearshore water quality and fisheries, such as stormwater or canal restoration projects, projects to protect and enhance water supply to the Florida Keys, including alternative water supplies such as reverse osmosis and reclaimed water systems, and wastewater management projects identified in the Keys Wastewater Plan, dated November 2007, and submitted to the Florida House of Representatives on December 4, 2007, is authorized in accordance with s. 11(e), Art. VII of the State Constitution.

(a) Everglades restoration bonds, except refunding bonds, may be issued only in fiscal years 2002-2003 through 2026-2027 ~~2019-2020~~ and may not be issued in an amount exceeding $100 million per fiscal year unless:

1. The Department of Environmental Protection has requested additional amounts in order to achieve cost savings or accelerate the purchase of land; or

2. Beginning in fiscal year 2016-2017, the Legislature authorizes an additional amount of bonds not to exceed $200

million, and limited to $20 ~~$50~~ million per fiscal year, specifically for the purpose of funding the Florida Keys Area of Critical State Concern protection program. Proceeds from the bonds shall be managed by the Department of Environmental Protection for the purpose of entering into financial assistance agreements with local governments located in the Florida Keys Area of Critical State Concern or the City of Key West Area of Critical State Concern to finance or refinance the cost of constructing sewage collection, treatment, and disposal facilities or building projects that protect, restore, or enhance nearshore water quality and fisheries, such as stormwater or canal restoration projects and projects to protect and enhance water supply to the Florida Keys, including alternative water supplies such as reverse osmosis and reclaimed water systems.

(b) The duration of Everglades restoration bonds may not exceed 20 annual maturities and must mature by December 31, 2056 ~~2040~~. Except for refunding bonds, a series of bonds may not be issued unless an amount equal to the debt service coming due in the year of issuance has been appropriated by the Legislature. Not more than 58.25 percent of documentary stamp taxes collected may be taken into account for the purpose of satisfying an additional bonds test set forth in any authorizing resolution for bonds issued on or after July 1, 2015. Beginning July 1, 2010, the Legislature shall analyze the ratio of the state's debt to projected revenues before authorizing the issuance of bonds under this section.

(7) If the South Florida Water Management District and the Department of Environmental Protection determine that lands

purchased using bond proceeds within the Florida Keys Area of Critical State Concern, the City of Key West Area of Critical State Concern, or outside the Florida Keys Area of Critical State Concern but which were required to be purchased to preserve and protect the potable water supply to the Florida Keys are no longer needed for the purpose for which they were purchased, the entity owning the lands may dispose of them. However, before the lands can be disposed of, each general-purpose local government within whose boundaries a portion of the land lies must agree to the disposal of lands within its boundaries and must be offered the first right to purchase those lands. If the lands are surplused, they shall either be surplused at not less than appraised value with the proceeds from the sale of such lands being deposited into the Save Our Everglades Trust Fund and used to implement the respective plans, or the South Florida Water Management District shall use a different source of funds to pay for or reimburse the Save Our Everglades Trust Fund for that portion of lands not needed to implement the respective plans.

Section 4. Section 259.045, Florida Statutes, is amended to read:

259.045 Purchase of lands in areas of critical state concern; recommendations by department and land authorities.—Within 45 days after ~~of the designation by~~ the Administration Commission designates ~~of~~ an area as an area of critical state concern under s. 380.05, and annually thereafter, the Department of Environmental Protection shall consider the recommendations of the state land planning agency pursuant to s. 380.05(1)(a) relating to purchase of lands within an area of critical state

concern or lands outside an area of critical state concern that directly impact an area of critical state concern, which may include lands used to preserve and protect water supply, ~~the proposed area~~ and shall make recommendations to the board with respect to the purchase of the fee or any lesser interest in any such lands that are: ~~situated in such area of critical state concern as~~

(1) Environmentally endangered lands; ~~or~~

(2) Outdoor recreation lands;

(3) Lands that conserve a sensitive habitat;

(4) Lands that protect, restore, or enhance nearshore water quality and fisheries;

(5) Lands used to protect and enhance water supply to the Florida Keys, including alternative water supplies such as reverse osmosis and reclaimed water systems; or

(6) Lands used to prevent or satisfy private property rights claims resulting from limitations imposed by the designation of an area of critical state concern.

The department, or a local government, special district, or ~~and a~~ land authority within an area of critical state concern ~~as authorized in chapter 380~~, may make recommendations with respect to additional purchases which were not included in the state land planning agency recommendations.

Section 5. Paragraph (a) of subsection (2) and paragraph (b) of subsection (3) of section 259.105, Florida Statutes, are amended to read:

259.105 The Florida Forever Act.—

(2)(a) The Legislature finds and declares that:

1. Land acquisition programs have provided tremendous financial resources for purchasing environmentally significant lands to protect those lands from imminent development or alteration, thereby ensuring present and future generations' access to important waterways, open spaces, and recreation and conservation lands.

2. The continued alteration and development of Florida's natural and rural areas to accommodate the state's growing population have contributed to the degradation of water resources, the fragmentation and destruction of wildlife habitats, the loss of outdoor recreation space, and the diminishment of wetlands, forests, working landscapes, ~~and~~ coastal open space, and coral reefs as defined in s. 403.93345(3).

3. The potential development of Florida's remaining natural areas and escalation of land values require government efforts to restore, bring under public protection, or acquire lands and water areas to preserve the state's essential ecological functions and invaluable quality of life.

4. It is essential to protect the state's ecosystems by promoting a more efficient use of land, to ensure opportunities for viable agricultural activities on working lands, and to promote vital rural and urban communities that support and produce development patterns consistent with natural resource protection.

5. Florida's groundwater, surface waters, and springs are under tremendous pressure due to population growth and economic expansion and require special protection and restoration efforts, including the protection of uplands and springsheds

that provide vital recharge to aquifer systems and are critical to the protection of water quality and water quantity of the aquifers and springs. To ensure that sufficient quantities of water are available to meet the current and future needs of the natural systems and citizens of the state, and assist in achieving the planning goals of the department and the water management districts, water resource development projects on public lands, where compatible with the resource values of and management objectives for the lands, are appropriate.

6. The needs of urban, suburban, and small communities in Florida for high-quality outdoor recreational opportunities, greenways, trails, and open space have not been fully met by previous acquisition programs. Through such programs as the Florida Communities Trust and the Florida Recreation Development Assistance Program, the state shall place additional emphasis on acquiring, protecting, preserving, and restoring open space, ecological greenways, and recreation properties within urban, suburban, and rural areas where pristine natural communities or water bodies no longer exist because of the proximity of developed property.

7. Many of Florida's unique ecosystems, such as the Florida Everglades and coral reefs, are facing ecological collapse due to Florida's burgeoning population growth and other economic activities. To preserve these valuable ecosystems for future generations, essential parcels of land must be acquired to facilitate ecosystem restoration.

8. Access to public lands to support a broad range of outdoor recreational opportunities and the development of necessary infrastructure, where compatible with the resource

values of and management objectives for such lands, promotes an appreciation for Florida's natural assets and improves the quality of life.

9. Acquisition of lands, in fee simple, less-than-fee interest, or other techniques shall be based on a comprehensive science-based assessment of Florida's natural resources which targets essential conservation lands by prioritizing all current and future acquisitions based on a uniform set of data and planned so as to protect the integrity and function of ecological systems and working landscapes, and provide multiple benefits, including preservation of fish and wildlife habitat, recreation space for urban and rural areas, and the restoration of natural water storage, flow, and recharge.

10. The state has embraced performance-based program budgeting as a tool to evaluate the achievements of publicly funded agencies, build in accountability, and reward those agencies which are able to consistently achieve quantifiable goals. While previous and existing state environmental programs have achieved varying degrees of success, few of these programs can be evaluated as to the extent of their achievements, primarily because performance measures, standards, outcomes, and goals were not established at the outset. Therefore, the Florida Forever program shall be developed and implemented in the context of measurable state goals and objectives.

11. The state must play a major role in the recovery and management of its imperiled species through the acquisition, restoration, enhancement, and management of ecosystems that can support the major life functions of such species. It is the intent of the Legislature to support local, state, and federal

programs that result in net benefit to imperiled species habitat by providing public and private land owners meaningful incentives for acquiring, restoring, managing, and repopulating habitats for imperiled species. It is the further intent of the Legislature that public lands, both existing and to be acquired, identified by the lead land managing agency, in consultation with the Florida Fish and Wildlife Conservation Commission for animals or the Department of Agriculture and Consumer Services for plants, as habitat or potentially restorable habitat for imperiled species, be restored, enhanced, managed, and repopulated as habitat for such species to advance the goals and objectives of imperiled species management consistent with the purposes for which such lands are acquired without restricting other uses identified in the management plan. It is also the intent of the Legislature that of the proceeds distributed pursuant to subsection (3), additional consideration be given to acquisitions that achieve a combination of conservation goals, including the restoration, enhancement, management, or repopulation of habitat for imperiled species. The Acquisition and Restoration Council, in addition to the criteria in subsection (9), shall give weight to projects that include acquisition, restoration, management, or repopulation of habitat for imperiled species. The term "imperiled species" as used in this chapter and chapter 253, means plants and animals that are federally listed under the Endangered Species Act, or state-listed by the Fish and Wildlife Conservation Commission or the Department of Agriculture and Consumer Services.

a. As part of the state's role, all state lands that have imperiled species habitat shall include as a consideration in

management plan development the restoration, enhancement, management, and repopulation of such habitats. In addition, the lead land managing agency of such state lands may use fees received from public or private entities for projects to offset adverse impacts to imperiled species or their habitat in order to restore, enhance, manage, repopulate, or acquire land and to implement land management plans developed under s. 253.034 or a land management prospectus developed and implemented under this chapter. Such fees shall be deposited into a foundation or fund created by each land management agency under s. 379.223, s. 589.012, or s. 259.032(9)(c), to be used solely to restore, manage, enhance, repopulate, or acquire imperiled species habitat.

b. Where habitat or potentially restorable habitat for imperiled species is located on state lands, the Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services shall be included on any advisory group required under chapter 253, and the short-term and long-term management goals required under chapter 253 must advance the goals and objectives of imperiled species management consistent with the purposes for which the land was acquired without restricting other uses identified in the management plan.

12. There is a need to change the focus and direction of the state's major land acquisition programs and to extend funding and bonding capabilities, so that future generations may enjoy the natural resources of this state.

(3) Less the costs of issuing and the costs of funding reserve accounts and other costs associated with bonds, the

proceeds of cash payments or bonds issued pursuant to this section shall be deposited into the Florida Forever Trust Fund created by s. 259.1051. The proceeds shall be distributed by the Department of Environmental Protection in the following manner:

(b) Thirty-five percent to the Department of Environmental Protection for the acquisition of lands and capital project expenditures described in this section. Of the proceeds distributed pursuant to this paragraph, it is the intent of the Legislature that an increased priority be given to those acquisitions which achieve a combination of conservation goals, including protecting Florida's water resources and natural groundwater recharge. At a minimum, 3 percent, and no more than 10 percent, of the funds allocated pursuant to this paragraph shall be spent on capital project expenditures identified during the time of acquisition which meet land management planning activities necessary for public access. Beginning in fiscal year 2016-2017 and continuing through fiscal year 2026-2027, at least $5 million of the funds allocated pursuant to this paragraph shall be spent on land acquisition within the Florida Keys Area of Critical State Concern.

Section 6. Paragraph (i) of subsection (2) and paragraph (i) of subsection (7) of section 380.0552, Florida Statutes, are amended to read:

380.0552 Florida Keys Area; protection and designation as area of critical state concern.—

(2) LEGISLATIVE INTENT.—It is the intent of the Legislature to:

(i) Protect and improve the nearshore water quality of the Florida Keys through state funding of water quality improvement

projects, including the construction and operation of wastewater management facilities that meet the requirements of ss. 381.0065(4)(l) and 403.086(10), as applicable.

(7) PRINCIPLES FOR GUIDING DEVELOPMENT.—State, regional, and local agencies and units of government in the Florida Keys Area shall coordinate their plans and conduct their programs and regulatory activities consistent with the principles for guiding development as specified in chapter 27F-8, Florida Administrative Code, as amended effective August 23, 1984, which is adopted and incorporated herein by reference. For the purposes of reviewing the consistency of the adopted plan, or any amendments to that plan, with the principles for guiding development, and any amendments to the principles, the principles shall be construed as a whole and specific provisions may not be construed or applied in isolation from the other provisions. However, the principles for guiding development are repealed 18 months from July 1, 1986. After repeal, any plan amendments must be consistent with the following principles:

(i) Protecting and improving water quality by providing for the construction, operation, maintenance, and replacement of stormwater management facilities; central sewage collection; treatment and disposal facilities; ~~and~~ the installation and proper operation and maintenance of onsite sewage treatment and disposal systems; and other water quality and water supply projects, including direct and indirect potable reuse.

Section 7. Subsection (3) of section 380.0666, Florida Statutes, is amended to read:

380.0666 Powers of land authority.—The land authority shall have all the powers necessary or convenient to carry out and

effectuate the purposes and provisions of this act, including the following powers, which are in addition to all other powers granted by other provisions of this act:

(3) To acquire and dispose of real and personal property or any interest therein when such acquisition is necessary or appropriate to protect the natural environment, provide public access or public recreational facilities, preserve wildlife habitat areas, provide affordable housing to families whose income does not exceed 160 percent of the median family income for the area, reduce the impacts of additional development on hurricane evacuation clearance times, or provide access to management of acquired lands; to acquire interests in land by means of land exchanges; to contribute tourist impact tax revenues received pursuant to s. 125.0108 to its most populous municipality or the housing authority of such municipality, at the request of the commission or council of such municipality, for the construction, redevelopment, or preservation of affordable housing in an area of critical state concern within such municipality; to contribute funds to the Department of Environmental Protection for the purchase of lands by the department; and to enter into all alternatives to the acquisition of fee interests in land, including, but not limited to, the acquisition of easements, development rights, life estates, leases, and leaseback arrangements. However, the land authority shall make an ~~such~~ acquisition or contribution only if:

(a) Such acquisition or contribution is consistent with land development regulations and local comprehensive plans adopted and approved pursuant to this chapter;

(b) The property acquired is within an area designated as an area of critical state concern at the time of acquisition or is within an area that was designated as an area of critical state concern for at least 20 consecutive years prior to removal of the designation; and

(c) The property to be acquired has not been selected for purchase through another local, regional, state, or federal public land acquisition program. Such restriction shall not apply if the land authority cooperates with the other public land acquisition programs which listed the lands for acquisition, to coordinate the acquisition and disposition of such lands. In such cases, the land authority may enter into contractual or other agreements to acquire lands jointly or for eventual resale to other public land acquisition programs.

Section 8. Notwithstanding any other provision of law, in fiscal year 2016-2017 through fiscal year 2026-2027, if $20 million in bonds are not authorized to be issued pursuant to s. 215.619, Florida Statutes, $20 million shall be appropriated to the Department of Environmental Protection to be distributed to local governments in the Florida Keys Area of Critical State Concern and the City of Key West Area of Critical State Concern for projects that protect, restore, or enhance nearshore water quality and fisheries and projects to protect and enhance water supply to the Florida Keys, including alternative water supplies such as reverse osmosis and reclaimed water systems.

Section 9. This act shall take effect July 1, 2016.

The Florida Senate

Committee Agenda Request

To: Senator Tom Lee, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 18, 2016

I respectfully request that **Senate Bill #770**, relating to Local Government Environmental Financing-Florida Keys Stewardship Act, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Anitere Flores

Senator Anitere Flores
Florida Senate, District 37

File signed original with committee office

2d

The Florida Senate

Committee Agenda Request

To: Senator Tom Lee, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 25th, 2016

I respectfully request that **Senate Bill #770,** relating to Local Government Environmental Financing, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Anitere Flores

Senator Anitere Flores
Florida Senate, District 37

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3 / 3 /2016
Meeting Date

Topic _____ Bill Number 770 *(if applicable)*

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

Job Title TRUSTEE

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

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

Speaking: ☑ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/2016
Meeting Date

SB 770
Bill Number (if applicable)

Topic Local Government Environmental Financing

Amendment Barcode (if applicable)

Name Carol Bracy

Job Title Consultant

Address 403 East Park Avenue
Street

Phone 850.577.0444

Tallahassee — Florida — 32301
City — *State* — *Zip*

Email Carol@Ballardfl.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing City of Marathon

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	PCS/SB 824 (230384)
INTRODUCER:	Appropriations Committee (Recommended by Appropriations Subcommittee on Education) and Senator Stargel
SUBJECT:	Dual Enrollment Program
DATE:	March 2, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Graf	Klebacha	ED	**Favorable**
2.	Sikes	Elwell	AED	**Recommend: Fav/CS**
3.	Sikes	Kynoch	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 824 modifies home education student rights, public and private dual enrollment articulation agreement requirements, expands fee exemptions for dually-enrolled students, and specifies funding for certain public postsecondary institutions. Specifically, the bill:

- Specifies that a school district may provide exceptional student education services to a home education student with a disability.
- Establishes August 1 as the annual deadline by which the dual enrollment articulation agreements with home education program students, private schools, and state universities or eligible private colleges and universities must be submitted to the Department of Education.
- Clarifies that the provision of instructional materials and transportation for home education program students and private schools must be addressed in the articulation agreement with the partnering postsecondary institution.
- Establishes provisions that must be included in the articulation agreements with private schools.
- Adds technology fees to the existing fees that public and private school students and home education program students are exempt from paying for dual enrollment courses.
- Specifies funding, subject to annual appropriation in the General Appropriations Act (GAA), for public postsecondary institutions for dual enrollment courses taken by private school students, except for the private school students for whom such postsecondary institutions are otherwise compensated.

The bill has an indeterminate fiscal impact in terms of a loss of revenue for postsecondary institutions. The requirement for all eligible postsecondary institutions to enter into dual enrollment articulation agreements with home education program students and each private school in its geographic service area seeking to offer dual enrollment courses to its students will result in a loss of revenue for the state's postsecondary institutions. However, due to the uncertainty in the number of eligible students, the potential loss of revenue is not known at this time.

Dual enrollment students will be exempt from technology fees for dual enrollment courses. In 2015-2016, the average technology fee is $5.23 per credit hour at state universities and $3.96 per credit hour at Florida College System institutions.

The bill takes effect July 1, 2016.

II. Present Situation:

Each year, more than 50,000 students participate in Florida's dual enrollment program and participation is continuing to grow.[1] Dual enrollment is an acceleration mechanism that allows a student, who is enrolled in grades 6 through 12 in a Florida public school or in a Florida private school[2] or who is a home education[3] student, to enroll in a postsecondary course that is creditable toward high school completion and a career certificate, an associate degree, or a baccalaureate degree.[4] A student who is enrolled in postsecondary instruction that is not creditable toward a high school diploma must not be classified as a dual enrollment student.[5] Eligible students are authorized to enroll in dual enrollment courses conducted during school hours, after school hours, and during the summer term.[6] However, a student who is projected to graduate from high school before the scheduled completion date for a postsecondary course must not register for that course through dual enrollment.[7]

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[1] Florida Department of Education, *Dual Enrollment FAQs* (Revised July 26, 2015), *available at* http://www.fldoe.org/core/fileparse.php/5423/urlt/DualEnrollmentFAQ.pdf, at 1.

[2] A private school is "a nonpublic school defined as an individual, association, copartnership, or corporation, or department, division, or section of such organizations, that designates itself as an educational center that includes kindergarten or a higher grade or as an elementary, secondary, business, technical, or trade school below college level or any organization that provides instructional services that meet the intent of s. 1003.01(13) or that gives preemployment or supplementary training in technology or in fields of trade or industry or that offers academic, literary, or career training below college level, or any combination of the above, including an institution that performs the functions of the above schools through correspondence or extension, except those licensed under the provisions of chapter 1005. A private school may be a parochial, religious, denominational, for-profit, or nonprofit school. This definition does not include home education programs conducted in accordance with s. 1002.41." Section 1002.01(2), F.S. The Florida Department of Education (DOE) maintains a database of private schools that meet the specified requirements in law. Section 1002.42(2), F.S.

[3] A home education program means "the sequentially progressive instruction of a student directed by his or her parent in order to satisfy the attendance requirements of ss. 1002.41, 1003.01(13), and 1003.21(1)." Section 1002.01(1), F.S. A parent must notify the district school superintendent of the county in which the parent resides of his or her intent to establish and maintain a home education program. The notice must be in writing, signed by the parent, and must include the names, addresses, and birthdates of all children who shall be enrolled as students in the home education program. The notice must be filed in the district school superintendent's office within 30 days of the establishment of the home education program. Section 1002.41(1)(a), F.S.

[4] Section 1007.271(1)-(2), F.S.

[5] Section 1007.271(1), F.S.

[6] Section 1007.271(2), F.S.

[7] *Id*.

Home Education Rights and Responsibilities

The law specifies the requirements and rights of parents and students participating in a home education program. These parental requirements include: [8]

- Notification to the district school superintendent of the county in which the parent resides of her or his intent to establish and maintain a home education program.
- Maintaining of a portfolio of records and materials.
- Providing for an annual educational evaluation in which the student's demonstration of educational progress at a level commensurate with her or his ability is documented.

Home education students have the right to: [9]

- Participate in interscholastic extracurricular student activities.
- Participate in the Bright Futures Scholarship Program.
- Participate in dual enrollment programs.
- Gain admission to Florida College System institutions and state universities.
- Receive testing and evaluation services at diagnostic and resource centers.

Student Eligibility Requirements

To enroll in a postsecondary course through dual enrollment, a student must demonstrate readiness to perform college-level work.[10] To demonstrate readiness for college-credit dual enrollment courses, students must attain a 3.0 unweighted high school grade point average (GPA) and the minimum required score on a common placement test[11] adopted by the State Board of Education.[12] To enroll in a career dual enrollment course, students must attain a 2.0 unweighted high school GPA.[13] Florida College System (FCS) institution boards of trustees may establish additional initial student eligibility requirements which must be specified in dual enrollment articulation agreements.[14] However, such requirements must not "arbitrarily prohibit students who have demonstrated the ability to master advanced courses from participating in dual enrollment courses."[15]

Dual Enrollment Articulation Agreements

Dual enrollment articulation agreements (articulation agreement) are locally-developed agreements between a school district, a home education parent, or a private school and an

[8] Section 1002.41, F.S.
[9] Section 1002.41, F.S.
[10] Section 1007.271(3), F.S.
[11] A student may take the Florida Postsecondary Education Readiness Test (PERT), Accuplacer, SAT, or Enhanced ACT to demonstrate reading, writing, and mathematics proficiency, by meeting specified minimum test scores, to perform college-level work. Rule 6A-10.0315, F.A.C.
[12] Section 1007.271(3), F.S.
[13] *Id*.
[14] *Id*.
[15] *Id*.

eligible postsecondary institution[16] regarding participation in dual enrollment courses.[17] The articulation agreement between each school district and public postsecondary institution are mandatory and must be submitted to the Florida Department of Education (DOE or department) annually by August 1.[18] However, articulation agreements between postsecondary institutions and private secondary schools are optional and not submitted to the department.[19] In addition, articulation agreements between a home education parent and the partnering postsecondary institution are not required to be submitted to the department.[20] Consequently, DOE does not annually collect information on articulation agreements for private schools and home education program students.

Currently, all state universities and FCS institutions participate in dual enrollment.[21]

Tuition, Fees, and Other Costs

A student who enrolls in a postsecondary course through dual enrollment is exempt from the payment of registration, tuition, and laboratory fees.[22]

Instructional materials assigned for dual enrollment courses must be provided to dual enrollment students from Florida public high schools free of charge.[23] This requirement does not prohibit a FCS institution from providing instructional materials at no cost to a home education program or a private school student.[24] Instructional materials purchased by a district school board or a FCS institution board of trustees on behalf of dual enrollment students must be the property of the board that purchased the instructional materials.[25]

III. Effect of Proposed Changes:

The bill modifies home education student rights, public and private dual enrollment articulation agreement requirements, expands fee exemptions for dually-enrolled students, and specifies funding for certain public postsecondary institutions.

[16] An eligible postsecondary institution is a state university, a Florida College System (FCS) institution, or "an independent college or university which is located and chartered in Florida, is not for profit, is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools or the Accrediting Council for Independent Colleges and Schools, and confers degrees as defined in s. 1005.02" Sections 1007.271 and 1011.62(1)(i), F.S.
[17] Section 1007.271, F.S.; Florida Department of Education, *Dual Enrollment FAQs* (Revised July 26, 2015), *available at* http://www.fldoe.org/core/fileparse.php/5423/urlt/DualEnrollmentFAQ.pdf, at 3.
[18] Section 1007.271(21), F.S.
[19] Section 1007.271(24), F.S.
[20] Section 1007.271(13), F.S.
[21] Email, Board of Governors (Jan. 28, 2016); Email, Florida Department of Education (Jan. 28, 2016), on file with the Committee on Education Pre-K – 12 staff; *see also* Florida Department of Education, *2014-15 Dual Enrollment Agreements*, http://www.fldoe.org/policy/articulation/1415dual-enrollment-agreements.stml (last visited Jan. 28, 2016).
[22] Section 1007.271(2), F.S.
[23] Section 1007.271(17), F.S.
[24] *Id*.
[25] *Id*.

Home Education Student Rights

The bill specifies that a school district may provide exceptional student education services to a home education student with a disability who is eligible for the services and who enrolls in a public school for the purpose of receiving the services. The school district that provides these services will report these students for funding through the Florida Education Finance Program (FEFP).

Dual Enrollment Articulation Agreements

Consistent with the annual deadline for submitting dual enrollment articulation agreements between postsecondary institutions and school districts to the Department of Education (DOE or department), the bill also requires the following dual enrollment articulation agreements to be submitted annually to the department by August 1:

- An agreement between an eligible postsecondary institution[26] and home education program student seeking enrollment in a dual enrollment course, and his or her parent.
- An agreement between an eligible postsecondary institution and a private school, in the postsecondary institution's geographic service area, seeking to offer dual enrollment courses to students in the private school.
- An agreement between a district school board or Florida College System (FCS) institution and a state university or an eligible private college or university.

This provision will allow the department to compile information on locally-developed dual enrollment articulation agreements with eligible postsecondary institutions. Additionally, the bill modifies articulation agreements with home education program students and establishes provisions that must be included in the articulation agreements with private schools.

Home Education Program Students

The bill:

- Modifies an existing provision to clarify that each postsecondary institution that is eligible to receive funding for participation in dual enrollment,[27] must enter into a home education articulation agreement with each home education program student seeking enrollment in a dual enrollment course, and his or her parent.
- Adds a requirement that the home education articulation agreements include a provision expressing whether the postsecondary institution or the student is responsible for providing instructional materials and transportation.

The bill also specifies that home education students may not have additional course or program limitations than other dual enrollment students. The bill also prohibits a postsecondary institution from requiring a high school grade point average for home education students who meet the

[26] An eligible postsecondary institution is a state university, a Florida College System (FCS) institution, or "an independent college or university which is located and chartered in Florida, is not for profit, is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools or the Accrediting Council for Independent Colleges and Schools, and confers degrees as defined in s. 1005.02" Sections 1007.271 and 1011.62(1)(i), F.S.
[27] *Id*.

minimum score on a common placement test indicating the student is ready for college-level coursework.

Private Schools

Current law authorizes, but does not require, postsecondary institutions to enter into dual enrollment articulation agreements with private secondary schools. Consequently, consistent with dual enrollment articulation agreements for public school students and home education program students, the bill:

- Requires each eligible postsecondary institution to enter into an articulation agreement with each private school, in the postsecondary institution's geographic service area, seeking to offer dual enrollment courses to its students.
- Establishes provisions that must be included in the articulation agreements with private schools, which includes provisions similar to the information that must be included in the home education articulation agreements (e.g., delineation of available courses and programs, and initial and continued student eligibility requirements which must not exceed the requirements for other dual enrollment students) and additional provisions that:
  - Clarify that the private school will award appropriate credit toward high school completion for the postsecondary course taken through dual enrollment.
  - Express that costs associated with taking dual enrollment courses will not be passed along to the private school students who enroll in such courses.
  - State whether the private school will compensate the postsecondary institution for the standard tuition rate per credit hour for the dual enrollment courses taken by students enrolled in the private school, or the postsecondary institution will seek compensation from appropriations in the General Appropriations Act (GAA), as specified.

Electronic Submission System for Dual Enrollment Articulation Agreements

The bill requires the electronic submission system for submitting dual enrollment articulation agreements between public postsecondary institutions and school districts to also be used for the submission of articulation agreements with home education program and private school students. This provision may streamline the process for submitting the articulation agreements with home education program and private school students which will assist with compiling relevant information.

Compliance Review

The bill requires the department to review, for compliance, articulation agreements with home education program students and private schools, in effect, aligning this provision with the department's oversight responsibility for articulation agreements between public postsecondary institutions and school districts.

Tuition, Fees, and Other Costs

The bill requires that, in addition to registration, tuition, and laboratory fees, all dual enrollment students will also be exempt from technology fees. In 2015-2016, the average technology fee

was $5.23 per credit hour at state universities[28] and $3.96 per credit hour at Florida College System institutions.[29]

Additionally, the bill specifies funding, subject to annual appropriation in the GAA, for public postsecondary institutions for each dual enrollment course taken by a private school student during the prior academic year, except for the private school students for whom such postsecondary institutions are otherwise compensated.

The bill takes effect July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Under PCS/SB 824, dual enrollment students will be exempt from technology fees for dual enrollment courses. In 2015-2016, the average technology fee is $5.23 per credit hour at state universities and $3.96 per credit hour at Florida College System institutions.

C. Government Sector Impact:

The bill has an indeterminate fiscal impact in terms of a loss of revenue for postsecondary institutions. The requirement for all eligible postsecondary institutions to enter into dual enrollment articulation agreements home education program students and each private school in its geographic service area seeking to offer dual enrollment courses to its students will result in a loss of revenue for the state's postsecondary institutions. However, due to the uncertainty in the number of eligible students, the potential loss of revenue is not known at this time.

[28] Email, Board of Governors for the State University System of Florida (Jan. 28, 2016).
[29] Email, Florida Department of Education, Division of Florida Colleges (Jan. 28, 2016).

The bill requires electronic submission of dual enrollment articulation agreements for home education program and private schools to the Department of Education and requires the department to review each agreement for compliance. According to the department, this will require modifications to the existing electronic submission system and additional staff to review each of these agreements at a cost of approximately $100,000.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1002.20, 1002.41, 1007.271, and 1011.62.

IX. Additional Information:

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

Recommended CS by Appropriations Subcommittee on Education on February 24, 2016:
The committee substitute:

- Specifies that a school district may provide exceptional student education services to home education students, and that the school district that provides those services may report these students for funding through the Florida Education Finance Program.
- Specifies that home education students may not have additional course or program limitations than other dual enrollment students.
- Prohibits a postsecondary institution from requiring a high school grade point average for home education students who meet the minimum score on a common placement test indicating the student is ready for college-level coursework.

B. Amendments:

None.

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576-04134-16

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Education)

A bill to be entitled

An act relating to the dual enrollment program; amending s. 1002.41, F.S.; authorizing a school district to provide exceptional student education-related services to certain home education program students; requiring reporting and funding through the Florida Education Finance Program; amending s. 1007.271, F.S.; exempting dual enrollment students from paying technology fees; requiring a home education secondary student to be responsible for his or her own instructional materials and transportation in order to participate in the dual enrollment program unless the articulation agreement provides otherwise; prohibiting dual enrollment course and program limitations for home education students from exceeding limitations for other students; providing an exemption from the grade point average requirement for initial enrollment in a dual enrollment program for certain home education students; requiring a postsecondary institution eligible to participate in the dual enrollment program to enter into a home education articulation agreement; requiring the postsecondary institution to annually complete and submit the agreement to the Department of Education by a specified date; conforming provisions to changes made by the act; authorizing certain instructional materials to be made available free of charge to dual

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576-04134-16

enrollment students in home education programs and private schools if provided for in the articulation agreement; requiring the department to review dual enrollment articulation agreements submitted for certain students, including home education students and private school students, to participate in a dual enrollment program; requiring the Commissioner of Education to notify the district school board superintendent and the president of the postsecondary institution if the dual enrollment articulation agreement does not comply with statutory requirements; requiring a district school board and a Florida College System institution to annually complete and submit to the department by a specified date a dual enrollment articulation agreement with a state university or an eligible independent college or university, as applicable; providing requirements for a private school student to participate in a dual enrollment program; requiring a postsecondary institution eligible to participate in the dual enrollment program to enter into an articulation agreement with certain eligible private schools; requiring the postsecondary institution to annually complete and submit the articulation agreement to the department by a specified date; providing requirements for the articulation agreement; providing for funding for each dual enrollment course taken by certain students; amending ss. 1002.20 and 1011.62, F.S.; conforming provisions to changes made by the act;

576-04134-16

providing an effective date.

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

Section 1. Subsection (9) of section 1002.41, Florida Statutes, is amended, and subsections (10) is added to that section, to read:

1002.41 Home education programs.—

(9) ~~Home education program students may receive~~ Testing and evaluation services at diagnostic and resource centers shall be available to home education program students, in accordance with the provisions of s. 1006.03.

(10) A school district may provide exceptional student education-related services, as defined in State Board of Education rule, to a home education program student with a disability who is eligible for the services and who enrolls in a public school solely for the purpose of receiving those related services. The school district providing the services shall report each student as a full-time equivalent student in the class and in a manner prescribed by the Department of Education, and funding shall be provided through the Florida Education Finance Program pursuant to s. 1011.62.

Section 2. Subsections (2), (10), (11), (13), (16), (17), (22), (23), and (24) of section 1007.271, Florida Statutes, are amended, and subsection (25) is added to that section, to read:

1007.271 Dual enrollment programs.—

(2) For the purpose of this section, an eligible secondary student is a student who is enrolled in any of grades 6 through 12 in a Florida public school or in a Florida private school

576-04134-16

that is in compliance with s. 1002.42(2) and provides a secondary curriculum pursuant to s. 1003.4282. A student ~~Students~~ who is ~~are~~ eligible for dual enrollment pursuant to this section may enroll in dual enrollment courses conducted during school hours, after school hours, and during the summer term. However, if the student is projected to graduate from high school before the scheduled completion date of a postsecondary course, the student may not register for that course through dual enrollment. The student may apply to the postsecondary institution and pay the required registration, tuition, and fees if the student meets the postsecondary institution's admissions requirements under s. 1007.263. Instructional time for dual enrollment may vary from 900 hours; however, the full-time equivalent student membership value is ~~shall be~~ subject to ~~the provisions in~~ s. 1011.61(4). A student enrolled as a dual enrollment student is exempt from the payment of registration, tuition, technology, and laboratory fees. Applied academics for adult education instruction, developmental education, and other forms of precollegiate instruction, as well as physical education courses that focus on the physical execution of a skill, rather than the intellectual attributes of the activity, are ineligible for inclusion in the dual enrollment program. Recreation and leisure studies courses shall be evaluated individually in the same manner as physical education courses for potential inclusion in the program.

(10) Early admission is a form of dual enrollment through which an eligible secondary student enrolls ~~students enroll~~ in a postsecondary institution on a full-time basis in courses that are creditable toward the high school diploma and the associate

or baccalaureate degree. A student must enroll in a minimum of 12 college credit hours per semester or the equivalent to participate in the early admission program; however, a student may not be required to enroll in more than 15 college credit hours per semester or the equivalent. A student ~~Students~~ enrolled pursuant to this subsection is ~~are~~ exempt from the payment of registration, tuition, technology, and laboratory fees.

(11) Career early admission is a form of career dual enrollment through which an eligible secondary student enrolls ~~students enroll~~ full time in a career center or a Florida College System institution in postsecondary programs leading to industry certifications, as listed in the CAPE Postsecondary Industry Certification Funding List pursuant to s. 1008.44, which are creditable toward the high school diploma and the certificate or associate degree. Participation in the career early admission program is limited to students who have completed a minimum of 4 semesters of full-time secondary enrollment, including studies undertaken in ~~the ninth~~ grade 9. A student ~~Students~~ enrolled pursuant to this section is ~~are~~ exempt from the payment of registration, tuition, technology, and laboratory fees.

(13)(a) The dual enrollment program for a home education student ~~students~~ consists of the enrollment of an eligible home education secondary student in a postsecondary course creditable toward an associate degree, a career certificate, or a baccalaureate degree. To participate in the dual enrollment program, an eligible home education secondary student must:

1. Provide proof of enrollment in a home education program

pursuant to s. 1002.41.

2. Be responsible for his or her own instructional materials and transportation unless provided for in the articulation agreement ~~otherwise~~.

3. Sign a home education articulation agreement pursuant to paragraph (b).

(b) Each postsecondary institution eligible to participate in the dual enrollment program pursuant to s. 1011.62(1)(i) must ~~shall~~ enter into a home education articulation agreement with each home education student seeking enrollment in a dual enrollment course and the student's parent. By August 1 of each year, the eligible postsecondary institution shall complete and submit the home education articulation agreement to the Department of Education. The home education articulation agreement must ~~shall~~ include, at a minimum:

1. A delineation of courses and programs available to a ~~dually enrolled~~ home education student who participates in a dual enrollment program ~~students~~. The postsecondary institution may add, revise, or delete courses and programs ~~may be added, revised, or deleted~~ at any time ~~by the postsecondary institution~~. Any course or program limitations may not exceed the limitations for other dually enrolled students within a district.

2. The initial and continued eligibility requirements for home education student participation, not to exceed those required of other dual enrollment ~~dually enrolled~~ students. A high school grade point average may not be required for home education students who meet the minimum score on a common placement test adopted by the State Board of Education which

indicates that the student is ready for college-level coursework; however, home education student eligibility requirements for continued enrollment in college credit dual enrollment courses must include the maintenance of the minimum postsecondary grade point average established by the postsecondary institution.

3. A provision expressing whether the postsecondary institution or the student is responsible ~~The student's responsibilities~~ for providing ~~his or her own~~ instructional materials and transportation.

4. A copy of the statement on transfer guarantees developed by the Department of Education under subsection (15).

(16) A public school, a private school, or a home education program student ~~Students~~ who meets ~~meet~~ the eligibility requirements of this section and who chooses ~~choose~~ to participate in dual enrollment programs is ~~are~~ exempt from the payment of registration, tuition, technology, and laboratory fees.

(17) Instructional materials assigned for use in ~~within~~ dual enrollment courses shall be made available to dual enrollment students from Florida public high schools free of charge. This subsection does not prohibit a postsecondary ~~Florida College System~~ institution from providing instructional materials at no cost to a home education student or student from a private school, if provided for in the articulation agreement. Instructional materials purchased by a district school board or Florida College System institution board of trustees on behalf of dual enrollment students are ~~shall be~~ the property of the board against which the purchase is charged.

(22) The Department of Education shall develop an electronic submission system for dual enrollment articulation agreements and shall review, for compliance, each dual enrollment articulation agreement submitted pursuant to subsections (13), ~~subsection~~ (21), and (24). The Commissioner of Education shall notify the district school superintendent and the president of the postsecondary institution that is eligible to participate in the dual enrollment program pursuant to s. 1011.62(1)(i) ~~Florida College System institution president~~ if the dual enrollment articulation agreement does not comply with statutory requirements and shall submit any dual enrollment articulation agreement with unresolved issues of noncompliance to the State Board of Education.

(23) A district school board ~~boards~~ and a Florida College System institution ~~institutions~~ may enter into an additional dual enrollment articulation agreement ~~agreements~~ with a state university ~~universities~~ for the purposes of this section. A school district ~~districts~~ may also enter into a dual enrollment articulation agreement ~~agreements~~ with an eligible independent college or university ~~colleges and universities~~ pursuant to s. 1011.62(1)(i). By August 1 of each year, the district school board and the Florida College System institution shall complete and submit the dual enrollment articulation agreement with the state university or an eligible independent college or university, as applicable, to the Department of Education.

(24)(a) The dual enrollment program for a private school student consists of the enrollment of an eligible private school student in a postsecondary course creditable toward an associate degree, a career certificate, or a baccalaureate degree. In

addition, the private school in which the student is enrolled must award credit toward high school completion for the postsecondary course under the dual enrollment program. To participate in the dual enrollment program, an eligible private school student must:

1. Provide proof of enrollment in a private school pursuant to subsection (2).

2. Be responsible for his or her own instructional materials and transportation unless provided for in the articulation agreement.

3. Sign a private school articulation agreement pursuant to paragraph (b).

(b) Each postsecondary institution eligible to participate in the dual enrollment program pursuant to s. 1011.62(1)(i) must enter into a private school articulation agreement with each eligible private school in its geographic service area seeking to offer dual enrollment courses to its students. By August 1 of each year, the eligible postsecondary institution shall complete and submit the private school articulation agreement to the Department of Education. The articulation agreement must include, at a minimum:

1. A delineation of courses and programs available to the private school. The postsecondary institution may add, revise, or delete courses and programs at any time.

2. The initial and continued eligibility requirements for private school student participation, not to exceed those required of other dual enrollment students.

3. A provision expressing whether the private school, the postsecondary institution, or the student is responsible for

providing instructional materials and transportation.

4. A provision clarifying that the private school will award appropriate credit toward high school completion for the postsecondary course under the dual enrollment program.

5. A provision expressing that costs associated with tuition and fees, including technology, registration, and laboratory fees, will not be passed along to the student.

6. A provision stating whether the private school will compensate the postsecondary institution for the standard tuition rate per credit hour for each dual enrollment course taken by its students or the postsecondary institution will seek compensation pursuant to subsection (25).

7. A copy of the statement on transfer guarantees developed by the Department of Education under subsection (15)

~~Postsecondary institutions may enter into dual enrollment articulation agreements with private secondary schools pursuant to subsection (2)~~.

(25) Subject to annual appropriation in the General Appropriations Act, a public postsecondary institution shall receive an amount of funding equivalent to the standard tuition rate per credit hour for each dual enrollment course taken by a private school student pursuant to subsection (24) during the prior academic year, except for any students for whom the postsecondary institution is otherwise compensated at the standard tuition rate per credit hour.

Section 3. Paragraph (d) of subsection (19) of section 1002.20, Florida Statutes, is amended to read:

1002.20 K-12 student and parent rights.—Parents of public school students must receive accurate and timely information

regarding their child's academic progress and must be informed of ways they can help their child to succeed in school. K-12 students and their parents are afforded numerous statutory rights including, but not limited to, the following:

(19) INSTRUCTIONAL MATERIALS.—

(d) *Dual enrollment students.*—Instructional materials purchased by a district school board or Florida College System institution board of trustees on behalf of ~~public school~~ dual enrollment students shall be made available free of charge to the dual enrollment students ~~free of charge,~~ in accordance with s. 1007.271(17).

Section 4. Paragraph (i) of subsection (1) of section 1011.62, Florida Statutes, is amended to read:

1011.62 Funds for operation of schools.—If the annual allocation from the Florida Education Finance Program to each district for operation of schools is not determined in the annual appropriations act or the substantive bill implementing the annual appropriations act, it shall be determined as follows:

(1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR OPERATION.—The following procedure shall be followed in determining the annual allocation to each district for operation:

(i) *Calculation of full-time equivalent membership with respect to dual enrollment instruction.*—Students enrolled in dual enrollment instruction pursuant to s. 1007.271 may be included in calculations of full-time equivalent student memberships for basic programs for grades 9 through 12 by a district school board. Instructional time for dual enrollment

may vary from 900 hours; however, the full-time equivalent student membership value shall be subject to the provisions in s. 1011.61(4). Dual enrollment full-time equivalent student membership shall be calculated in an amount equal to the hours of instruction that would be necessary to earn the full-time equivalent student membership for an equivalent course if it were taught in the school district. Students in dual enrollment courses may also be calculated as the proportional shares of full-time equivalent enrollments they generate for a Florida College System institution or university conducting the dual enrollment instruction. Early admission students shall be considered dual enrollments for funding purposes. Students may be enrolled in dual enrollment instruction provided by an eligible independent college or university and may be included in calculations of full-time equivalent student memberships for basic programs for grades 9 through 12 by a district school board. However, those provisions of law which exempt dual enrollment students ~~enrolled~~ and early admission students from payment of instructional materials and tuition and fees, including registration, technology, and laboratory fees, do ~~shall~~ not apply to students who select the option of enrolling in an eligible independent institution. An independent college or university that ~~which~~ is located and chartered in Florida, is not for profit, is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools or the Accrediting Council for Independent Colleges and Schools, and confers degrees as defined in s. 1005.02 is ~~shall be~~ eligible for inclusion in the dual enrollment or early admission program. Students enrolled in dual enrollment instruction are ~~shall be~~

exempt from the payment of tuition and fees, including registration, technology, and laboratory fees. A ~~No~~ student enrolled in college credit mathematics or English dual enrollment instruction may not ~~shall~~ be funded as a dual enrollment unless the student has successfully completed the relevant section of the entry-level examination required pursuant to s. 1008.30.

Section 5. This act shall take effect July 1, 2016.

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	SB 824
INTRODUCER:	Senator Stargel
SUBJECT:	Dual Enrollment Program
DATE:	March 2, 2016
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Graf	Klebacha	ED	**Favorable**
2.	Sikes	Elwell	AED	**Recommend: Fav/CS**
3.	Sikes	Kynoch	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

SB 824 modifies public and private dual enrollment articulation agreement requirements, expands fee exemptions for dually-enrolled students, and specifies funding for certain public postsecondary institutions. Specifically, the bill:

- Establishes August 1 as the annual deadline by which the dual enrollment articulation agreements with home education program students, private schools, and state universities or eligible private colleges and universities must be submitted to the Department of Education.
- Clarifies that the provision of instructional materials and transportation for home education program students and private schools must be addressed in the articulation agreement with the partnering postsecondary institution.
- Establishes provisions that must be included in the articulation agreements with private schools.
- Adds technology fees to the existing fees that public and private school students and home education program students are exempt from paying for dual enrollment courses.
- Specifies funding, subject to annual appropriation in the GAA, for public postsecondary institutions for dual enrollment courses taken by private school students, except for the private school students for whom such postsecondary institutions are otherwise compensated.

The bill takes effect July 1, 2016.

II. Present Situation:

Each year, more than 50,000 students participate in Florida's dual enrollment program and participation is continuing to grow.[1] Dual enrollment is an acceleration mechanism that allows a student, who is enrolled in grades 6 through 12 in a Florida public school or in a Florida private school[2] or who is a home education[3] student, to enroll in a postsecondary course that is creditable toward high school completion and a career certificate, an associate degree, or a baccalaureate degree.[4] A student who is enrolled in postsecondary instruction that is not creditable toward a high school diploma must not be classified as a dual enrollment student.[5] Eligible students are authorized to enroll in dual enrollment courses conducted during school hours, after school hours, and during the summer term.[6] If, however, a student is projected to graduate from high school before the scheduled completion date for a postsecondary course, the student must not register for that course through dual enrollment.[7]

Student Eligibility Requirements

To enroll in a postsecondary course through dual enrollment, a student must demonstrate readiness to perform college-level work.[8] To demonstrate readiness for college-credit dual enrollment courses, students must attain a 3.0 unweighted high school grade point average (GPA) and the minimum required score on a common placement test[9] adopted by the State Board of Education.[10] To enroll in a career dual enrollment course, students must attain a 2.0 unweighted high school GPA.[11] Florida College System (FCS) institution boards of trustees may

[1] Florida Department of Education, *Dual Enrollment FAQs* (Revised July 26, 2015), *available at* http://www.fldoe.org/core/fileparse.php/5423/urlt/DualEnrollmentFAQ.pdf, at 1.

[2] A private school is "a nonpublic school defined as an individual, association, copartnership, or corporation, or department, division, or section of such organizations, that designates itself as an educational center that includes kindergarten or a higher grade or as an elementary, secondary, business, technical, or trade school below college level or any organization that provides instructional services that meet the intent of s. 1003.01(13) or that gives preemployment or supplementary training in technology or in fields of trade or industry or that offers academic, literary, or career training below college level, or any combination of the above, including an institution that performs the functions of the above schools through correspondence or extension, except those licensed under the provisions of chapter 1005. A private school may be a parochial, religious, denominational, for-profit, or nonprofit school. This definition does not include home education programs conducted in accordance with s. 1002.41." Section 1002.01(2), F.S. The Florida Department of Education (DOE) maintains a database of private schools that meet the specified requirements in law. Section 1002.42(2), F.S.

[3] A home education program means "the sequentially progressive instruction of a student directed by his or her parent in order to satisfy the attendance requirements of ss. 1002.41, 1003.01(13), and 1003.21(1)." Section 1002.01(1), F.S. A parent must notify the district school superintendent of the county in which the parent resides of his or her intent to establish and maintain a home education program. The notice must be in writing, signed by the parent, and must include the names, addresses, and birthdates of all children who shall be enrolled as students in the home education program. The notice must be filed in the district school superintendent's office within 30 days of the establishment of the home education program. Section 1002.41(1)(a), F.S.

[4] Section 1007.271(1)-(2), F.S.

[5] Section 1007.271(1), F.S.

[6] Section 1007.271(2), F.S.

[7] *Id*.

[8] Section 1007.271(3), F.S.

[9] A student may take the Florida Postsecondary Education Readiness Test (PERT), Accuplacer, SAT, or Enhanced ACT to demonstrate reading, writing, and mathematics proficiency, by meeting specified minimum test scores, to perform college-level work. Rule 6A-10.0315, F.A.C.

[10] Section 1007.271(3), F.S.

[11] *Id*.

establish additional initial student eligibility requirements which must be specified in dual enrollment articulation agreements.[12] However, such requirements must not "arbitrarily prohibit students who have demonstrated the ability to master advanced courses from participating in dual enrollment courses."[13]

Dual Enrollment Articulation Agreements

Dual enrollment articulation agreements (articulation agreement) are locally-developed agreements between a school district, a home education parent, or a private school and an eligible postsecondary institution[14] regarding participation in dual enrollment courses.[15] The articulation agreement between each school district and public postsecondary institution are mandatory and must be submitted to the Florida Department of Education (DOE or department) annually by August 1.[16] However, articulation agreements between postsecondary institutions and private secondary schools are optional and not submitted to the department.[17] In addition, articulation agreements between a home education parent and the partnering postsecondary institution are not required to be submitted to the department.[18] Consequently, DOE does not annually collect information on articulation agreements for private schools and home education program students.

Currently, all state universities and FCS institutions participate in dual enrollment.[19]

Tuition, Fees, and Other Costs

A student who enrolls in a postsecondary course through dual enrollment is exempt from the payment of registration, tuition, and laboratory fees.[20]

Instructional materials assigned for dual enrollment courses must be provided to dual enrollment students from Florida public high schools free of charge.[21] This requirement does not prohibit a FCS institution from providing instructional materials at no cost to a home education program or a private school student.[22] Instructional materials purchased by a district school board or a FCS

[12] *Id*.
[13] *Id*.
[14] An eligible postsecondary institution is a state university, a Florida College System (FCS) institution, or "an independent college or university which is located and chartered in Florida, is not for profit, is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools or the Accrediting Council for Independent Colleges and Schools, and confers degrees as defined in s. 1005.02" Sections 1007.271 and 1011.62(1)(i), F.S.
[15] Section 1007.271, F.S.; Florida Department of Education, *Dual Enrollment FAQs* (Revised July 26, 2015), *available at* http://www.fldoe.org/core/fileparse.php/5423/urlt/DualEnrollmentFAQ.pdf, at 3.
[16] Section 1007.271(21), F.S.
[17] Section 1007.271(24), F.S.
[18] Section 1007.271(13), F.S.
[19] Email, Board of Governors (Jan. 28, 2016); Email, Florida Department of Education (Jan. 28, 2016), on file with the Committee on Education Pre-K – 12 staff; *see also* Florida Department of Education, *2014-15 Dual Enrollment Agreements*, http://www.fldoe.org/policy/articulation/1415dual-enrollment-agreements.stml (last visited Jan. 28, 2016).
[20] Section 1007.271(2), F.S.
[21] Section 1007.271(17), F.S.
[22] *Id*.

institution board of trustees on behalf of dual enrollment students must be the property of the board that purchased the instructional materials.[23]

III. Effect of Proposed Changes:

This bill modifies public and private dual enrollment articulation agreement requirements, expands fee exemptions for dually-enrolled students, and specifies funding for certain public postsecondary institutions.

Dual Enrollment Articulation Agreements

Consistent with the annual deadline for submitting dual enrollment articulation agreements between postsecondary institutions and school districts to the Department of Education (DOE or department), the bill also requires the following dual enrollment articulation agreements to be submitted annually to the department by August 1:

- An agreement between an eligible postsecondary institution[24] and home education program student seeking enrollment in a dual enrollment course, and his or her parent.
- An agreement between an eligible postsecondary institution and a private school, in the postsecondary institution's geographic service area, seeking to offer dual enrollment courses to students in the private school.
- An agreement between a district school board or Florida College System (FCS) institution and a state university or an eligible private college or university.

This provision will allow the department to compile information on locally-developed dual enrollment articulation agreements with eligible postsecondary institutions. Additionally, the bill modifies articulation agreements with home education program students and establishes provisions that must be included in the articulation agreements with private schools.

Home Education Program Students

The bill:

- Modifies an existing provision to clarify that each postsecondary institution that is eligible to receive funding for participation in dual enrollment,[25] must enter into a home education articulation agreement with each home education program student seeking enrollment in a dual enrollment course, and his or her parent.
- Adds a requirement that the home education articulation agreements include a provision expressing whether the postsecondary institution or the student is responsible for providing instructional materials and transportation.

[23] *Id*.
[24] An eligible postsecondary institution is a state university, a Florida College System (FCS) institution, or "an independent college or university which is located and chartered in Florida, is not for profit, is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools or the Accrediting Council for Independent Colleges and Schools, and confers degrees as defined in s. 1005.02" Sections 1007.271 and 1011.62(1)(i), F.S.
[25] *Id*.

Private Schools

Current law authorizes, but does not require, postsecondary institutions to enter into dual enrollment articulation agreements with private secondary schools. Consequently, consistent with dual enrollment articulation agreements for public school students and home education program students, the bill:

- Requires each eligible postsecondary institution to enter into an articulation agreement with each private school, in the postsecondary institution's geographic service area, seeking to offer dual enrollment courses to its students.
- Establishes provisions that must be included in the articulation agreements with private schools, which includes provisions similar to the information that must be included in the home education articulation agreements (e.g., delineation of available courses and programs, and initial and continued student eligibility requirements which must not exceed the requirements for other dual enrollment students) and additional provisions that:
  - Clarify that the private school will award appropriate credit toward high school completion for the postsecondary course taken through dual enrollment.
  - Express that costs associated with taking dual enrollment courses will not be passed along to the private school students who enroll in such courses.
  - State whether the private school will compensate the postsecondary institution for the standard tuition rate per credit hour for the dual enrollment courses taken by students enrolled in the private school, or the postsecondary institution will seek compensation from appropriations in the General Appropriations Act (GAA), as specified.

Electronic Submission System for Dual Enrollment Articulation Agreements

The bill requires the electronic submission system for submitting dual enrollment articulation agreements between public postsecondary institutions and school districts to also be used for the submission of articulation agreements with home education program and private school students. This provision may streamline the process for submitting the articulation agreements with home education program and private school students which will assist with compiling relevant information.

Compliance Review

The bill requires the department to review, for compliance, articulation agreements with home education program students and private schools, in effect, aligning this provision with the department's oversight responsibility for articulation agreements between public postsecondary institutions and school districts.

Tuition, Fees, and Other Costs

The bill requires that, in addition to registration, tuition, and laboratory fees, all dual enrollment students will also be exempt from technology fees. In 2015-2016, the average technology fee was $5.23 per credit hour at state universities[26] and $3.96 per credit hour at Florida College System institutions.[27]

[26] Email, Board of Governors for the State University System of Florida (Jan. 28, 2016).
[27] Email, Florida Department of Education, Division of Florida Colleges (Jan. 28, 2016).

Additionally, the bill specifies funding, subject to annual appropriation in the GAA, for public postsecondary institutions for each dual enrollment course taken by a private school student during the prior academic year, except for the private school students for whom such postsecondary institutions are otherwise compensated.

The bill takes effect July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1002.20, 1007.271, and 1011.62.

IX. Additional Information:

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

None.

B. Amendments:

None.

By Senator Stargel

15-00901A-16 2016824__

A bill to be entitled

An act relating to the dual enrollment program; amending s. 1007.271, F.S.; exempting dual enrollment students from paying technology fees; requiring a home education secondary student to be responsible for his or her own instructional materials and transportation in order to participate in the dual enrollment program unless the articulation agreement provides otherwise; requiring a postsecondary institution eligible to participate in the dual enrollment program to enter into a home education articulation agreement; requiring the postsecondary institution to annually complete and submit the agreement to the Department of Education by a specified date; conforming provisions to changes made by the act; authorizing certain instructional materials to be made available free of charge to dual enrollment students in home education programs and private schools if provided for in the articulation agreement; requiring the department to review dual enrollment articulation agreements submitted for certain students, including home education students and private school students, to participate in a dual enrollment program; requiring the Commissioner of Education to notify the district school board superintendent and the president of the postsecondary institution if the dual enrollment articulation agreement does not comply with statutory requirements; requiring a district school board and a Florida College System institution to annually

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complete and submit to the department by a specified date a dual enrollment articulation agreement with a state university or an eligible independent college or university, as applicable; providing requirements for a private school student to participate in a dual enrollment program; requiring a postsecondary institution eligible to participate in the dual enrollment program to enter into an articulation agreement with certain eligible private schools; requiring the postsecondary institution to annually complete and submit the articulation agreement to the department by a specified date; providing requirements for the articulation agreement; providing for funding for each dual enrollment course taken by certain students; amending ss. 1002.20 and 1011.62, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Subsections (2), (10), (11), (13), (16), (17), (22), (23), and (24) of section 1007.271, Florida Statutes, are amended, and subsection (25) is added to that section, to read:

1007.271 Dual enrollment programs.—

(2) For the purpose of this section, an eligible secondary student is a student who is enrolled in any of grades 6 through 12 in a Florida public school or in a Florida private school that is in compliance with s. 1002.42(2) and provides a secondary curriculum pursuant to s. 1003.4282. A student

~~Students~~ who is ~~are~~ eligible for dual enrollment pursuant to this section may enroll in dual enrollment courses conducted during school hours, after school hours, and during the summer term. However, if the student is projected to graduate from high school before the scheduled completion date of a postsecondary course, the student may not register for that course through dual enrollment. The student may apply to the postsecondary institution and pay the required registration, tuition, and fees if the student meets the postsecondary institution's admissions requirements under s. 1007.263. Instructional time for dual enrollment may vary from 900 hours; however, the full-time equivalent student membership value is ~~shall be~~ subject to ~~the provisions in~~ s. 1011.61(4). A student enrolled as a dual enrollment student is exempt from the payment of registration, tuition, technology, and laboratory fees. Applied academics for adult education instruction, developmental education, and other forms of precollegiate instruction, as well as physical education courses that focus on the physical execution of a skill, rather than the intellectual attributes of the activity, are ineligible for inclusion in the dual enrollment program. Recreation and leisure studies courses shall be evaluated individually in the same manner as physical education courses for potential inclusion in the program.

(10) Early admission is a form of dual enrollment through which an eligible secondary student enrolls ~~students enroll~~ in a postsecondary institution on a full-time basis in courses that are creditable toward the high school diploma and the associate or baccalaureate degree. A student must enroll in a minimum of 12 college credit hours per semester or the equivalent to

participate in the early admission program; however, a student may not be required to enroll in more than 15 college credit hours per semester or the equivalent. A student ~~Students~~ enrolled pursuant to this subsection is ~~are~~ exempt from the payment of registration, tuition, technology, and laboratory fees.

(11) Career early admission is a form of career dual enrollment through which an eligible secondary student enrolls ~~students enroll~~ full time in a career center or a Florida College System institution in postsecondary programs leading to industry certifications, as listed in the CAPE Postsecondary Industry Certification Funding List pursuant to s. 1008.44, which are creditable toward the high school diploma and the certificate or associate degree. Participation in the career early admission program is limited to students who have completed a minimum of 4 semesters of full-time secondary enrollment, including studies undertaken in ~~the ninth~~ grade 9. A student ~~Students~~ enrolled pursuant to this section is ~~are~~ exempt from the payment of registration, tuition, technology, and laboratory fees.

(13)(a) The dual enrollment program for a home education student ~~students~~ consists of the enrollment of an eligible home education secondary student in a postsecondary course creditable toward an associate degree, a career certificate, or a baccalaureate degree. To participate in the dual enrollment program, an eligible home education secondary student must:

1. Provide proof of enrollment in a home education program pursuant to s. 1002.41.

2. Be responsible for his or her own instructional

materials and transportation unless provided for in the articulation agreement ~~otherwise~~.

3. Sign a home education articulation agreement pursuant to paragraph (b).

(b) Each postsecondary institution eligible to participate in the dual enrollment program pursuant to s. 1011.62(1)(i) must ~~shall~~ enter into a home education articulation agreement with each home education student seeking enrollment in a dual enrollment course and the student's parent. By August 1 of each year, the eligible postsecondary institution shall complete and submit the home education articulation agreement to the Department of Education. The home education articulation agreement must ~~shall~~ include, at a minimum:

1. A delineation of courses and programs available to a ~~dually enrolled~~ home education student who participates in a dual enrollment program ~~students~~. The postsecondary institution may add, revise, or delete courses and programs ~~may be added, revised, or deleted~~ at any time ~~by the postsecondary institution~~.

2. The initial and continued eligibility requirements for home education student participation, not to exceed those required of other dual enrollment ~~dually enrolled~~ students.

3. A provision expressing whether the postsecondary institution or the student is responsible ~~The student's responsibilities~~ for providing ~~his or her own~~ instructional materials and transportation.

4. A copy of the statement on transfer guarantees developed by the Department of Education under subsection (15).

(16) A student ~~Students~~ who meets ~~meet~~ the eligibility

requirements of this section and who chooses ~~choose~~ to participate in dual enrollment programs is ~~are~~ exempt from the payment of registration, tuition, technology, and laboratory fees.

(17) Instructional materials assigned for use in ~~within~~ dual enrollment courses shall be made available to dual enrollment students from Florida public high schools free of charge. This subsection does not prohibit a postsecondary ~~Florida College System~~ institution from providing instructional materials at no cost to a home education student or student from a private school, if provided for in the articulation agreement. Instructional materials purchased by a district school board or Florida College System institution board of trustees on behalf of dual enrollment students are ~~shall be~~ the property of the board against which the purchase is charged.

(22) The Department of Education shall develop an electronic submission system for dual enrollment articulation agreements and shall review, for compliance, each dual enrollment articulation agreement submitted pursuant to subsections (13), ~~subsection~~ (21), and (24). The Commissioner of Education shall notify the district school superintendent and the president of the postsecondary institution that is eligible to participate in the dual enrollment program pursuant to s. 1011.62(1)(i) ~~Florida College System institution president~~ if the dual enrollment articulation agreement does not comply with statutory requirements and shall submit any dual enrollment articulation agreement with unresolved issues of noncompliance to the State Board of Education.

(23) A district school board ~~boards~~ and a Florida College

System institution ~~institutions~~ may enter into an additional dual enrollment articulation agreement ~~agreements~~ with a state university ~~universities~~ for the purposes of this section. A school district ~~districts~~ may also enter into a dual enrollment articulation agreement ~~agreements~~ with an eligible independent college or university ~~colleges and universities~~ pursuant to s. 1011.62(1)(i). By August 1 of each year, the district school board and the Florida College System institution shall complete and submit the dual enrollment articulation agreement with the state university or an eligible independent college or university, as applicable, to the Department of Education.

(24)(a) The dual enrollment program for a private school student consists of the enrollment of an eligible private school student in a postsecondary course creditable toward an associate degree, a career certificate, or a baccalaureate degree. In addition, the private school in which the student is enrolled must award credit toward high school completion for the postsecondary course under the dual enrollment program. To participate in the dual enrollment program, an eligible private school student must:

1. Provide proof of enrollment in a private school pursuant to subsection (2).

2. Be responsible for his or her own instructional materials and transportation unless provided for in the articulation agreement.

3. Sign a private school articulation agreement pursuant to paragraph (b).

(b) Each postsecondary institution eligible to participate in the dual enrollment program pursuant to s. 1011.62(1)(i) must

enter into a private school articulation agreement with each eligible private school in its geographic service area seeking to offer dual enrollment courses to its students. By August 1 of each year, the eligible postsecondary institution shall complete and submit the private school articulation agreement to the Department of Education. The articulation agreement must include, at a minimum:

1. A delineation of courses and programs available to the private school. The postsecondary institution may add, revise, or delete courses and programs at any time.

2. The initial and continued eligibility requirements for private school student participation, not to exceed those required of other dual enrollment students.

3. A provision expressing whether the private school, the postsecondary institution, or the student is responsible for providing instructional materials and transportation.

4. A provision clarifying that the private school will award appropriate credit toward high school completion for the postsecondary course under the dual enrollment program.

5. A provision expressing that costs associated with tuition and fees, including technology, registration, and laboratory fees, will not be passed along to the student.

6. A provision stating whether the private school will compensate the postsecondary institution for the standard tuition rate per credit hour for each dual enrollment course taken by its students or the postsecondary institution will seek compensation pursuant to subsection (25).

7. A copy of the statement on transfer guarantees developed by the Department of Education under subsection (15)

~~Postsecondary institutions may enter into dual enrollment articulation agreements with private secondary schools pursuant to subsection (2)~~.

(25) Subject to annual appropriation in the General Appropriations Act, a public postsecondary institution shall receive an amount of funding equivalent to the standard tuition rate per credit hour for each dual enrollment course taken by a private school student pursuant to subsection (24) during the prior academic year, except for any students for whom the postsecondary institution is otherwise compensated at the standard tuition rate per credit hour.

Section 2. Paragraph (d) of subsection (19) of section 1002.20, Florida Statutes, is amended to read:

1002.20 K-12 student and parent rights.—Parents of public school students must receive accurate and timely information regarding their child's academic progress and must be informed of ways they can help their child to succeed in school. K-12 students and their parents are afforded numerous statutory rights including, but not limited to, the following:

(19) INSTRUCTIONAL MATERIALS.—

(d) *Dual enrollment students.*—Instructional materials purchased by a district school board or Florida College System institution board of trustees on behalf of ~~public school~~ dual enrollment students shall be made available free of charge to the dual enrollment students ~~free of charge,~~ in accordance with s. 1007.271(17).

Section 3. Paragraph (i) of subsection (1) of section 1011.62, Florida Statutes, is amended to read:

1011.62 Funds for operation of schools.—If the annual

allocation from the Florida Education Finance Program to each district for operation of schools is not determined in the annual appropriations act or the substantive bill implementing the annual appropriations act, it shall be determined as follows:

(1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR OPERATION.—The following procedure shall be followed in determining the annual allocation to each district for operation:

(i) *Calculation of full-time equivalent membership with respect to dual enrollment instruction.*—Students enrolled in dual enrollment instruction pursuant to s. 1007.271 may be included in calculations of full-time equivalent student memberships for basic programs for grades 9 through 12 by a district school board. Instructional time for dual enrollment may vary from 900 hours; however, the full-time equivalent student membership value shall be subject to the provisions in s. 1011.61(4). Dual enrollment full-time equivalent student membership shall be calculated in an amount equal to the hours of instruction that would be necessary to earn the full-time equivalent student membership for an equivalent course if it were taught in the school district. Students in dual enrollment courses may also be calculated as the proportional shares of full-time equivalent enrollments they generate for a Florida College System institution or university conducting the dual enrollment instruction. Early admission students shall be considered dual enrollments for funding purposes. Students may be enrolled in dual enrollment instruction provided by an eligible independent college or university and may be included

in calculations of full-time equivalent student memberships for basic programs for grades 9 through 12 by a district school board. However, those provisions of law which exempt dual enrollment students ~~enrolled~~ and early admission students from payment of instructional materials and tuition and fees, including registration, technology, and laboratory fees, do ~~shall~~ not apply to students who select the option of enrolling in an eligible independent institution. An independent college or university that ~~which~~ is located and chartered in Florida, is not for profit, is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools or the Accrediting Council for Independent Colleges and Schools, and confers degrees as defined in s. 1005.02 is ~~shall be~~ eligible for inclusion in the dual enrollment or early admission program. Students enrolled in dual enrollment instruction are ~~shall be~~ exempt from the payment of tuition and fees, including registration, technology, and laboratory fees. A ~~No~~ student enrolled in college credit mathematics or English dual enrollment instruction may not ~~shall~~ be funded as a dual enrollment unless the student has successfully completed the relevant section of the entry-level examination required pursuant to s. 1008.30.

Section 4. This act shall take effect July 1, 2016.

THE FLORIDA SENATE

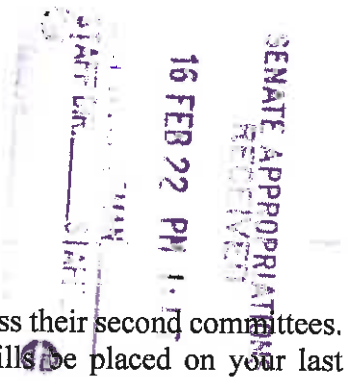
Tallahassee, Florida 32399-1100

COMMITTEES:
Higher Education, *Chair*
Appropriations Subcommittee on Education
Fiscal Policy
Judiciary
Military and Veterans Affairs, Space, and Domestic Security
Regulated Industries

JOINT COMMITTEE:
Joint Committee on Public Counsel Oversight

SENATOR KELLI STARGEL
15th District

February 22, 2016



The Honorable Tom Lee
Senate Appropriations Committee, Chair
418 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399

Dear Chair Lee:

I have several bills that will be heard this week. I fully expect all of them to pass their second committees. With next week's schedule in mind, I am respectfully request that these bills be placed on your last Appropriations agenda, even "if received" is needed as a caveat.

The following bills have Appropriations as their last stop:

SB 608, related to *Emergency Preparedness and Response* - its companion bill, HB 775, is on the House's second reading calendar.

SB 668, related to *Alimony* - its companion bill. HB 455, is on the House's second reading calendar.

SB 824, related to *Dual Enrollment* - its companion bill, HB 775, is on the House's second reading calendar.

SB 830, related to *School Choice* - its companion bill, HB 7029, has passed the House and is being sent over to the Senate for consideration.

SB 1216, related to *Reemployment Assistance Fraud* - its companion bill, HB 1017, is on the House's second reading calendar.

Thank you for your consideration and please do not hesitate to contact me should you have any questions.

Sincerely,

Kelli Stargel

Kelli Stargel
State Senator, District 15

Cc: Cindy Kynoch/ Staff Director

REPLY TO:
☐ 2033 East Edgewood Drive, Suite 1, Lakeland, Florida 33803
☐ 324 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5015

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

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Higher Education, *Chair*
Appropriations Subcommittee on Education
Fiscal Policy
Judiciary
Military and Veterans Affairs, Space, and Domestic Security
Regulated Industries

JOINT COMMITTEE:
Joint Committee on Public Counsel Oversight

SENATOR KELLI STARGEL
15th District

February 24, 2016

The Honorable Tom Lee
Senate Appropriations Committee, Chair
418 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399

Dear Chair Lee:

I respectfully request that SB 824, related to *Dual Enrollment Program*, be placed on the committee agenda at your earliest convenience.

Thank you for your consideration and please do not hesitate to contact me should you have any questions.

Sincerely,

Kelli Stargel
State Senator, District 15

Cc: Cindy Kynoch/ Staff Director
Alicia Weiss/ AA
Lisa Roberts/ AA

REPLY TO:
❒ 2033 East Edgewood Drive, Suite 1, Lakeland, Florida 33803
❒ 324 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5015

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

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-3-16
Meeting Date

SB 824
Bill Number (if applicable)

230384
Amendment Barcode (if applicable)

Topic Dual Enrollment Program

Name Brenda Dickinson

Job Title Consultant

Address P.O. Box 12563
Street

Tallahassee FL 32317
City *State* *Zip*

Phone 850-264-2184

Email consultingbrenda@gmail.com

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

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

Representing The Home Education Foundation

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

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

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/2016
Meeting Date

824
Bill Number (if applicable)

Topic Dual Enrollment Program

Amendment Barcode (if applicable)

Name James Herzog

Job Title Associate Director for Education

Address 201 West Park Ave
Street

Phone 850 205-6823

Tallahassee FL 32301
City *State* *Zip*

Email jherzog@flaccb.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Conference of Catholic Bishops

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/16
Meeting Date

SB 824
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Alexandra Dominguez

Job Title Advocacy Associate

Address 215 S Monroe St.
Street

Phone 786-955-7155

TLH FL 32301
City *State* *Zip*

Email alexandra@excelinedu.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Foundation for Florida's Future

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	CS/CS/SB 868
INTRODUCER:	Appropriations Committee; Finance and Tax Committee; and Senator Smith
SUBJECT:	Community Contribution Tax Credits
DATE:	March 3, 2016
REVISED:	

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 868 requires community redevelopment agencies within a county as defined in s. 125.011(1), F.S., to expend five percent of their revenues annually to support youth centers if more than 50 percent of the persons under 18 years of age living in the community redevelopment area are in families below the federal poverty level.

The bill provides that a donation of real property under the Community Contribution Tax Credit Program includes the transfer of a 100-percent ownership interest of a real property holding company. The bill defines "real property holding company" to mean a Florida entity, such as a Florida limited liability company, which:

- Is wholly owned by the person making the contribution;
- Is the sole owner of real property located in this state;
- Is disregarded as an entity separate from its owner for federal income tax purposes; and
- At the time of the contribution to an eligible sponsor, has no material assets other than the real property and any other property that qualifies as a community contribution.

The bill is effective July 1, 2016.

II. Present Situation:

Community Redevelopment Act

The Community Redevelopment Act of 1969[1] authorizes a county or municipality to create a community redevelopment area (CRA) as a means of redeveloping slums and blighted areas. To carry out the purposes and provisions of the Act, counties and municipalities are authorized to undertake the following activities within a CRA:

- Enter into contracts;
- Disseminate information;
- Acquire property within a slum or blighted area by voluntary methods;
- Demolish and remove buildings and improvements;
- Construct improvements; and
- Dispose of property at fair value.[2]

Counties and municipalities are prohibited from exercising the community redevelopment authority provided by the Act until they adopt an ordinance that declares an area to be a slum or a blighted area.[3]

A "blighted area" is defined as an area in which there are a substantial number of deteriorated, or deteriorating structures, in which conditions, as indicated by government-maintained statistics or other studies, are leading to economic distress or endanger life or property, and in which two or more of the following factors are present:

- Predominance of defective or inadequate street layout, parking facilities, roadways, bridges, or public transportation facilities;
- Aggregate assessed values of real property in the area for ad valorem tax purposes have failed to show any appreciable increase over the five years prior to the finding of such conditions;
- Faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
- Unsanitary or unsafe conditions;
- Deterioration of site or other improvements;
- Inadequate and outdated building density patterns;
- Falling lease rates per square foot of office, commercial, or industrial space compared to the remainder of the county or municipality;
- Tax or special assessment delinquency exceeding the fair value of the land;
- Residential and commercial vacancy rates higher in the area than in the remainder of the county or municipality;
- Incidence of crime in the area higher than in the remainder of the county or municipality;
- Fire and emergency medical service calls to the area proportionately higher than in the remainder of the county or municipality;
- A greater number of violations of the Florida Building Code in the area than the number of violations recorded in the remainder of the county or municipality;

[1] Chapter 163, part III, F.S.
[2] Section 163.370, F.S.
[3] Sections 163.355(1) and 163.360(1), F.S.

- Diversity of ownership or defective or unusual conditions of title which prevent the free alienability of land within the deteriorated or hazardous area; or
- Governmentally owned property with adverse environmental conditions caused by a public or private entity.[4]

A "blighted area" also includes any area in which at least one of the factors identified above is present and all affected taxing authorities agree,[5] either by inter-local agreement or agreements with the agency or by resolution, that the area is blighted.[6]

The Redevelopment Trust Fund

A CRA is not permitted to levy or collect taxes; however, the local governing body is permitted to establish a redevelopment trust fund that is funded through tax increment financing (TIF).[7] The TIF procedure requires taxing authorities annually to appropriate an amount to the redevelopment trust fund by January 1. The increment revenue amount is calculated annually as 95 percent of the difference between:

- The amount of ad valorem taxes levied in a given year by each taxing authority, exclusive of debt service millage, on taxable real property within the CRA; and
- The amount of ad valorem taxes which would have been produced at the current-year millage rate, exclusive of debt-service millage, on the total assessed value of taxable property in the CRA immediately prior to establishment of the CRA trust fund.

Thus, as property values in the CRA grow the tax increment increases and is available to finance or refinance redevelopment activities undertaken by the community redevelopment agency.

A community redevelopment agency may expend funds in the redevelopment trust fund for:

- Administrative and overhead expenses necessary or incidental to the implementation of a community redevelopment plan adopted by the agency.
- Expenses of redevelopment planning, surveys, and financial analysis, including the reimbursement of the governing body or the community redevelopment agency for such expenses incurred before the redevelopment plan was approved and adopted.
- The acquisition of real property in the redevelopment area.
- The clearance and preparation of any redevelopment area for redevelopment and relocation of site occupants within or outside the community redevelopment area as provided in s. 163.370.
- The repayment of principal and interest or any redemption premium for loans, advances, bonds, bond anticipation notes, and any other form of indebtedness.
- All expenses incidental to or connected with the issuance, sale, redemption, retirement, or purchase of bonds, bond anticipation notes, or other form of indebtedness, including funding of any reserve, redemption, or other fund or account provided for in the ordinance or resolution authorizing such bonds, notes, or other form of indebtedness.

[4] Section 163.340(8), F.S.
[5] These include all taxing authorities that are required to contribute to the redevelopment trust fund pursuant to s. 163.387(2)(a), F.S. *See* s. 163.340(8), F.S.
[6] Section 163.340(8), F.S.
[7] Section 163.387(1), F.S.

- The development of affordable housing within the community redevelopment area.
- The development of community policing innovations.[8]

Community Contribution Tax Credit Program

In 1980, the Legislature established the Community Contribution Tax Credit Program (CCTCP) to encourage private sector participation in community revitalization and housing projects.[9] The CCTCP offers tax credits to businesses or persons (donors) that make certain contributions to eligible projects undertaken by approved CCTCP sponsors.[10]

Eligible sponsors under the CCTCP include a wide variety of organizations and entities, including community development agencies, housing organizations, historic preservation organizations, units of state and local government, regional workforce boards, and any other agency that the Department of Economic Opportunity (DEO) designates by rule.[11] There are currently 122 approved sponsors in Florida.[12]

Eligible projects include activities undertaken by an eligible sponsor that are designed to accomplish one of the following purposes:

- To construct, improve, or substantially rehabilitate housing that is affordable to low-income or very-low-income households as defined in s. 420.9071(19) and (28), F.S.;
- To provide housing opportunities for persons with special needs as defined in s. 420.0004, F.S.;
- To provide commercial, industrial, or public resources and facilities; or
- To improve entrepreneurial and job-development opportunities for low-income persons.[13]

Additionally, eligible projects must be located in an area previously designated as an enterprise zone pursuant to ch. 290, F.S., as of May 1, 2015, or a Front Porch Florida Community.[14] However, the law permits the following three exceptions:

- Any project designed to construct or rehabilitate housing for low-income households or very-low-income households as those terms are defined in s. 420.9071, F.S.;[15]
- Any project designed to construct or rehabilitate housing opportunities for persons with special needs as defined in s. 420.0004, F.S.;[16] and
- Any project designed to provide increased access to high-speed broadband capabilities that includes coverage of an area designated as a rural enterprise zone as of May 1, 2015.[17]

[8] Section 163.387(6), F.S.
[9] Chapter 80-249, Laws of Fla.
[10] *See* ss. 212.08(5)(p); 220.183; and 624.5105, F.S. The contributing taxpayer may not have a financial interest in the eligible sponsor.
[11] *See* ss. 212.08(5)(p)2.c.; 220.183(2)(c); and 624.5105(2)(c), F.S.
[12] Department of Economic Opportunity, *House Bill 627/Senate Bill 868 Fiscal Analysis*, page 3, (Dec. 2, 2015) (on file with the Senate Committee on Finance and Tax).
[13] Sections 212.08(5)(p)2.b.; 220.183(2)(b); 624.5105(2)(b); and 220.03(1)(t), F.S.
[14] Sections 212.08(p)2.d.; 220.183(2)(d); and 624.5102(2)(d), F.S.
[15] *Id.*
[16] *Id.*
[17] *Id.* The infrastructure of such projects may be located in any area of a rural county (inside or outside of the zone).

Any eligible sponsor wishing to participate in the program must submit a proposal to DEO, which sets forth the sponsor, the project, the area in which the project is located, and any supporting information as may be prescribed by rule.[18] The proposal must also contain a resolution from the local governmental unit in which it is located certifying that the project is consistent with local plans and regulations.[19]

Contributions to eligible projects may only be in the form of cash or other liquid assets, real property, goods or inventory, or other physical resources as identified by DEO.[20] If the donation is of real property, it must be made directly from the donor to the eligible sponsor via a deed.[21] Donors wishing to participate in the program must submit an application for a tax credit to DEO.[22] The application sets forth the sponsor, project, and the type, value, and purpose of the contribution.[23] The sponsor must verify the terms of the application and indicate its receipt of the contribution, which verification must be in writing and accompany the application for tax credit.[24]

Once DEO approves a taxpayer's application for a community contribution tax credit under the program, the donor must claim the credit from the Department of Revenue.[25] The credit is calculated as 50 percent of the donor's annual contribution, but a taxpayer may not receive more than $200,000 in credits in any one year.[26] The donor may use the credit against corporate income tax, insurance premium tax, or as a refund against sales tax.[27] Unused credits against corporate income taxes and insurance premium taxes may be carried forward for five years.[28] Unused credits against sales taxes may be carried forward for three years.[29]

The DEO may approve $18.4 million in Fiscal Year 2015-2016; $21.4 million in Fiscal Year 2016-2017; and $21.4 million in Fiscal Year 2017-2018 for projects that provide housing opportunities for persons with special needs or homeownership opportunities for low or very-low income households. The DEO may approve $3.5 million in those same fiscal years for all other types of eligible projects.[30]

As of December 2015, in Fiscal Year 2015-2016, DEO has approved approximately $11.2 million of the $18.4 million available for tax credits for homeownership projects and housing projects for persons with special needs.[31] Approximately $3.6 million worth of tax credits were

[18] Sections 212.08(5)(p)3.a.; 220.183(3)(a); and 624.5105(3)(a), F.S.
[19] *Id.*
[20] Sections 212.08(5)(p)2.a.; 220.183(2)(a); 624.5105(5)(a); and 220.03(1)(d), F.S.
[21] *See* s. 192.001(12), F.S., for the definition of real property.
[22] Sections 212.08(5)(p)3.b.; 220.183(3)(b); and 624.5105(3)(b), F.S. Taxpayers must submit separate applications for each individual contribution that it makes to each individual project. Sections 212.08(5)(p)3.c.; 220.183(3)(c); and 624.5105(3)(c), F.S.
[23] *Id.*
[24] *Id.*
[25] Sections 212.08(5)(p)4.; 220.183(4); and 624.5105(4), F.S.
[26] Sections 212.08(5)(p)1.; 220.183 (1)(a) and (b); and 624.5105(1), F.S.
[27] *See* ss. 212.08(5)(p); 220.183; and 624.5105, F.S. A donor may only apply the credits toward one tax obligation.
[28] Sections 220.183(1)(e); and 624.5105(e), F.S.
[29] Section 212.08(5)(p)1.b. and f., F.S.
[30] Sections 212.08(5)(p)1.e.; 220.183(1)(c); and 624.5105(1)(c), F.S.
[31] Department of Economic Opportunity, *House Bill 627/Senate Bill 828 Fiscal Analysis* (Dec. 2, 2015) (on file with the Senate Committee on Finance and Tax).

requested for all other projects, resulting in a pro-rata approval rate of 95 percent of each tax credit application.[32]

The CCTCP expires June 30, 2018.[33]

III. Effect of Proposed Changes:

Section 1 amends s. 163.387, F.S., to require community redevelopment agencies located within a county as defined in s. 125.011(1), F.S., to expend annually no less than five percent of the redevelopment trust fund revenues to support youth centers if:

- More than 50 percent of the persons younger than 18 years of age living in the CRA are in families with incomes below the federal poverty level,
- The youth center requests support in writing, and
- The expenditures do not materially impair any bonds outstanding as of March 11, 2016.

Section 125.011(1), F.S., includes counties operating under a home rule charter adopted pursuant to ss. 10, 11, and 24 of Article VIII of the State Constitution of 1885. Currently, only Miami-Dade County meets this definition.

"Youth center" is defined to mean a facility that is owned and operated by a governmental entity or a corporation not for profit registered pursuant to chapter 617, the primary purpose of which is to provide year-round supplemental education programs, recreational and after-school activities, counseling and social and adult transitional programming and other services to children 5 to 18 years of age and adults 18 to 24 years of age; and that has operated for at least two years before its request for support from the community redevelopment agency. "Youth center" includes indoor recreational facilities, as defined in s. 402.302, which are owned and operated by a governmental entity or corporation not for profit registered pursuant to chapter 617. The term does not include public or private schools, child care facilities as defined in s. 402.302, or private prekindergarten providers as defined in s. 1002.51. The youth center must be open and accessible to the general public.

"Year-round" is defined to mean operating a minimum of 225 service days per year.

Section 2 amends s. 220.03, F.S., relating to corporate income tax, to provide that a donation of real property in the CCTCP includes the transfer of a 100-percent ownership interest of a real property holding company. The bill defines "real property holding company" to mean a Florida entity, such as a Florida limited liability company, which:

- Is wholly owned by the business firm;
- Is the sole owner of real property, as defined in s. 192.001(12), F.S., located in this state;
- Is disregarded as an entity separate from its owner for federal income tax purposes pursuant to 26 C.F.R. s. 301.7701-3(b)(1)(ii); and
- At the time of the contribution to an eligible sponsor, has no material assets other than the real property and any other property that qualifies as a community contribution.

[32] *Id.*
[33] Sections 212.08(5)(p)5.; 220.183(5); and 624.5105(6), F.S.

Section 3 amends s. 212.08, F.S., relating to sales and use tax, to provide that the donation of real property in the CCTCP includes the transfer of a 100-percent ownership interest of a real property holding company. The same definition is used for the term "real property holding company" as stated in section 1 of the bill.

Section 4 amends s. 624.5105, F.S., relating to insurance premium tax, to provide that the donation of real property in the CCTCP includes the transfer of a 100-percent ownership interest of a real property holding company. The same definition is used for the term "real property holding company" as stated in section 1 of the bill.

Section 5 provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference estimated that the provisions in CS/CS/SB 868 related to community contribution tax credits will have no fiscal impact on state funds.[34] Staff estimates that the provisions requiring the expenditure of redevelopment trust fund revenues to support youth centers will not have a fiscal impact on state funds.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The requirement to spend no less than five percent of the trust fund revenues on youth centers may require a CRA to adjust its community redevelopment plan.

[34] Revenue Estimating Conference Analysis, *House Bill 627/Senate Bill 868* (Dec. 12, 2015) (on file with the Senate Committee on Finance and Tax).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 163.387, 212.08, 220.03, and 624.5105.

IX. Additional Information:

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

CS/CS by Appropriations on March 3, 2016:
The CS/CS requires certain community redevelopment agencies to expend annually no less than five percent of redevelopment trust fund revenues to support youth center.

CS by Finance and Tax on February 16, 2016:
The CS clarifies that 100 percent of the ownership interest in the real property holding company must be contributed in order to qualify as a contribution of real property.

B. Amendments:

None.

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LEGISLATIVE ACTION

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

The Committee on Appropriations (Flores) recommended the following:

Senate Amendment (with title amendment)

Before line 16
insert:
Section 1. Paragraph (i) is added to subsection (6) of section 163.387, Florida Statutes, to read:
163.387 Redevelopment trust fund.—
(6) Moneys in the redevelopment trust fund may be expended from time to time for undertakings of a community redevelopment agency as described in the community redevelopment plan for the

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following purposes, including, but not limited to:

(i)1. Supporting youth centers, provided that a community redevelopment agency must spend no less than 5 percent of the trust fund revenues annually to support youth centers if:

a. More than 50 percent of the persons younger than 18 years of age living in the community redevelopment area served by the agency are in families with incomes below the federal poverty level;

b. The youth center submits a written request for support to the community redevelopment agency; and

c. The expenditures do not materially impair any bonds outstanding as of March 11, 2016.

2. For purposes of this paragraph, the term "youth center" means a facility owned and operated by a governmental entity or a corporation not for profit registered pursuant to chapter 617 whose primary purpose is to provide year-round supplemental educational programs, recreational and after-school activities, counseling, social and adult transitional programming, and other services to children 5 to 18 years of age and adults 18 to 24 years of age; which has operated for at least 2 years before its request for support from the community redevelopment agency; and which is open and accessible to the general public for community-based meetings focused on educational opportunities and providing college, career, and vocational readiness programming. The term includes indoor recreational facilities, as defined in s. 402.302, which are owned and operated by a governmental entity or a corporation not for profit registered pursuant to chapter 617. The term does not include public or private schools, child care facilities as defined in s. 402.302,

380482

or private prekindergarten providers as defined in s. 1002.51. For purposes of this subparagraph, "year-round" means operating with a minimum of 225 service days per year.

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

And the title is amended as follows:

Delete line 2

and insert:

An act relating to community redevelopment; amending s. 163.387, F.S.; specifying uses of redevelopment trust fund moneys for certain community redevelopment agencies that support youth centers;

971344

LEGISLATIVE ACTION

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

The Committee on Appropriations (Flores) recommended the following:

Senate Amendment to Amendment (380482) (with title amendment)

Delete lines 5 - 42
and insert:
Section 1. Subsection (6) of section 163.387, Florida Statutes, is amended to read:
163.387 Redevelopment trust fund.—
(6)(a) Moneys in the redevelopment trust fund may be expended from time to time for undertakings of a community

redevelopment agency as described in the community redevelopment plan for the following purposes, including, but not limited to:

1.~~(a)~~ Administrative and overhead expenses necessary or incidental to the implementation of a community redevelopment plan adopted by the agency.

2.~~(b)~~ Expenses of redevelopment planning, surveys, and financial analysis, including the reimbursement of the governing body or the community redevelopment agency for such expenses incurred before the redevelopment plan was approved and adopted.

3.~~(c)~~ The acquisition of real property in the redevelopment area.

4.~~(d)~~ The clearance and preparation of any redevelopment area for redevelopment and relocation of site occupants within or outside the community redevelopment area as provided in s. 163.370.

5.~~(e)~~ The repayment of principal and interest or any redemption premium for loans, advances, bonds, bond anticipation notes, and any other form of indebtedness.

6.~~(f)~~ All expenses incidental to or connected with the issuance, sale, redemption, retirement, or purchase of bonds, bond anticipation notes, or other form of indebtedness, including funding of any reserve, redemption, or other fund or account provided for in the ordinance or resolution authorizing such bonds, notes, or other form of indebtedness.

7.~~(g)~~ The development of affordable housing within the community redevelopment area.

8.~~(h)~~ The development of community policing innovations.

(b) For any community redevelopment agency located in a county as defined in s. 125.011(1), the community redevelopment

971344

agency shall expend no less than 5 percent of the trust fund revenues annually to support youth centers if:

1. More than 50 percent of the persons younger than 18 years of age living in the community redevelopment area served by the agency are in families with incomes below the federal poverty level;

2. The youth center submits a written request for support to the community redevelopment agency; and

3. The expenditures do not materially impair any bonds outstanding as of March 11, 2016.

As used in this paragraph, the term "youth center" means a facility that is owned and operated by a governmental entity or a corporation not for profit registered pursuant to chapter 617, the primary purpose of which is to provide year-round supplemental educational programs, recreational and after-school activities, counseling, and social and adult transitional programming and other services to children 5 to 18 years of age and adults 18 to 24 years of age; and that has operated for at least 2 years before its request for support from the community redevelopment agency. The term includes indoor recreational facilities, as defined in s. 402.302, which are owned and operated by a governmental entity or corporation not for profit registered pursuant to chapter 617. The term does not include public or private schools, child care facilities as defined in s. 402.302, or private prekindergarten providers as defined in s. 1002.51. As used in this paragraph, the term "year-round" means operating a minimum of 225 service days per year. The youth center must be open and accessible to the general public

971344

for community-based meetings focused on educational opportunities and providing college, career, and vocational readiness programming.

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

And the title is amended as follows:

Delete line 51

and insert:

agencies that support youth centers; defining the terms "youth center" and "year-round";

By the Committee on Finance and Tax; and Senator Smith

593-03609-16 2016868c1

A bill to be entitled

An act relating to community contribution tax credits; amending s. 220.03, F.S.; providing definitions related to community contribution tax credits that may apply to business firms against certain income tax liabilities; amending s. 212.08, F.S.; providing definitions related to community contribution tax credits that may apply against sales and use tax liabilities; amending s. 624.5105, F.S.; providing definitions related to community contribution tax credits that may apply against certain premium tax liabilities; providing an effective date.

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

Section 1. Paragraph (d) of subsection (1) of section 220.03, F.S., is amended to read:

220.03 Definitions.—

(1) SPECIFIC TERMS.—When used in this code, and when not otherwise distinctly expressed or manifestly incompatible with the intent thereof, the following terms shall have the following meanings:

(d) "Community Contribution" means the grant by a business firm of any of the following items:

1. Cash or other liquid assets.

2. Real property, which for purposes of this subparagraph includes 100 percent ownership of a real property holding company. The term "real property holding company" means a Florida entity, such as a Florida limited liability company, that:

a. Is wholly owned by the business firm.

b. Is the sole owner of real property, as defined in s.

593-03609-16 2016868c1

192.001(12), located in the state.

c. Is disregarded as an entity for federal income tax purposes pursuant to 26 C.F.R. s. 301.7701-3(b)(1)(ii).

d. At the time of contribution to an eligible sponsor, has no material assets other than the real property and any other property that qualifies as a community contribution.

3. Goods or inventory.

4. Other physical resources as identified by the department.

This paragraph expires June 30, 2018.

Section 2. Paragraph (p) of subsection (5) of section 212.08, Florida Statutes, is amended to read:

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

(5) EXEMPTIONS; ACCOUNT OF USE.—

(p) *Community contribution tax credit for donations.*—

1. Authorization.—Persons who are registered with the department under s. 212.18 to collect or remit sales or use tax and who make donations to eligible sponsors are eligible for tax credits against their state sales and use tax liabilities as provided in this paragraph:

a. The credit shall be computed as 50 percent of the person's approved annual community contribution.

b. The credit shall be granted as a refund against state

sales and use taxes reported on returns and remitted in the 12 months preceding the date of application to the department for the credit as required in sub-subparagraph 3.c. If the annual credit is not fully used through such refund because of insufficient tax payments during the applicable 12-month period, the unused amount may be included in an application for a refund made pursuant to sub-subparagraph 3.c. in subsequent years against the total tax payments made for such year. Carryover credits may be applied for a 3-year period without regard to any time limitation that would otherwise apply under s. 215.26.

c. A person may not receive more than $200,000 in annual tax credits for all approved community contributions made in any one year.

d. All proposals for the granting of the tax credit require the prior approval of the Department of Economic Opportunity.

e. The total amount of tax credits which may be granted for all programs approved under this paragraph, s. 220.183, and s. 624.5105 is $18.4 million in the 2015-2016 fiscal year, $21.4 million in the 2016-2017 fiscal year, and $21.4 million in the 2017-2018 fiscal year for projects that provide housing opportunities for persons with special needs or homeownership opportunities for low-income households or very-low-income households and $3.5 million annually for all other projects. As used in this paragraph, the term "person with special needs" has the same meaning as in s. 420.0004 and the terms "low-income person," "low-income household," "very-low-income person," and "very-low-income household" have the same meanings as in s. 420.9071.

f. A person who is eligible to receive the credit provided

in this paragraph, s. 220.183, or s. 624.5105 may receive the credit only under one section of the person's choice.

2. Eligibility requirements.—

a. A community contribution by a person must be in the following form:

(I) Cash or other liquid assets;

(II) Real property, including 100 percent ownership of a real property holding company;

(III) Goods or inventory; or

(IV) Other physical resources identified by the Department of Economic Opportunity.

For purposes of this subparagraph, the term "real property holding company" means a Florida entity, such as a Florida limited liability company, that is wholly owned by the person; is the sole owner of real property, as defined in s. 192.001(12), located in the state; is disregarded as an entity for federal income tax purposes pursuant to 26 C.F.R. s. 301.7701-3(b)(1)(ii); and at the time of contribution to an eligible sponsor, has no material assets other than the real property and any other property that qualifies as a community contribution.

b. All community contributions must be reserved exclusively for use in a project. As used in this sub-subparagraph, the term "project" means activity undertaken by an eligible sponsor which is designed to construct, improve, or substantially rehabilitate housing that is affordable to low-income households or very-low-income households; designed to provide housing opportunities for persons with special needs; designed to provide commercial,

industrial, or public resources and facilities; or designed to improve entrepreneurial and job-development opportunities for low-income persons. A project may be the investment necessary to increase access to high-speed broadband capability in a rural community that had an enterprise zone designated pursuant to chapter 290 as of May 1, 2015, including projects that result in improvements to communications assets that are owned by a business. A project may include the provision of museum educational programs and materials that are directly related to a project approved between January 1, 1996, and December 31, 1999, and located in an area which was in an enterprise zone designated pursuant to s. 290.0065 as of May 1, 2015. This paragraph does not preclude projects that propose to construct or rehabilitate housing for low-income households or very-low-income households on scattered sites or housing opportunities for persons with special needs. With respect to housing, contributions may be used to pay the following eligible special needs, low-income, and very-low-income housing-related activities:

(I) Project development impact and management fees for special needs, low-income, or very-low-income housing projects;

(II) Down payment and closing costs for persons with special needs, low-income persons, and very-low-income persons;

(III) Administrative costs, including housing counseling and marketing fees, not to exceed 10 percent of the community contribution, directly related to special needs, low-income, or very-low-income projects; and

(IV) Removal of liens recorded against residential property by municipal, county, or special district local governments if

satisfaction of the lien is a necessary precedent to the transfer of the property to a low-income person or very-low-income person for the purpose of promoting home ownership. Contributions for lien removal must be received from a nonrelated third party.

c. The project must be undertaken by an "eligible sponsor," which includes:

(I) A community action program;

(II) A nonprofit community-based development organization whose mission is the provision of housing for persons with specials needs, low-income households, or very-low-income households or increasing entrepreneurial and job-development opportunities for low-income persons;

(III) A neighborhood housing services corporation;

(IV) A local housing authority created under chapter 421;

(V) A community redevelopment agency created under s. 163.356;

(VI) A historic preservation district agency or organization;

(VII) A regional workforce board;

(VIII) A direct-support organization as provided in s. 1009.983;

(IX) An enterprise zone development agency created under s. 290.0056;

(X) A community-based organization incorporated under chapter 617 which is recognized as educational, charitable, or scientific pursuant to s. 501(c)(3) of the Internal Revenue Code and whose bylaws and articles of incorporation include affordable housing, economic development, or community

development as the primary mission of the corporation;

(XI) Units of local government;

(XII) Units of state government; or

(XIII) Any other agency that the Department of Economic Opportunity designates by rule.

A contributing person may not have a financial interest in the eligible sponsor.

d. The project must be located in an area which was in an enterprise zone designated pursuant to chapter 290 as of May 1, 2015, or a Front Porch Florida Community, unless the project increases access to high-speed broadband capability in a rural community that had an enterprise zone designated pursuant to chapter 290 as of May 1, 2015, but is physically located outside the designated rural zone boundaries. Any project designed to construct or rehabilitate housing for low-income households or very-low-income households or housing opportunities for persons with special needs is exempt from the area requirement of this sub-subparagraph.

e.(I) If, during the first 10 business days of the state fiscal year, eligible tax credit applications for projects that provide housing opportunities for persons with special needs or homeownership opportunities for low-income households or very-low-income households are received for less than the annual tax credits available for those projects, the Department of Economic Opportunity shall grant tax credits for those applications and grant remaining tax credits on a first-come, first-served basis for subsequent eligible applications received before the end of the state fiscal year. If, during the first 10 business days of

the state fiscal year, eligible tax credit applications for projects that provide housing opportunities for persons with special needs or homeownership opportunities for low-income households or very-low-income households are received for more than the annual tax credits available for those projects, the Department of Economic Opportunity shall grant the tax credits for those applications as follows:

(A) If tax credit applications submitted for approved projects of an eligible sponsor do not exceed $200,000 in total, the credits shall be granted in full if the tax credit applications are approved.

(B) If tax credit applications submitted for approved projects of an eligible sponsor exceed $200,000 in total, the amount of tax credits granted pursuant to sub-sub-sub-subparagraph (A) shall be subtracted from the amount of available tax credits, and the remaining credits shall be granted to each approved tax credit application on a pro rata basis.

(II) If, during the first 10 business days of the state fiscal year, eligible tax credit applications for projects other than those that provide housing opportunities for persons with special needs or homeownership opportunities for low-income households or very-low-income households are received for less than the annual tax credits available for those projects, the Department of Economic Opportunity shall grant tax credits for those applications and shall grant remaining tax credits on a first-come, first-served basis for subsequent eligible applications received before the end of the state fiscal year. If, during the first 10 business days of the state fiscal year,

eligible tax credit applications for projects other than those that provide housing opportunities for persons with special needs or homeownership opportunities for low-income households or very-low-income households are received for more than the annual tax credits available for those projects, the Department of Economic Opportunity shall grant the tax credits for those applications on a pro rata basis.

3. Application requirements.—

a. An eligible sponsor seeking to participate in this program must submit a proposal to the Department of Economic Opportunity which sets forth the name of the sponsor, a description of the project, and the area in which the project is located, together with such supporting information as is prescribed by rule. The proposal must also contain a resolution from the local governmental unit in which the project is located certifying that the project is consistent with local plans and regulations.

b. A person seeking to participate in this program must submit an application for tax credit to the Department of Economic Opportunity which sets forth the name of the sponsor, a description of the project, and the type, value, and purpose of the contribution. The sponsor shall verify, in writing, the terms of the application and indicate its receipt of the contribution, and such verification must accompany the application for tax credit. The person must submit a separate tax credit application to the Department of Economic Opportunity for each individual contribution that it makes to each individual project.

c. A person who has received notification from the

Department of Economic Opportunity that a tax credit has been approved must apply to the department to receive the refund. Application must be made on the form prescribed for claiming refunds of sales and use taxes and be accompanied by a copy of the notification. A person may submit only one application for refund to the department within a 12-month period.

4. Administration.—

a. The Department of Economic Opportunity may adopt rules necessary to administer this paragraph, including rules for the approval or disapproval of proposals by a person.

b. The decision of the Department of Economic Opportunity must be in writing, and, if approved, the notification shall state the maximum credit allowable to the person. Upon approval, the Department of Economic Opportunity shall transmit a copy of the decision to the department.

c. The Department of Economic Opportunity shall periodically monitor all projects in a manner consistent with available resources to ensure that resources are used in accordance with this paragraph; however, each project must be reviewed at least once every 2 years.

d. The Department of Economic Opportunity shall, in consultation with the statewide and regional housing and financial intermediaries, market the availability of the community contribution tax credit program to community-based organizations.

5. Expiration.—This paragraph expires June 30, 2018; however, any accrued credit carryover that is unused on that date may be used until the expiration of the 3-year carryover period for such credit.

Section 3. Paragraph (a) of subsection (5) of section 624.5105, Florida Statutes, is amended to read:

624.5105 Community contribution tax credit; authorization; limitations; eligibility and application requirements; administration; definitions; expiration.—

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

(a) "Community contribution" means the grant by an insurer of any of the following items:

1. Cash or other liquid assets.

2. Real property, including 100 percent ownership of a real property holding company.

3. Goods or inventory.

4. Other physical resources which are identified by the department.

For purposes of this paragraph, the term "real property holding company" means a Florida entity, such as a Florida limited liability company, that is wholly owned by the insurer; is the sole owner of real property, as defined in s. 192.001(12), located in the state; is disregarded as an entity for federal income tax purposes pursuant to 26 C.F.R. s. 301.7701-3(b)(1)(ii); and at the time of contribution to an eligible sponsor, has no material assets other than the real property and any other property that qualifies as a community contribution.

Section 4. This act shall take effect July 1, 2016.

The Florida Senate

Committee Agenda Request

To: Senator Tom Lee, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 16, 2016

I respectfully request that **Senate Bill #868**, relating to Community Contribution Tax Credits, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator Christopher L. Smith
Florida Senate, District 31

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/16
Meeting Date

868
Bill Number (if applicable)

Topic Community Redevelopment

Amendment Barcode (if applicable)

Name Ron Book

Job Title

Address 104 West Jefferson Street
Street

Tallahassee, FL 32301
City *State* *Zip*

Phone (850)224-3427

Email ron@rbhackpa.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Mourning Family Foundation

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/16
Meeting Date

868
Bill Number (if applicable)

971344
Amendment Barcode (if applicable)

Topic Community Contribution Tax

Name David Cruz

Job Title Assistant General Counsel

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Street

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Speaking: ☐ For ☑ Against ☐ Information

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

Representing Florida League of Cities

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/2016
Meeting Date

SB 868
Bill Number (if applicable)

97344
Amendment Barcode (if applicable)

Topic CRAs

Name Ron Book

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Speaking: ☒ For ☐ Against ☐ Information

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

Representing Mourning Family Foundation

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/16
Meeting Date

868
Bill Number (if applicable)

971344
Amendment Barcode (if applicable)

Topic Community Redevelopment Agencies

Name Bill Peebles

Job Title

Address PO Box 10930 *Street*

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Speaking: ☐ For ☑ Against ☐ Information

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

Representing Florida Redevelopment Associations

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/16
Meeting Date

868
Bill Number (if applicable)

380482
Amendment Barcode (if applicable)

Topic Community Redevelopment

Name Ron Book

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Email Ron@rlbooklpa.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Mourning Family Foundation

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	SB 884
INTRODUCER:	Senator Benacquisto and others
SUBJECT:	Youth Suicide Awareness and Prevention
DATE:	March 2, 2016
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bailey	Klebacha	ED	**Favorable**
2.	Sikes	Elwell	AED	**Recommend: Favorable**
3.	Sikes	Kynoch	AP	**Pre-meeting**

I. Summary:

SB 884 requires the Department of Education (DOE) to incorporate two hours of youth suicide awareness and prevention training for all K-12 instructional personnel to receive as part of their continuing education or inservice training.

Specifically, the bill:

- Requires DOE, in consultation with the Statewide Office of Suicide Prevention and suicide experts, to develop a list of approved training materials;
- Requires the training to be included in existing continuing education requirements and not add to the total hours currently required by the department;
- Authorizes the State Board of Education to adopt implementation rules; and
- Specifies that the required training does not create any new duty of care or basis of liability.

School districts may incur costs for instructional personnel to attend the training required by the bill, as well as the costs for substitutes and trainers. However, because of the flexibility in how the training can be delivered and the requirement that the training not add to the total hours of inservice required by the DOE, these costs should be minimal and absorbed within existing resources.

The bill takes effect July 1, 2016.

II. Present Situation:

In 2013, there were a total of 2,928 deaths by suicide in Florida according to the Centers for Disease Control and Prevention.[1] In 2013, suicide was the third leading cause of death for young Floridians between the ages of 15 and 24. [2]

Professional Development Act

The School Community Professional Development Act directs the Department of Education, public postsecondary educational institutions, public school districts, public schools, state education foundations, consortia, and professional organizations in the state to work collaboratively to establish a coordinated system of professional development.[3]

Each school district is required to develop a professional development system which must include inservice activities for instructional personnel focused on:[4]

- Analysis of student achievement data;
- Ongoing formal and informal assessments of student achievement;
- Identification and use of enhanced and differentiated instructional strategies that identify rigor, relevance, and reading in the content areas;
- Enhancement of subject content expertise;
- Integrated use of classroom technology that enhances teaching and learning; and
- Classroom management, parent involvement, and school safety.

Required Inservice Training

District school boards renew state-issued professional certificates for individuals who hold a state-issued professional certificate and are employed by the district.[5] All professional certificates, except a nonrenewable professional certificate, are renewable for successive periods not to exceed 5 years after the date of submission of documentation of completion of renewal requirements.[6]

For the renewal of a professional certificate, an applicant must earn a minimum of six college credits or 120 inservice points or a combination thereof.[7] For each area of specialization on the certificate, the applicant must earn at least three of the required credit hours or equivalent inservice points in the specialization area.[8] Inservice in the following areas may be applied toward any specialization area: [9]

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[1] Florida Department of Children and Families, *About Suicide*, http://www.myflfamilies.com/service-programs/mental-health/suicide-prevention/about-suicide last visited January 15, 2016).
[2] Florida Department of Children and Families, *About Suicide*, http://www.myflfamilies.com/service-programs/mental-health/suicide-prevention/teens-young-adults last visited January 15, 2016).
[3] Section 1012.98, F.S.
[4] Section 1012.98(4)(b)3., F.S.
[5] Section 1012.585(1), F.S.
[6] Section 1012.585(2) and (3), F.S.
[7] Section 1012.585(3)(a), F.S.
[8] *Id.*
[9] *Id.*

- Education in "clinical education" training,[10]
- Training in the area of scientifically researched, knowledge-based reading literacy and computational skills acquisition;
- Exceptional student education;
- Normal child development;
- Disorders of development;
- Training in the area of drug abuse;
- Training in the areas of child abuse and neglect;
- Strategies in teaching students having limited proficiency in English;
- Strategies in dropout prevention; or
- Training in priority areas identified in the Florida's K-20 education system goals and performance standards or in the school improvement and education accountability system.[11]

Additionally, inservice points may be earned by:[12]

- Attending approved summer institutes;
- Participation in professional growth components approved by the State Board of Education and the district's approved master plan for inservice educational training;
- Serving as a trainer in an approved teacher training activity; or
- Serving on an instructional materials committee, state board, or commission that deals with educational issues, or an advisory council.

Statewide Office of Suicide Prevention

The Statewide Office of Suicide Prevention is housed within the Department of Children and Families.[13] The office is required to:[14]

- Develop a network of community-based programs to improve suicide prevention initiatives;
- Prepare and implement the statewide plan with the advice of the Suicide Prevention Coordinating Council;
- Increase public awareness concerning topics relating to suicide prevention; and
- Coordinate education and training curricula in suicide prevention efforts for law enforcement personnel, first responders to emergency calls, health care providers, school employees, and other person who may have contact with persons at risk of suicide.

The Statewide Office for Suicide Prevention is required to operate within available resources but is allowed to seek and accept grants or funds from federal, state, or local sources to support the operation and defray the authorized expenses of the office and the Suicide Prevention Coordinating Council.[15]

[10] Section 1004.04(5), F.S.
[11] *Id.*
[12] Section 1012.585(3)(a), F.S.
[13] Ch. 2011-51, L.O.F.; Section 14.2019, F.S.
[14] Section 14.2019, F.S.
[15] *Id.*

III. Effect of Proposed Changes:

The bill requires the Department of Education (DOE) to incorporate two hours of youth suicide awareness and prevention training for all K-12 instructional personnel to receive as part of their continuing education or inservice training.

Specifically, the bill:

- Requires the DOE, in consultation with the Statewide Office of Suicide Prevention and suicide experts, to develop a list of approved training materials;
- Requires the training to be included in existing continuing education requirements and not add to the total hours currently required by the department;
- Authorizes the State Board of Education to adopt implementation rules; and
- Specifies that the training program does not create any new duty of care or basis of liability.

The bill reduces the costs incurred to school districts to implement the training by:

- Including materials on youth suicide awareness and prevention, that are currently used by school districts, on the DOE approved training materials list; and
- Allowing instructional personnel to complete a training program through the self-review of approved training materials.

The bill authorizes the State Board of Education to adopt rules to implement the training requirements.

The bill takes effect July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

School districts may incur costs for instructional personnel to attend the training required by SB 884, as well as the costs for substitutes and trainers. However, because of the flexibility in how the training can be delivered and the requirement that the training not add to the total hours of inservice required by the DOE, these costs should be minimal and absorbed within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 1012.583 of the Florida Statutes.

IX. Additional Information:

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

None.

B. Amendments:

None.

By Senator Benacquisto

30-00891A-16 2016884__

A bill to be entitled

An act relating to youth suicide awareness and prevention; creating s. 1012.583, F.S.; requiring the Department of Education to incorporate training in youth suicide awareness and prevention into certain instructional personnel continuing education or inservice training requirements; requiring the department, in consultation with the Statewide Office for Suicide Prevention and suicide prevention experts, to develop a list of approved materials for the training; specifying requirements for training materials; requiring the training to be included in the existing continuing education or inservice training requirements; providing that no cause of action results from the implementation of this act; providing for rulemaking; providing an effective date.

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

Section 1. Section 1012.583, Florida Statutes, is created to read:

1012.583 Continuing education and inservice training for youth suicide awareness and prevention.—

(1) Beginning with the 2016-2017 school year, the Department of Education shall incorporate 2 hours of training in youth suicide awareness and prevention into existing requirements for continuing education or inservice training for instructional personnel in elementary school, middle school, and high school.

30-00891A-16 2016884__

(2) The department, in consultation with the Statewide Office for Suicide Prevention and suicide prevention experts, shall develop a list of approved youth suicide awareness and prevention training materials. The materials:

(a) Must include training on how to identify appropriate mental health services and how to refer youth and their families to those services.

(b) May include materials currently being used by a school district if such materials meet any criteria established by the department.

(c) May include programs that instructional personnel can complete through a self-review of approved youth suicide awareness and prevention materials.

(3) The training required by this section must be included in the existing continuing education or inservice training requirements for instructional personnel and may not add to the total hours currently required by the department.

(4) A person has no cause of action for any loss or damage caused by an act or omission resulting from the implementation of this section or resulting from any training required by this section unless the loss or damage was caused by willful or wanton misconduct. This section does not create any new duty of care or basis of liability.

(5) The State Board of Education may adopt rules to implement this section.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR LIZBETH BENACQUISTO
30th District

COMMITTEES:
Banking and Insurance, *Chair*
Appropriations, *Vice Chair*
Appropriations Subcommittee on Health and Human Services
Education Pre-K-12
Higher Education
Judiciary
Rules

JOINT COMMITTEE:
Joint Legislative Auditing Committee
Joint Select Committee on Collective Bargaining

January 28, 2016

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

RE: SB 884- Youth Suicide Awareness and Prevention

Dear Mr. Chair:

Please allow this letter to serve as my respectful request to agenda SB 884, Relating to Youth Suicide Awareness and Prevention, for a public hearing at your earliest convenience.

Your kind consideration of this request is greatly appreciated. Please feel free to contact my office for any additional information.

Sincerely,

Lizbeth Benacquisto
Senate District 30

Cc: Cindy Kynoch

REPLY TO:
❒ 2310 First Street, Suite 305, Fort Myers, Florida 33901 (239) 338-2570
❒ 326 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5030

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

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

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

3 3 16
Meeting Date

884
Bill Number (if applicable)

Topic Youth Suicide Awareness

Amendment Barcode (if applicable)

Name Dan Hendrickson

Job Title Chair Advocacy Committee

Address 319 E Park Ave, PO Box 1201
Street

Phone 850 570 1967

Tallahassee — *City* | Fl — *State* | 32302 — *Zip*

Email danbhendrickson@comcast.net

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Big Bend Mental Health Coalition, NAMI Tallahassee,

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/16
Meeting Date

SB 324
Bill Number (if applicable)

Topic Youth Suicide Awareness & Prevention
Amendment Barcode (if applicable)

Name Laura Fellman

Job Title

Address 7654 Solimar Cir.
Street
Boca Raton FL 33433
City *State* *Zip*

Phone 561 445 4022

Email LauraFPTA@gmail.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Palm Beach County Council of PTAs

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	CS/SB 1088
INTRODUCER:	Education Pre-K - 12 Committee and Senators Stargel and Garcia
SUBJECT:	Education Programs for Individuals with Disabilities
DATE:	March 2, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hand	Klebacha	ED	**Fav/CS**
2.	Sikes	Elwell	AED	**Recommend: Favorable**
3.	Sikes	Kynoch	AP	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1088 expands eligibility requirements for students enrolled in education programs for students with disabilities. Specifically, the bill:

- Amends the John M. McKay Scholarship for Students with Disabilities Program (McKay) to:
  - Exempt foster children from the prior school year attendance requirement for determining student eligibility.
  - Authorize a private school to establish a transition-to-work program for McKay students.
  - Enable McKay students to take virtual courses without reducing the scholarship amount.
- Saves from repeal the Adults with Disabilities Workforce Education Pilot Program, and renames the program the "Adults with Disabilities Workforce Education Program."

According to the Department of Education, the estimated fiscal impact to the Florida Education Finance Program (FEFP) of exempting the McKay scholarship amount from the 1.0 FTE requirement is approximately $309,000, based on the virtual course enrollments of current McKay students.

The bill provides an effective date of July 1, 2016, except where otherwise expressly provided.

II. Present Situation:

McKay Scholarship for Students with Disabilities Program

The John M. McKay Scholarship Program For Students With Disabilities Program (McKay) provides the option to attend an eligible public or private school for students with disabilities that have an individual education plan (IEP) or an accommodation plan that has been issued under s. 504 of the Rehabilitation Act of 1973 (504 accommodation plan).[1]

Students with disabilities include K-12 students who are documented as having an intellectual disability; a speech impairment; a language impairment; a hearing impairment, including deafness; a visual impairment, including blindness; a dual sensory impairment; an orthopedic impairment; and other health impairments; an emotional or behavioral disability; a specific learning disability, including but not limited to, dyslexia, dyscalculia, or developmental aphasia; a traumatic brain injury; a developmental delay; or autism spectrum disorder.[2]

Eligibility Requirements

The parent of a student with a disability may request and receive a McKay scholarship for the child to enroll in and attend a private school if: [3]

- The student has:
  - Spent the prior school year in attendance at a Florida public school or the Florida School for the Deaf and the Blind; or
  - Received specialized instructional services under the Voluntary Prekindergarten Education Program[4] during the previous school year and has a current IEP or 504 accommodation plan.
- The parent has obtained acceptance for admission of the student to a private school that is eligible for the program, and has requested a McKay scholarship from the Department of Education (DOE) at least 60 days before the date of the first scholarship payment.

Prior School Year Attendance

For purposes of scholarship eligibility, the term "prior school year in attendance" means the student was enrolled and reported by: [5]

- A school district for funding during the preceding October and February Florida Education Finance Program (FEFP) surveys in kindergarten through grade 12, which includes time spent in a Department of Juvenile Justice commitment program if funded under the FEFP;

[1] Section 1002.39(1), F.S.
[2] Section 1002.39(1), F.S.
[3] Section 1002.39(2), F.S. The public school option is discussed in the McKay Public School Option portion of this analysis.
[4] In 2010, the Legislature established a specialized instructional services program for children with disabilities as an option under the Voluntary Prekindergarten Education (VPK) Program. Beginning with the 2012-13 academic year, a child who has a disability is eligible for specialized instructional services if the child is eligible for the VPK Program and has a current IEP developed by the district school board. Section 1002.66, F.S.; see also s. 1002.53, F.S.
[5] Section 1002.39(2)(a)2., F.S. Although not required to attend a public school, children with disabilities who have attained the age of 3 years are eligible for admission to public special education programs and related services. Section 1003.21(1)(e), F.S.

- The Florida School for the Deaf and the Blind during the preceding October and February student membership surveys in kindergarten through grade 12; or
- A school district for funding during the preceding October and February FEFP surveys and the student was at least 4 years old when enrolled and reported and eligible for services under the school attendance requirements for prekindergarten aged children with disabilities.

The Legislature has authorized one exception to the prior school year attendance requirement. A dependent child of a member of the United States Armed Forces who transfers to a Florida school from out of state or from a foreign country due to a parent's permanent change of station orders is exempt from the prior school year attendance requirements, but must meet all other eligibility requirements to participate in the McKay Scholarship Program.[6]

Scholarship Funding and Payments

The amount of a McKay scholarship is a statutorily calculated amount or the amount of the private school's tuition and fees, whichever is less.[7] Until a school district completes a matrix of services, the calculation must be based on the matrix that assigns the student to support Level I of services.[8] When the school district completes the matrix, the amount of the payment is adjusted as needed.[9]

State funding per student may not exceed 1.0 FTE, including traditional and virtual courses.[10] If a student's course load exceeds 1.0 FTE, the funding for each course is reduced proportionately to equal 1.0 FTE.[11] For example, although McKay students are authorized to take up to two virtual courses,[12] the scholarship amount is reduced in order to accommodate the additional courses and still comply with the 1.0 FTE requirement.

Public School Transition to Postsecondary Education and Career Opportunities

To ensure quality planning for a successful transition of a student with a disability to postsecondary education and career opportunities, an IEP team must develop an IEP for identifying the need for transition services.[13]

The plan must:[14]

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[6] Section 1002.39(2)(a), F.S. (flush left provision at the end of the paragraph).
[7] Section 1002.39(10)(b), F.S. The McKay scholarship has a maximum cap, which is equivalent to the base student allocation in the Florida Education Finance Program (FEFP) multiplied by the appropriate cost factor for the educational program that would have been provided for the student in the district school to which the student was assigned, multiplied by the district cost differential. Section 1002.39(10)(a), F.S.
[8] Section 1002.39(10)(a)4., F.S.
[9] *Id.*
[10] Section 1011.61(4)(a), F.S.
[11] *Id.*
[12] Section 1002.39(3)(f), F.S., states that a student is not eligible for McKay while participating in a virtual school, correspondence school, or distance learning program that receives state funding pursuant to the student's participation, unless the participation is limited to no more than two courses per school year.
[13] Section 1003.5716(1), F.S. Any change in the IEP goals must be approved by the parent is subject to verification for appropriateness by an independent reviewer selected by the parent. Section 1003.5716(3), F.S.
[14] Section 1003.5716, F.S.

- Be developed by the time the student is 14, in order for the student's postsecondary goals and career goals to be identified and in place when the student turns 16 years old.[15]
- Consider the student's need for instruction in the area of self-determination and self-advocacy to assist the student's active and effective participation in an IEP meeting.
- Prepare the student to graduate from high school with a standard high school diploma with a Scholar designation, unless the parent chooses a Merit designation.
- Include a statement of appropriate measurable long-term postsecondary education and career goals based upon age-appropriate transition assessments related to training, education, employment, and if appropriate, independent living skills and the transition services, including courses of study needed to assist the student in reaching those goals.
- Include a statement, when the student turns 16,[16] of:
  - Intent to pursue a standard high school diploma and Scholar or Merit designation, as determined by the parent.
  - Intent to receive a standard high school diploma before the student turns 22. The statement must include a description of how the student will fully meet the requirement for receiving a standard high school diploma, including a portfolio.
  - Outcomes and additional benefits expected by the parent and the IEP team at the time of the student's graduation.

If a participating agency responsible for transition services fails to provide the transition services described in the IEP, the school district must reconvene the IEP team to identify alternative strategies to meet the transition objectives for the student that are specified in the IEP.[17] The participating agency is not relieved of the responsibility to provide for or pay for any transition services that the agency would otherwise provide to students with disabilities who meet the eligibility criteria of that agency.[18]

Adults with Disabilities Workforce Education Pilot Program

The Adults with Disabilities Workforce Education Pilot Program (pilot program) was established by the Legislature in 2012 as a Department of Education (DOE) pilot program in Hardee, DeSoto, Manatee, and Sarasota counties.[19]

Student Eligibility

The Pilot Program provides the option of receiving a scholarship for instruction at private schools for up to 30 students who:[20]

- Have a disability;[21]

[15] *Id.*
[16] Sixteen or younger if determined appropriate by the parent and the IEP team. *Id.* The statement must be updated annually. *Id.*
[17] Section 1003.5716(4), F.S.
[18] *Id.*
[19] Section 12, ch. 2012-134, L.O.F.; Section 1004.935, F.S.
[20] Section 1004.395(1), F.S.
[21] The term "student with a disability" includes a student who is documented as having an intellectual disability; a speech impairment; a language impairment; a hearing impairment, including deafness; a visual impairment, including blindness; a dual sensory impairment; an orthopedic impairment; another health impairment; an emotional or behavioral disability; a

- Are 22 years of age;
- Are receiving instruction from an instructor in a private school to meet high school graduation requirements;
- Do not have a standard high school diploma or a special high school diploma; and
- Receive supported employment services.[22]

A student may participate in the pilot program until the student graduates from high school or reaches the age of 40 years, whichever occurs first.[23]

If the student chooses to participate in the pilot program and is accepted by the provider of supported employment services, the student must notify DOE 60 days before the first scholarship payment and before participating in the pilot program.[24]

Private School Eligibility

To be eligible to participate in the pilot program, a private school must meet certain requirements.[25] The private school must:[26]

- Be academically accountable for meeting the educational needs of the student by annually providing to the provider of supported employment services a written explanation of the student's progress.
- Comply with federal nondiscrimination requirements.
- Meet state and local health and safety laws and codes.
- Supply to the provider of supported employment services all documentation required for a student's participation at least 30 days before any scholarship payment is made for the student.

The pilot program is scheduled to be repealed June 30, 2016.[27]

III. Effect of Proposed Changes:

The bill expands eligibility requirements for students enrolled in education programs for students with disabilities. Specifically, the bill:

- Amends the John M. McKay Scholarship for Students with Disabilities Program (McKay) to:
  - Exempt foster children from the prior school year attendance requirement for determining student eligibility.
  - Authorize a private school to establish a transition-to-work program for McKay students.

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specific learning disability, including but not limited to dyslexia, dyscalculia, or developmental aphasia; a traumatic brain injury; a developmental delay; or autism spectrum disorder. Section 1004.935(1), F.S.

[22] Supported employment services means employment that is located or provided in an integrated work setting with earnings paid on a commensurate wage basis and for which continued support is needed for job maintenance. Section 1004.935(1)(e), F.S. These services may be provided at more than one site. S. 1004.935(3), F.S. The provider of these services must be a nonprofit 501(c)(3) corporation which services the respective pilot counties, and must contract with an eligible private school. S. 1004.935(4), F.S.

[23] Section 1004.935(2), F.S.

[24] Section 1004.935(6)(a), F.S.

[25] Section 1004.935(5), F.S. The private school may be sectarian or nonsectarian. *Id.*

[26] *Id.*

[27] Section 55, ch. 2014-39, L.O.F.; Section 1004.395(1), F.S.

  - Enable McKay students to take virtual courses without reducing the scholarship amount.
- Saves from repeal the Adults with Disabilities Workforce Education Pilot Program, and renames the program the "Adults with Disabilities Workforce Education Program."

Foster Children

The bill adds foster children to the existing exemption from the prior school year attendance requirement for determining McKay eligibility.

Transition-To-Work Program

The bill authorizes a private school to establish a transition-to-work program for private school McKay students. The transition-to-work program consists of academic instruction, work skills training, and a volunteer or paid work experience.

To participate in the transition-to-work program, McKay students:
- Must be between 17 and 22 years of age, and have not yet received a high school diploma or certificate of completion.
- Must receive 15 hours of academic instruction and work skills training at a private school.
- Must participate in 10 hours of work at the student's work experience program.

To offer a transition-to-work program, a private school in the McKay Scholarship Program must:
- Develop and submit to the Department of Education (DOE) a transition-to-work program plan that includes a description of the academic instruction and work skills training the students will receive.
- Develop a personalized transition-to-work program plan for each student in the program, which must be signed by the student, the student's parent, and the school principal. A personalized plan must be submitted to DOE upon request.
- Provide a liability release form signed by the student, the student's parent, and the business offering the work experience.
- Assign a case manager to visit the student's job site on a weekly basis, observe the student, and provide support.
- Provide to the student and parent a quarterly report documenting the student's progress and performance.
- Maintain accurate attendance and performance records for the student.

To participate in a transition-to work-program, a business must:
- Maintain and provide accurate records of the student's performance and hours worked.
- Comply with all state and federal child labor laws.

As compared to the public school transition to postsecondary education and career opportunities statutory requirements, the McKay transition to work program primarily differs in that it:
- Is agreed to in a signed plan between the parent, student and principal, rather than being included in the student's individual education plan (IEP).

- Contains specific accountability requirements for required weekly visits by an assigned case manager or job coach, and acquired quarterly progress reports be provided to the parent and student.
- Identifies specific instructional and work hour requirements.
- Requires a release of liability that the parent, student, and business must sign.

Scholarship Proportional Reduction for Virtual Courses

The bill provides that the McKay scholarship amount is not subject to the maximum value for funding a student under the Florida Education Finance Program (FEFP).[28] In effect, McKay students taking virtual courses will not have their scholarship amount reduced in order to comply with the 1.0 FTE requirement.

Adults with Disabilities Workforce Education Pilot Program

The bill saves from repeal the Adults with Disabilities Workforce Education Pilot Program, and renames the program the "Adults with Disabilities Workforce Education Program."

The bill takes effect July 1, 2016, except where otherwise expressly provided.

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.

[28] Sections 1011.62; 1011.61(4), F.S.

C. Government Sector Impact:

According to the Department of Education, the annual fiscal impact to the Florida Education Finance Program (FEFP) of exempting the McKay scholarship amount from the 1.0 FTE requirement is approximately $309,000, based on the virtual course enrollments of current McKay students.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1002.39, 1004.935, and 1011.61.

IX. Additional Information:

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

CS by Education Pre-K – 12 on January 27, 2016:
The CS includes provisions that:

- Save from repeal the Adults with Disabilities Workforce Education Pilot Program.
- Rename the program the "Adults with Disabilities Workforce Education Program."

B. Amendments:

None.

By the Committee on Education Pre-K - 12; and Senators Stargel and Garcia

581-02672-16 20161088c1

A bill to be entitled

An act relating to education programs for individuals with disabilities; amending s. 1002.39, F.S.; exempting a foster child from specified eligibility provisions; providing that a student enrolled in a transition-to-work program is eligible for a John M. McKay Scholarship; creating a transition-to-work program for specific students enrolled in the John M. McKay Scholarships for Students with Disabilities Program; providing program requirements; providing participation requirements for schools, students, and businesses; exempting a John M. McKay Scholarship award from a specified funding calculation; amending s. 1004.935, F.S.; deleting the scheduled termination of the Adults with Disabilities Workforce Education Pilot Program; changing the name of the program to the "Adults with Disabilities Workforce Education Program"; amending s. 1011.61, F.S.; exempting a John M. McKay Scholarship award from a specified funding calculation for purposes of the Florida Education Finance Program; providing effective dates.

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

Section 1. Subsections (10) through (13) of section 1002.39, Florida Statutes, are renumbered as subsections (11) through (14), respectively, paragraph (a) of subsection (2), paragraph (h) of subsection (3), paragraph (b) of subsection (8), and paragraph (a) of present subsection (10) are amended, and a new subsection (10) is added to that section, to read:

1002.39 The John M. McKay Scholarships for Students with

581-02672-16 20161088c1

Disabilities Program.—There is established a program that is separate and distinct from the Opportunity Scholarship Program and is named the John M. McKay Scholarships for Students with Disabilities Program.

(2) JOHN M. MCKAY SCHOLARSHIP ELIGIBILITY.—The parent of a student with a disability may request and receive from the state a John M. McKay Scholarship for the child to enroll in and attend a private school in accordance with this section if:

(a) The student has:

1. Received specialized instructional services under the Voluntary Prekindergarten Education Program pursuant to s. 1002.66 during the previous school year and the student has a current individual educational plan developed by the local school board in accordance with rules of the State Board of Education for the John M. McKay Scholarships for Students with Disabilities Program or a 504 accommodation plan has been issued under s. 504 of the Rehabilitation Act of 1973; or

2. Spent the prior school year in attendance at a Florida public school or the Florida School for the Deaf and the Blind. For purposes of this subparagraph, prior school year in attendance means that the student was enrolled and reported by:

a. A school district for funding during the preceding October and February Florida Education Finance Program surveys in kindergarten through grade 12, which includes time spent in a Department of Juvenile Justice commitment program if funded under the Florida Education Finance Program;

b. The Florida School for the Deaf and the Blind during the preceding October and February student membership surveys in kindergarten through grade 12; or

c. A school district for funding during the preceding October and February Florida Education Finance Program surveys, was at least 4 years of age when so enrolled and reported, and was eligible for services under s. 1003.21(1)(e).

However, a foster child or a dependent child of a member of the United States Armed Forces who transfers to a school in this state from out of state or from a foreign country due to a parent's permanent change of station orders is exempt from this paragraph but must meet all other eligibility requirements to participate in the program.

(3) JOHN M. MCKAY SCHOLARSHIP PROHIBITIONS.—A student is not eligible for a John M. McKay Scholarship:

(h) While he or she is not having regular and direct contact with his or her private school teachers at the school's physical location unless he or she is enrolled in the private school's transition-to-work program pursuant to subsection (10); or

(8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—To be eligible to participate in the John M. McKay Scholarships for Students with Disabilities Program, a private school may be sectarian or nonsectarian and must:

(b) Provide to the department all documentation required for a student's participation, including the private school's and student's fee schedules, at least 30 days before any quarterly scholarship payment is made for the student pursuant to paragraph (11)(e) ~~(10)(e)~~. A student is not eligible to receive a quarterly scholarship payment if the private school fails to meet this deadline.

The inability of a private school to meet the requirements of this subsection shall constitute a basis for the ineligibility of the private school to participate in the scholarship program as determined by the department.

(10) TRANSITION-TO-WORK PROGRAM.—A student participating in the John M. McKay Scholarships for Students with Disabilities Program who is at least 17 years, but not older than 22 years, of age and who has not received a high school diploma or certificate of completion is eligible for enrollment in his or her private school's transition-to-work program. A transition-to-work program shall consist of academic instruction, work skills training, and a volunteer or paid work experience.

(a) To offer a transition-to-work program, a participating private school must:

1. Develop a transition-to-work program plan, which must include a written description of the academic instruction and work skills training students will receive and the goals for students in the program.

2. Submit the transition-to-work program plan to the Office of Independent Education and Parental Choice.

3. Develop a personalized transition-to-work program plan for each student enrolled in the program. The student's parent, the student, and the school principal must sign the personalized plan. The personalized plan must be submitted to the Office of Independent Education and Parental Choice upon request by the office.

4. Provide a release of liability form that must be signed by the student's parent, the student, and a representative of

the business offering the volunteer or paid work experience.

5. Assign a case manager or job coach to visit the student's job site on a weekly basis to observe the student and, if necessary, provide support and guidance to the student.

6. Provide to the parent and student a quarterly report that documents and explains the student's progress and performance in the program.

7. Maintain accurate attendance and performance records for the student.

(b) A student enrolled in a transition-to-work program must, at a minimum:

1. Receive 15 instructional hours at the private school's physical facility, which must include academic instruction and work skills training.

2. Participate in 10 hours of work at the student's volunteer or paid work experience.

(c) To participate in a transition-to-work program, a business must:

1. Maintain an accurate record of the student's performance and hours worked and provide the information to the private school.

2. Comply with all state and federal child labor laws.

(11)~~(10)~~ JOHN M. MCKAY SCHOLARSHIP FUNDING AND PAYMENT.—

(a)1. The maximum scholarship granted for an eligible student with disabilities shall be equivalent to the base student allocation in the Florida Education Finance Program multiplied by the appropriate cost factor for the educational program that would have been provided for the student in the district school to which he or she was assigned, multiplied by

the district cost differential.

2. In addition, a share of the guaranteed allocation for exceptional students shall be determined and added to the amount in subparagraph 1. The calculation shall be based on the methodology and the data used to calculate the guaranteed allocation for exceptional students for each district in chapter 2000-166, Laws of Florida. Except as provided in subparagraphs 3. and 4., the calculation shall be based on the student's grade, matrix level of services, and the difference between the 2000-2001 basic program and the appropriate level of services cost factor, multiplied by the 2000-2001 base student allocation and the 2000-2001 district cost differential for the sending district. The calculated amount shall include the per-student share of supplemental academic instruction funds, instructional materials funds, technology funds, and other categorical funds as provided in the General Appropriations Act.

3. The scholarship amount for a student who is eligible under sub-subparagraph (2)(a)2.b. shall be calculated as provided in subparagraphs 1. and 2. However, the calculation shall be based on the school district in which the parent resides at the time of the scholarship request.

4. Until the school district completes the matrix required by paragraph (5)(b), the calculation shall be based on the matrix that assigns the student to support Level I of service as it existed prior to the 2000-2001 school year. When the school district completes the matrix, the amount of the payment shall be adjusted as needed.

5. The scholarship amount for a student eligible under s. 504 of the Rehabilitation Act of 1973 shall be based on the

program cost factor the student currently generates through the Florida Education Finance Program.

6. The scholarship amount granted for an eligible student with disabilities is not subject to the maximum value for funding a student under s. 1011.61(4).

Section 2. Effective June 29, 2016, section 1004.935, Florida Statutes, is amended to read:

1004.935 Adults with Disabilities Workforce Education ~~Pilot~~ Program.—

(1) The Adults with Disabilities Workforce Education ~~Pilot~~ Program is established in the Department of Education ~~through June 30, 2016,~~ in Hardee, DeSoto, Manatee, and Sarasota Counties to provide the option of receiving a scholarship for instruction at private schools for up to 30 students who:

(a) Have a disability;

(b) Are 22 years of age;

(c) Are receiving instruction from an instructor in a private school to meet the high school graduation requirements in s. 1002.3105(5) or s. 1003.4282;

(d) Do not have a standard high school diploma or a special high school diploma; and

(e) Receive "supported employment services," which means employment that is located or provided in an integrated work setting with earnings paid on a commensurate wage basis and for which continued support is needed for job maintenance.

As used in this section, the term "student with a disability" includes a student who is documented as having an intellectual disability; a speech impairment; a language impairment; a

hearing impairment, including deafness; a visual impairment, including blindness; a dual sensory impairment; an orthopedic impairment; another health impairment; an emotional or behavioral disability; a specific learning disability, including, but not limited to, dyslexia, dyscalculia, or developmental aphasia; a traumatic brain injury; a developmental delay; or autism spectrum disorder.

(2) A student participating in the ~~pilot~~ program may continue to participate in the program until the student graduates from high school or reaches the age of 40 years, whichever occurs first.

(3) Supported employment services may be provided at more than one site.

(4) The provider of supported employment services must be a nonprofit corporation under s. 501(c)(3) of the Internal Revenue Code which serves Hardee County, DeSoto County, Manatee County, or Sarasota County and must contract with a private school in this state which meets the requirements in subsection (5).

(5) A private school that participates in the ~~pilot~~ program may be sectarian or nonsectarian and must:

(a) Be academically accountable for meeting the educational needs of the student by annually providing to the provider of supported employment services a written explanation of the student's progress.

(b) Comply with the antidiscrimination provisions of 42 U.S.C. s. 2000d.

(c) Meet state and local health and safety laws and codes.

(d) Provide to the provider of supported employment services all documentation required for a student's

participation, including the private school's and student's fee schedules, at least 30 days before any quarterly scholarship payment is made for the student. A student is not eligible to receive a quarterly scholarship payment if the private school fails to meet this deadline.

The inability of a private school to meet the requirements of this subsection constitutes a basis for the ineligibility of the private school to participate in the ~~pilot~~ program.

(6)(a) If the student chooses to participate in the ~~pilot~~ program and is accepted by the provider of supported employment services, the student must notify the Department of Education of his or her acceptance into the program 60 days before the first scholarship payment and before participating in the ~~pilot~~ program in order to be eligible for the scholarship.

(b) Upon receipt of a scholarship warrant, the student or parent to whom the warrant is made must restrictively endorse the warrant to the provider of supported employment services for deposit into the account of the provider. The student or parent may not designate any entity or individual associated with the participating provider of supported employment services as the student's or parent's attorney in fact to endorse a scholarship warrant. A participant who fails to comply with this paragraph forfeits the scholarship.

(7) Funds for the scholarship shall be provided from the appropriation from the school district's Workforce Development Fund in the General Appropriations Act for students who reside in the Hardee County School District, the DeSoto County School District, the Manatee County School District, or the Sarasota

County School District. ~~During the pilot program,~~ The scholarship amount granted for an eligible student with a disability shall be equal to the cost per unit of a full-time equivalent adult general education student, multiplied by the adult general education funding factor, and multiplied by the district cost differential pursuant to the formula required by s. 1011.80(6)(a) for the district in which the student resides.

(8) Upon notification by the Department of Education that it has received the required documentation, the Chief Financial Officer shall make scholarship payments in four equal amounts no later than September 1, November 1, February 1, and April 1 of each academic year in which the scholarship is in force. The initial payment shall be made after the Department of Education verifies that the student was accepted into the ~~pilot~~ program, and subsequent payments shall be made upon verification of continued participation in the ~~pilot~~ program. Payment must be by individual warrant made payable to the student or parent and mailed by the Department of Education to the provider of supported employment services, and the student or parent shall restrictively endorse the warrant to the provider of supported employment services for deposit into the account of that provider.

(9) Subsequent to each scholarship payment, the Department of Education shall request from the Department of Financial Services a sample of endorsed warrants to review and confirm compliance with endorsement requirements.

Section 3. Subsection (4) of section 1011.61, Florida Statutes, is amended to read:

1011.61 Definitions.—Notwithstanding the provisions of s.

1000.21, the following terms are defined as follows for the purposes of the Florida Education Finance Program:

(4) The maximum value for funding a student in kindergarten through grade 12 or in a prekindergarten program for exceptional children as provided in s. 1003.21(1)(e) shall be the sum of the calculations in paragraphs (a), (b), and (c) as calculated by the department.

(a) The sum of the student's full-time equivalent student membership value for the school year or the equivalent derived from paragraphs (1)(a) and (b), subparagraph (1)(c)1., sub-subparagraphs (1)(c)2.b. and c., subparagraph (1)(c)3., and subsection (2). If the sum is greater than 1.0, the full-time equivalent student membership value for each program or course shall be reduced by an equal proportion so that the student's total full-time equivalent student membership value is equal to 1.0.

(b) If the result in paragraph (a) is less than 1.0 full-time equivalent student and the student has full-time equivalent student enrollment pursuant to sub-sub-subparagraph (1)(c)1.b.(VIII), calculate an amount that is the lesser of the value in sub-sub-subparagraph (1)(c)1.b.(VIII) or the value of 1.0 less the value in paragraph (a).

(c) The full-time equivalent student enrollment value in sub-subparagraph (1)(c)2.a.

<u>A scholarship award provided to a student enrolled in the John M. McKay Scholarships for Students with Disabilities Program pursuant to s. 1002.39 is not subject to the maximum value for funding a student under this subsection.</u>

Section 4. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2016.

THE FLORIDA SENATE

APPEARANCE RECORD

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

Mar 3, 2016
Meeting Date

1088
Bill Number (if applicable)

Topic Mckay Scholarship

Amendment Barcode (if applicable)

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Speaking: ☑ For ☐ Against ☐ Information

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

Representing The Coalition of Mckay Scholarship Schools

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

3/31/2016
Meeting Date

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

SB 1088
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic John M. McKay Scholarships

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

Representing Americans Prosperity

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/16
Meeting Date

SB 1088
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

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

Representing Foundation for Florida's Future

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/2016
Meeting Date

1088
Bill Number (if applicable)

Topic John M. McKay Scholarships

Amendment Barcode (if applicable)

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

Representing Florida Conference of Catholic Bishops

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	PCS/CS/SB 1168 (419000)
INTRODUCER:	Appropriations Committee (Recommended by Appropriations Subcommittee on General Government); Environmental Preservation and Conservation Committee; and Senator Negron and others
SUBJECT:	Implementation of the Water and Land Conservation Constitutional Amendment
DATE:	March 2, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Istler	Rogers	EP	**Fav/CS**
2.	Howard	DeLoach	AGG	**Recommend: Fav/CS**
3.	Howard	Kynoch	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1168 requires specified minimum distributions from the Land Acquisition Trust Fund (LATF) to fund Everglades projects that implement the Comprehensive Everglades Restoration Plan, including the Central Everglades Planning Project, the Long-Term Plan, and the Northern Everglades and Estuaries Protection Program. In addition, the bill requires a minimum distribution from the LATF to fund springs restoration, protection, and management projects, an annual amount to be appropriated to the St. Johns Water Management District for projects dedicated to the restoration of Lake Apopka, and an annual amount to be appropriated to the Southwest Florida Water Management District for projects dedicated to the restoration of Kings Bay or Crystal River.

The bill provides an adjustment to the calculation of each distribution for the Everglades, Springs, Lake Apopka, and Kings Bay or Crystal River if debt service is paid on bonds issued after July 1, 2016, for the purposes outlined under the bill.

The Revenue Estimating Conference for Documentary Stamp Tax Collection Distributions on January 19, 2016, determined that the bill would allocate a minimum of $145,000,000 for Everglades projects and $49,590,000 for springs projects. The bill also provides for an annual distribution of $5 million for Lake Apopka restoration projects and $5 million for Kings Bay or

Crystal River restoration projects (see Section V. Fiscal Impact Statement for a detailed analysis).

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

II. Present Situation:

Documentary Stamp Tax Revenues

Chapter 201, F.S., levies a tax on two classes of documents: deeds and other documents related to real property, which are taxed at the rate of 70 cents per $100; and certificates of indebtedness, promissory notes, wage assignments, and retail charge account agreements, which are taxed at 35 cents per $100.[1] Revenue from the excise tax on documents, collectively known as documentary stamp tax revenues, is divided between the General Revenue Fund and various trust funds.

In 2014, Florida voters approved a constitutional amendment to provide a dedicated funding source for water and land conservation and restoration. The amendment required that starting on July 1, 2015, for 20 years, 33 percent of net revenues derived from the existing excise tax on documents be deposited into the Land Acquisition Trust Fund (LATF).

The amendment required that funds in the LATF be expended only, as provided by law, to finance or refinance the following:

- The acquisition and improvement of land, water areas, and related property interests, including conservation easements, and resources for conservation lands including wetlands, forests, and fish and wildlife habitat;
- Wildlife management areas;
- Lands that protect water resources and drinking water sources, including lands protecting the water quality and quantity of rivers, lakes, streams, springsheds, and lands providing recharge for groundwater and aquifer systems;
- Lands in the Everglades Agricultural Area and the Everglades Protection Area;
- Beaches and shores;
- Outdoor recreation lands, including recreational trails, parks, and urban open space;
- Rural landscapes;
- Working farms and ranches; and
- Historic or geologic sites; together with management, restoration of natural systems, and the enhancement of public access or recreational enjoyment of conservation lands.[2]

The amendment was approved by 75 percent of the electors voting on the issue and created Art. X, section 28 of the State Constitution. To comply with the constitutional requirements, the Legislature in the 2015 Special Session A passed chapter 2015-229 Laws of Florida.[3]

[1] *See* ss. 201.02 and 201.08, F.S.
[2] FLA. CONST. art. X, s. 28.
[3] Ch. 2015-229, Laws of Fla.

As part of chapter 2015-229, Laws of Florida, s. 201.15, F.S., was amended to conform to the constitutional requirement that the LATF receive at least 33 percent of net revenues derived from the existing excise tax on documents.[4] Section 201.15, F.S., requires documentary stamp tax revenues be pledged and first made available to make payments on Florida Forever and Everglades restoration bonds.[5]

Chapter 2015-229, Laws of Florida, amended s. 375.041, F.S., to designate the LATF within the Department of Environmental Protection as the trust fund that serves as the depository for the constitutionally required funds.[6] The revenue deposited into the LATF is required to be utilized in the following order:

- Obligations relating to debt service, specifically:
  - First to payments relating to Florida Forever Bonds and Everglades restoration bonds; and
  - Then, to payments relating to bonds issued before February 1, 2009, by the South Florida Water Management District and the St. Johns River Water Management District;
- A distribution of $32 million each fiscal year to the South Florida Water Management District for the Long-Term Plan defined in s. 373.59, F.S.; and
- Then any remaining moneys are authorized to be appropriated from time to time for the purposes set forth in Art. X, section 28 of the State Constitution.[7]

Everglades Restoration Projects

The Florida Water Resources Act, ch. 373, F.S., directs the roles and responsibilities of the Department of Environmental Protection (DEP) and the South Florida Water Management District (SFWMD) for plans authorized through the Everglades Forever Act, the Comprehensive Everglades Restoration Plan, and the Northern Everglades and Estuaries Protection Program.[8]

Everglades Forever Act

In 1994, the Legislature passed the Everglades Forever Act (EFA), which outlines the state's commitment to restore the Everglades by improving water quality and quantity.[9] The primary goals of the EFA are to improve water quality by reducing phosphorus levels, restore the hydrology of the ecosystem, and restore and protect native plant and animal species.[10] In 2003, the EFA was amended to implement the "Everglades Protection Area Tributary Basins Conceptual Plan for Achieving Long-term Water Quality Goals," also known as the Long-Term Plan.[11]

The Long-Term Plan identifies the best available phosphorous reduction technology to be used in combination with Best Management Practices (BMPs) to achieve the phosphorus criterion in

[4] Ch. 2015-229, s. 9, Laws of Fla.
[5] Section 201.15, F.S.
[6] Ch. 2015-229, s. 50, Laws of Fla.
[7] Section 375.041, F.S.
[8] DEP, *Everglades, Overview of restoration programs*, http://www.dep.state.fl.us/everglades/default.htm (last visited Feb. 4, 2016).
[9] Chapter 1994-115, Laws of Fla.
[10] Section 373.4592, F.S.
[11] Chapter 2003-12, Laws of Fla.

the Everglades Protection Area.[12] The Long-Term Plan is to be implemented in two phases: the initial phase from 2003 to 2016, followed by an additional 10-year phase.[13] In 2013, the EFA was amended to include the "Restoration Strategies Regional Water Quality Plan," the second phase of the Long-Term Plan."[14] The Plan includes additional stormwater treatment areas and storage reservoirs at a cost of $880 million to be jointly funded over a 13-year period by the state and the SFWMD.[15] In 2013, the Legislature appropriated $32 million on a recurring basis through the 2023-2024 fiscal year to support the implementation of the plan.[16]

Comprehensive Everglades Restoration Plan

The Comprehensive Everglades Restoration Plan (CERP) is a state-federal partnership that was created to restore the Everglades. The plan works in conjunction with other state and federal efforts to revitalize wetlands, lakes, bays, and estuaries across South Florida, for the purpose of improving the Everglades and ensuring that the area's water supply can meet future needs. The DEP, the U.S. Army Corps of Engineers, and the SFWMD work jointly to review each program proposal. The CERP serves as the framework and guide for the restoration, protection, and preservation of the South Florida ecosystem, including providing for the water-related needs of the region, such as water supply and flood protection.[17] The plan encompasses 16 counties over an 18,000-square-mile area.[18] The goal of the CERP is to capture fresh water that now flows unused to the ocean and redirect it to areas that need it most.[19]

The CERP includes the Central Everglades Planning Project (CEPP), which incorporates updated science and technical information gained over the last decade to identify a recommended plan and prepare a Project Implementation Report (PIR) for congressional authorization. CEPP will develop the next set of project components that focus on restoring more natural water flow, depth, and duration into and within the Central Everglades.[20] The draft PIR was completed in August 2013. [21] The U.S. Army Corps signed the Record of Decision for CEPP in August 2015, signifying the completion of the final administrative review for the ecosystem restoration project's report.[22] The report will be transmitted to Congress for authorization.[23]

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[12] Section 373.4592, F.S.
[13] SFWMD, *Long-Term Plan for Achieving Water Quality Goals, Questions and Answers*, http://www.sfwmd.gov/portal/page/portal/xrepository/sfwmd_repository_pdf/q_and_a_long_term_plan.pdf (last visited Feb. 4, 2016).
[14] Chapter 2013-59, s. 1, Laws of Fla.
[15] DEP, *Everglades Water Quality Improvements, Questions & Answers*, http://www.dep.state.fl.us/secretary/news/2012/06/everglades_wq_improvements.pdf (last visited Feb. 4, 2016).
[16] Ch. 2013-59, s. 2, Laws of Fla.
[17] SFWMD, *South Florida Environmental Report 2015, Executive Summary*, Glossary (Mar. 1, 2015) *available at* http://www.sfwmd.gov/portal/page/portal/pg_grp_sfwmd_sfer/portlet_prevreport/2015_sfer_final/2015_sfer_executive_summary_final.pdf.
[18] DEP, *Projects and Goals*, http://www.dep.state.fl.us/evergladesforever/restoration/projects.htm (last visited Feb. 4, 2016).
[19] *Id*.
[20] U.S. Army Corps of Engineers, *Central Everglades Planning Project (CEPP), Facts & Information*, (Sept. 2013) http://www.evergladesrestoration.gov/content/cepp/documents/CEPP_FS_September2013_508.pdf (last visited Feb. 4, 2016).
[21] *Id*.
[22] U.S. Army Corps of Engineers, *Record of Decision signed for Central Everglades Planning Project*, http://www.saj.usace.army.mil/DesktopModules/ArticleCS/Print.aspx?PortalId=44&ModuleId=16629&Article=615490 (last visited Feb 4, 2016).
[23] *Id*.

Northern Everglades and Estuaries Protection Program

The Northern Everglades and Estuaries Protection Program (NEEPP) was established to promote a comprehensive, interconnected watershed approach to protect Lake Okeechobee and the Caloosahatchee and St. Lucie River watersheds. It includes the Lake Okeechobee Watershed Protection Program and the Caloosahatchee and St. Lucie River Watershed Protection Program.[24] The NEEPP led to the creation of the Phase II Technical Plan which provided the measures of quality, quantity, timing, and distribution of water in the northern Everglades ecosystem necessary for restoration.[25] The St. Lucie River and Caloosahatchee River Watershed Protection plans were developed under the NEEPP. The plans include a construction project, pollution control program, and research and water quality monitoring programs, and build upon existing and planned programs and projects to consolidate previous restoration efforts.[26]

The 2016 Legislature enacted legislation, chapter 2016-1, Laws of Florida, which updates and restructures the NEEPP to reflect and build upon the DEP's implementation of basin management action plans (BMAPs) for Lake Okeechobee, the Caloosahatchee River and Estuary, and the St. Lucie River and Estuary. The BMAP will include the construction of water projects, water monitoring programs, and the implementation, verification, and enforcement of best management practices (BMPs) within these watersheds. The BMAPs will now be required to include 5-, 10-, and 15-year milestones toward achieving the total maximum daily loads for those water basins within 20-years.[27]

Springs Restoration, Protection, and Management Projects

Springs form when groundwater is forced out through natural openings in the ground. Florida has more than 700 recognized springs, categorized by flow in cubic feet per second. First magnitude springs are those that discharge 100 cubic feet of water per second or greater. Florida has 33 first magnitude springs in 18 counties that discharge more than 64 million gallons of water per day. Spring discharges, primarily from the Floridan aquifer, are used to determine groundwater quality and the degree of human impact on a spring's recharge area. Rainfall, surface conditions, soil type, mineralogy, the composition and porous nature of the aquifer system, flow, and length of time in the aquifer all contribute to groundwater chemistry.

Excessive nutrient levels, particularly nitrate, are the primary water quality threat to springs.[28] High nitrate levels result from urban and agricultural stormwater runoff and leaching, and inadequately treated wastewater.[29] Spring system water quality is regularly assessed to determine whether it is meeting Florida's standards. When a spring system is not meeting the standard, the system is formally identified as impaired, and the DEP is required to adopt a Total Maximum

[24] Section 373.4595, F.S.
[25] DEP, *Everglades, Northern Everglades and Estuaries Protection Program (NEEPP)*, http://www.dep.state.fl.us/everglades/neepp.htm (last visited Feb. 4, 2016).
[26] Section 373.4595, F.S.
[27] Chapter 2016-1, Laws of Fla.
[28] DEP, *Progress Report: Select First Magnitude Springs and Springs of Regional Significance*, pg. 2 (Nov. 2015) (on file with the Senate Committee on Environmental Preservation and Conservation).
[29] *Id*.

Daily Load (TMDL).[30] A TMDL is a scientific determination of the maximum amount of a given pollutant that a surface water can absorb and still meet the water quality standards that protect human health and aquatic life.[31] To achieve a TMDL, the DEP works with local stakeholders to adopt and implement comprehensive BMAPs.[32] BMAPs represent a comprehensive set of strategies, including permit limits on wastewater facilities, urban and agricultural best management practices, conservation programs, financial assistance and revenue generating activities, designed to implement the pollutant reductions established by the TMDL.[33]

Water quantity or spring flows are affected by drought and other long-term climate conditions and may be affected by excessive water withdrawals.[34] The water management districts (WMDs) or the DEP are required to establish minimum flows and levels (MFLs) for surface and ground waters. The "minimum flow" is the limit at which further withdrawals from a watercourse would significantly harm water resources or ecology; the "minimum level" is the level of a groundwater or surface water body at which further withdrawals would significantly harm water resources.[35] If the flow or level is currently below, or within 20 years will fall below an applicable MFL, the water management district (WMD) is required to implement a recovery or prevention strategy.[36]

The Best Management Practices (BMPs) are established to conserve water and minimize nutrient loss to the environment, particularly through fertilizer application and land and animal management.[37] In coordination with the DEP, the WMDs, and other stakeholders, the Department of Agriculture and Consumer Service's Office of Agriculture Water Policy works to identify and prioritize restoration efforts in springs, including ways to manage more effectively water and nutrient applications in springs protection areas.[38]

Spring restoration, protection, and management projects may be used to achieve TMDLs through a BMAP, address MFLs through a recovery or prevention strategy, or implement BMPs. Examples of such projects include, but are not limited to: investments to wastewater treatment facilities; water quality improvement projects; aquifer recharge projects; reclaimed water projects; purchase of conservation lands for water quality protection; stormwater improvement; water quality sampling or monitoring; meter implementation; or irrigation system efficiency upgrades.

Lake Apopka

Lake Apopka is the state's fourth-largest lake in Florida. The St. John's River Water Management District (SJRWMD) has worked to restore the lake. Ongoing projects to restore the lake include harvesting gizzard shad from the lake to remove phosphorus and nitrogen contained in the fish bodies that are in the lake and the construction of the Lake Apopka Marsh Flow-Way,

[30] Section 403.067, F.S.
[31] DEP, *Total Maximum Daily Loads*, http://www.dep.state.fl.us/water/tmdl/index.htm (last visited Feb. 10, 2016).
[32] Section 403.067, F.S.
[33] DEP, *Total Maximum Daily Loads*, http://www.dep.state.fl.us/water/tmdl/index.htm (last visited Feb. 10, 2016).
[34] DEP, *Progress Report: Select First Magnitude Springs and Springs of Regional Significance*, pg. 3 (Nov. 2015).
[35] Section 373.042, F.S.
[36] Section 373.0421, F.S.
[37] DEP, *Progress Report: Select First Magnitude Springs and Springs of Regional Significance*, pg. 3 (Nov. 2015).
[38] DEP, *Progress Report: Select First Magnitude Springs and Springs of Regional Significance*, Attachment 3 (Nov. 2015).

which is a 760-acre constructed wetland along the northwest shore of Lake Apopka. The wetland system removes phosphorus and suspended material already in Lake Apopka water.[39]

Kings Bay and Crystal River

The Crystal River/Kings Bay springs group is the second largest springs group in the state, with more than 70 springs within the 600-acre bay.[40] The springs group is unique because it flows into a large, open bay. The system is the largest winter refuge for manatees on the state's gulf coast. Portions of Kings Bay are dominated by large amounts of algae growth which can cause reduced water clarity and extreme fluctuations in dissolved oxygen. The Southwest Florida Water Management District (SWFWMD) has taken steps to improve Crystal River and Kings Bay. For example, the SWFWMD is constructing a wetland area on the Three Sisters Springs property to treat stormwater runoff and improve stormwater before it enters into Kings Bay.[41]

III. Effect of Proposed Changes:

The bill amends s. 375.041, F.S., to require specified minimum distributions from the Land Acquisition Trust Fund (LATF) to be used to fund Everglades restoration projects, spring restoration, protection, and management projects, Lake Apopka restoration projects and Kings Bay or Crystal River restoration projects.

Everglades restoration projects

The bill requires an appropriation of funds to be used for Everglades projects that implement the Comprehensive Everglades Restoration Plan (CERP), the Long-Term Plan, or the Northern Everglades and Estuaries Protection Program (NEEPP).

The bill requires an annual appropriation of a minimum of the lesser of 25 percent of the funds remaining in the LATF after the payment of debt service or $145 million for Everglades projects in the following manner:

- $32 million to the South Florida Water Management District for the Long-Term Plan each fiscal year through the 2023-2024 fiscal year;
- Then, after deducting the $32 million, a minimum of the lesser of 76.5 percent of the funds remaining or $100 million for the planning, design, engineering, and construction of the CERP, including the Central Everglades Planning Project, subject to congressional authorization, each fiscal year through the 2025-2026 fiscal year;
- Then, funds remaining are to be available for distribution to CERP or NEEPP projects.

The bill requires the DEP and the SFWMD to give preference to Everglades restoration projects that reduce harmful discharges of water from Lake Okeechobee to the St. Lucie or Caloosahatchee estuaries in a timely manner.

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[39] St. John's River Water Management District, *Lake Apopka Basin*, http://floridaswater.com/lakeapopka/ (last visited Feb. 29, 2016).
[40] Southwest Florida Water Management District (SWFWMD), *Crystal River/Kings Bay, Citrus County*, https://www.swfwmd.state.fl.us/springs/kings-bay/ (last visited Feb. 29, 2016).
[41] SWFWMD, *Three Sisters Springs Wetland Treatment Project*, http://www.swfwmd.state.fl.us/springs/kings-bay/three-sisters-springs-project/ (last visited Feb. 29, 2016).

The bill deletes language that is set to expire July 1, 2016, relating to the payment of debt service on bonds issued before February 1, 2009, by the South Florida Water Management District.

The bill provides an adjustment to the calculation of the distribution for the Everglades if debt service is paid on bonds issued after July 1, 2016, for the purposes provided in the bill.

Spring restoration, protection, and management projects

The bill requires an annual appropriation of a minimum of the lesser of 7.6 percent of the funds remaining in the LATF after the payment of debt service or $50 million for spring restoration, protection, and management projects.

The bill provides an adjustment to the calculation of each distribution for Springs restoration projects if debt service is paid on bonds issued after July 1, 2016, for the purposes provided in the bill.

Lake Apopka and Kings Bay or Crystal River restoration projects

The bill requires an annual appropriation of $5 million annually to the St. Johns River Water Management District for projects dedicated to the restoration of Lake Apopka.

In addition, the bill requires an annual appropriation of $5 million annually to the Southwest Florida Water Management District for projects dedicated to the restoration of Kings Bay or Crystal River.

The bill provides an adjustment to the calculation of each distribution for Lake Apopka and Kings Bay or Crystal River if debt service is paid on bonds issued after July 1, 2016, for the purposes provided in the bill.

The bill takes effect July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

PCS/CS/SB 1168 requires specified distributions from the Land Acquisition Trust Fund (LATF) within the Department of Environmental Protection as follows:

Estimated Documentary Stamp Tax Revenue:			$2,506,250,000*		As estimated for FY 2016-2017
	LATF distribution (33% of estimated tax revenue):		$823,830,000*		As required under Art. X, s. 28 of the State Constitution.
	Payment on debt service:		$171,330,000*		As required under Art. X, s. 28 of the State Constitution.
	Remainder of LATF after subtracting debt service	**X**	$652,500,000*		
			% Amount	**Set Amount**	
Allocation for Everglades Projects:	A minimum of the lesser of 25% or $145 million	25% of X	$163,125,000	$145 million	As required under PCS/CS/SB 1168.
Distribution:	Long-Term Plan		N/A	$32 million	As required under s. 375.041, F.S.
Distribution:	A minimum of the lesser of 76.5% or $100 million	76.5% of ($145 million minus $32 million)	$86,445,000	$100 million	For the planning, design, engineering, and construction of CERP projects as required under PCS/CS/SB 1168.
Balance:		$145m minus $32m minus $86.4m = $26.6m		$26,555,000 million	Available for Everglades projects as required under PCS/CS/SB 1168.
Allocation for Springs projects:	A minimum of the lesser of 7.6% or $50 million	7.6% of X	$49,590,000	$50 million	Available for spring restoration, protection, and management projects as required

					under PCS/CS/SB 1168
Allocation for Lake Apopka			N/A	$5 million	Available for Lake Apopka restoration projects as required under PCS/CS/SB 1168
Allocation for Kings Bay or Crystal River			N/A	$5 million	Available for Kings Bay or Crystal River restoration projects as required under PCS/CS/SB 1168
Balance of LATF:		$652.5m minus $145m minus $50m minus $5m minus $5m = $447.5m		$447,500,000**	Available for appropriation for the purposes set forth in Art. X, s. 28 of the State Constitution.

*Based on the Revenue Estimating Conference for Documentary Stamp Tax Collection and Distributions adopted January 19, 2016.
** Based on estimates for Fiscal Year 2016-2017 as provided by the Senate Appropriations Committee staff.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 375.041 of the Florida Statutes.

IX. Additional Information:

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

Recommended CS/CS by Appropriations Subcommittee on General Government on February 29, 2016:
The committee substitute:

- Reduces the specified minimum distribution from the Land Acquisition Trust Fund (LATF) to fund Everglades projects from $200 million to $145 million.
- Reduces the specified minimum distribution from the LATF to fund Springs restoration projects from $75 million to $50 million.
- Adds an annual appropriation of $5 million from the LATF for Lake Apopka restoration projects.
- Adds an annual appropriation of $5 million from the LATF for Kings Bay or Crystal River restoration projects.

- Provides an adjustment to the calculation of each distribution for the Everglades, Springs, Lake Apopka, and Kings Bay or Crystal River based on debt service paid on bonds issued for such purposes.

CS by Environmental Preservation and Conservation on February 9, 2016:
The CS adds a specified minimum distribution from the Land Acquisition Trust Fund to fund spring restoration, protection, and management projects.

B. Amendments:

None.

327964

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/02/2016	.	
	.	
	.	
	.	

The Committee on Appropriations (Negron) recommended the following:

Senate Amendment (with title amendment)

Delete lines 49 - 65
and insert:
Plan as defined in s. 373.4592(2); the Northern Everglades and Estuaries Protection Program as set forth in s. 373.4595; and the recommendations included in the final report by the Select Committee on Indian River Lagoon and Lake Okeechobee Basin, dated November 8, 2013. From these funds, $32 million shall be distributed each fiscal year through the 2023-2024 fiscal year

327964

to the South Florida Water Management District for the Long-Term Plan as defined in s. 373.4592(2). After deducting the $32 million distributed under this subparagraph from the funds remaining, a minimum of the lesser of 76.5 percent or $100 million shall be appropriated each fiscal year through the 2025-2026 fiscal year for the planning, design, engineering, and construction of the Comprehensive Everglades Restoration Plan as set forth in s. 373.470, including the Central Everglades Planning Project subject to Congressional authorization. The Department of Environmental Protection and the South Florida Water Management District shall give preference to those Everglades restoration projects that reduce harmful discharges of water from Lake Okeechobee to the St. Lucie or Caloosahatchee estuaries, and to the Loxahatchee River and estuary in a

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

And the title is amended as follows:

Delete line 9

and insert:

Lucie estuary, the Caloosahatchee estuary, and the Loxahatchee River and estuary;

576-04373-16

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on General Government)

A bill to be entitled

An act relating to implementation of the water and land conservation constitutional amendment; amending s. 375.041, F.S.; requiring a minimum specified amount of funds within the Land Acquisition Trust Fund to be appropriated for Everglades restoration projects; providing a preference in the use of funds to certain projects that reduce harmful discharges to the St. Lucie Estuary and the Caloosahatchee Estuary; requiring the distribution to be reduced by an amount equal to the debt service paid on certain bonds; requiring a minimum specified amount of funds within the Land Acquisition Trust Fund to be appropriated for spring restoration, protection, and management projects; requiring the distribution to be reduced by an amount equal to the debt service paid on certain bonds; requiring a specified appropriation for projects dedicated to the restoration of Lake Apopka; requiring the distribution to be reduced by an amount equal to the debt service paid on certain bonds; requiring a specified appropriation for projects dedicated to the restoration of Kings Bay or Crystal River; requiring the distribution to be reduced by an amount equal to the debt service paid on certain bonds; deleting an obsolete provision; providing an effective date.

576-04373-16

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

Section 1. Subsection (3) of section 375.041, Florida Statutes, is amended to read:

375.041 Land Acquisition Trust Fund.—

(3) Funds distributed into the Land Acquisition Trust Fund pursuant to s. 201.15 shall be applied:

(a) First, to pay debt service or to fund debt service reserve funds, rebate obligations, or other amounts payable with respect to Florida Forever bonds issued under s. 215.618; and pay debt service, provide reserves, and pay rebate obligations and other amounts due with respect to Everglades restoration bonds issued under s. 215.619; and

(b) Of the funds remaining after the payments required under paragraph (a) but before funds may be appropriated, pledged, or dedicated for other uses:

1. A minimum of the lesser of 25 percent or $145 million shall be appropriated annually for Everglades projects that implement the Comprehensive Everglades Restoration Plan as set forth in s. 373.470, including the Central Everglades Planning Project subject to Congressional authorization; the Long-Term Plan as defined in s. 373.4592(2); and the Northern Everglades and Estuaries Protection Program as set forth in s. 373.4595. From these funds, $32 million shall be distributed each fiscal year through the 2023-2024 fiscal year to the South Florida Water Management District for the Long-Term Plan as defined in s. 373.4592(2). After deducting the $32 million distributed under this subparagraph, from the funds remaining, a minimum of the lesser of 76.5 percent or $100 million shall be appropriated

each fiscal year through the 2025-2026 fiscal year for the planning, design, engineering, and construction of the Comprehensive Everglades Restoration Plan as set forth in s. 373.470, including the Central Everglades Planning Project subject to Congressional authorization. The Department of Environmental Protection and the South Florida Water Management District shall give preference to those Everglades restoration projects that reduce harmful discharges of water from Lake Okeechobee to the St. Lucie or Caloosahatchee estuaries in a timely manner. For the purpose of performing the calculation provided in this subparagraph the amount of debt service paid pursuant to paragraph (a) for bonds issued after July 1, 2016, for the purposes set forth under paragraph (b) shall be added to the amount remaining after the payments required under paragraph (a). The amount of the distribution calculated shall then be reduced by an amount equal to the debt service paid pursuant to paragraph (a) on bonds issued after July 1, 2016, for the purposes set forth under this subparagraph.

2. A minimum of the lesser of 7.6 percent or $50 million shall be appropriated annually for spring restoration, protection, and management projects. For the purpose of performing the calculation provided in this subparagraph the amount of debt service paid pursuant to paragraph (a) for bonds issued after July 1, 2016, for the purposes set forth under paragraph (b) shall be added to the amount remaining after the payments required under paragraph (a). The amount of the distribution calculated shall then be reduced by an amount equal to the debt service paid pursuant to paragraph (a) on bonds issued after July 1, 2016, for the purposes set forth under this subparagraph.

3. The sum of $5 million shall be appropriated annually to the St. Johns River Water Management District for projects dedicated to the restoration of Lake Apopka. This distribution shall be reduced by an amount equal to the debt service paid pursuant to paragraph (a) on bonds issued after July 1, 2016, for the purposes set forth in this subparagraph.

4. The sum of $5 million shall be appropriated annually to the Southwest Florida Water Management District for projects dedicated to the restoration of Kings Bay or Crystal River. This distribution shall be reduced by an amount equal to the debt service paid pursuant to paragraph (a) on bonds issued after July 1, 2016, for the purposes set forth in this subparagraph

~~Then, to pay the debt service on bonds issued before February 1, 2009, by the South Florida Water Management District and the St. Johns River Water Management District, which are secured by revenues provided pursuant to former s. 373.59, Florida Statutes 2014, or which are necessary to fund debt service reserve funds, rebate obligations, or other amounts payable with respect to such bonds. This paragraph expires July 1, 2016; and~~

~~(c) Then, to distribute $32 million each fiscal year to the South Florida Water Management District for the Long-Term Plan as defined in s. 373.4592(2). This paragraph expires July 1, 2024~~.

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

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	CS/CS/SB 1168
INTRODUCER:	Appropriations Committee (Recommended by Appropriations Subcommittee on General Government); Environmental Preservation and Conservation Committee; and Senator Negron and others
SUBJECT:	Implementation of the Water and Land Conservation Constitutional Amendment
DATE:	March 3, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Istler	Rogers	EP	**Fav/CS**
2.	Howard	DeLoach	AGG	**Recommend: Fav/CS**
3.	Howard	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1168 requires specified minimum distributions from the Land Acquisition Trust Fund (LATF) to fund Everglades projects that implement the Comprehensive Everglades Restoration Plan, including the Central Everglades Planning Project, the Long-Term Plan, and the Northern Everglades and Estuaries Protection Program. In addition, the bill requires a minimum distribution from the LATF to fund springs restoration, protection, and management projects, an annual amount to be appropriated to the St. Johns Water Management District for projects dedicated to the restoration of Lake Apopka, and an annual amount to be appropriated to the Southwest Florida Water Management District for projects dedicated to the restoration of Kings Bay or Crystal River.

The bill provides an adjustment to the calculation of each distribution for the Everglades, Springs, Lake Apopka, and Kings Bay or Crystal River if debt service is paid on bonds issued after July 1, 2016, for the purposes outlined under the bill.

The Revenue Estimating Conference for Documentary Stamp Tax Collection Distributions on January 19, 2016, determined that the bill would allocate a minimum of $145,000,000 for Everglades projects and $49,590,000 for springs projects. The bill also provides for an annual distribution of $5 million for Lake Apopka restoration projects and $5 million for Kings Bay or

Crystal River restoration projects (see Section V. Fiscal Impact Statement for a detailed analysis).

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

II. Present Situation:

Documentary Stamp Tax Revenues

Chapter 201, F.S., levies a tax on two classes of documents: deeds and other documents related to real property, which are taxed at the rate of 70 cents per $100; and certificates of indebtedness, promissory notes, wage assignments, and retail charge account agreements, which are taxed at 35 cents per $100.[1] Revenue from the excise tax on documents, collectively known as documentary stamp tax revenues, is divided between the General Revenue Fund and various trust funds.

In 2014, Florida voters approved a constitutional amendment to provide a dedicated funding source for water and land conservation and restoration. The amendment required that starting on July 1, 2015, for 20 years, 33 percent of net revenues derived from the existing excise tax on documents be deposited into the Land Acquisition Trust Fund (LATF).

The amendment required that funds in the LATF be expended only, as provided by law, to finance or refinance the following:

- The acquisition and improvement of land, water areas, and related property interests, including conservation easements, and resources for conservation lands including wetlands, forests, and fish and wildlife habitat;
- Wildlife management areas;
- Lands that protect water resources and drinking water sources, including lands protecting the water quality and quantity of rivers, lakes, streams, springsheds, and lands providing recharge for groundwater and aquifer systems;
- Lands in the Everglades Agricultural Area and the Everglades Protection Area;
- Beaches and shores;
- Outdoor recreation lands, including recreational trails, parks, and urban open space;
- Rural landscapes;
- Working farms and ranches; and
- Historic or geologic sites; together with management, restoration of natural systems, and the enhancement of public access or recreational enjoyment of conservation lands.[2]

The amendment was approved by 75 percent of the electors voting on the issue and created Art. X, section 28 of the State Constitution. To comply with the constitutional requirements, the Legislature in the 2015 Special Session A passed chapter 2015-229 Laws of Florida.[3]

[1] *See* ss. 201.02 and 201.08, F.S.
[2] FLA. CONST. art. X, s. 28.
[3] Ch. 2015-229, Laws of Fla.

As part of chapter 2015-229, Laws of Florida, s. 201.15, F.S., was amended to conform to the constitutional requirement that the LATF receive at least 33 percent of net revenues derived from the existing excise tax on documents.[4] Section 201.15, F.S., requires documentary stamp tax revenues be pledged and first made available to make payments on Florida Forever and Everglades restoration bonds.[5]

Chapter 2015-229, Laws of Florida, amended s. 375.041, F.S., to designate the LATF within the Department of Environmental Protection as the trust fund that serves as the depository for the constitutionally required funds.[6] The revenue deposited into the LATF is required to be utilized in the following order:

- Obligations relating to debt service, specifically:
  - First to payments relating to Florida Forever Bonds and Everglades restoration bonds; and
  - Then, to payments relating to bonds issued before February 1, 2009, by the South Florida Water Management District and the St. Johns River Water Management District;
- A distribution of $32 million each fiscal year to the South Florida Water Management District for the Long-Term Plan defined in s. 373.59, F.S.; and
- Then any remaining moneys are authorized to be appropriated from time to time for the purposes set forth in Art. X, section 28 of the State Constitution.[7]

Everglades Restoration Projects

The Florida Water Resources Act, ch. 373, F.S., directs the roles and responsibilities of the Department of Environmental Protection (DEP) and the South Florida Water Management District (SFWMD) for plans authorized through the Everglades Forever Act, the Comprehensive Everglades Restoration Plan, and the Northern Everglades and Estuaries Protection Program.[8]

Everglades Forever Act

In 1994, the Legislature passed the Everglades Forever Act (EFA), which outlines the state's commitment to restore the Everglades by improving water quality and quantity.[9] The primary goals of the EFA are to improve water quality by reducing phosphorus levels, restore the hydrology of the ecosystem, and restore and protect native plant and animal species.[10] In 2003, the EFA was amended to implement the "Everglades Protection Area Tributary Basins Conceptual Plan for Achieving Long-term Water Quality Goals," also known as the Long-Term Plan.[11]

The Long-Term Plan identifies the best available phosphorous reduction technology to be used in combination with Best Management Practices (BMPs) to achieve the phosphorus criterion in

[4] Ch. 2015-229, s. 9, Laws of Fla.
[5] Section 201.15, F.S.
[6] Ch. 2015-229, s. 50, Laws of Fla.
[7] Section 375.041, F.S.
[8] DEP, *Everglades, Overview of restoration programs*, http://www.dep.state.fl.us/everglades/default.htm (last visited Feb. 4, 2016).
[9] Chapter 1994-115, Laws of Fla.
[10] Section 373.4592, F.S.
[11] Chapter 2003-12, Laws of Fla.

the Everglades Protection Area.[12] The Long-Term Plan is to be implemented in two phases: the initial phase from 2003 to 2016, followed by an additional 10-year phase.[13] In 2013, the EFA was amended to include the "Restoration Strategies Regional Water Quality Plan," the second phase of the Long-Term Plan."[14] The Plan includes additional stormwater treatment areas and storage reservoirs at a cost of $880 million to be jointly funded over a 13-year period by the state and the SFWMD.[15] In 2013, the Legislature appropriated $32 million on a recurring basis through the 2023-2024 fiscal year to support the implementation of the plan.[16]

Comprehensive Everglades Restoration Plan

The Comprehensive Everglades Restoration Plan (CERP) is a state-federal partnership that was created to restore the Everglades. The plan works in conjunction with other state and federal efforts to revitalize wetlands, lakes, bays, and estuaries across South Florida, for the purpose of improving the Everglades and ensuring that the area's water supply can meet future needs. The DEP, the U.S. Army Corps of Engineers, and the SFWMD work jointly to review each program proposal. The CERP serves as the framework and guide for the restoration, protection, and preservation of the South Florida ecosystem, including providing for the water-related needs of the region, such as water supply and flood protection.[17] The plan encompasses 16 counties over an 18,000-square-mile area.[18] The goal of the CERP is to capture fresh water that now flows unused to the ocean and redirect it to areas that need it most.[19]

The CERP includes the Central Everglades Planning Project (CEPP), which incorporates updated science and technical information gained over the last decade to identify a recommended plan and prepare a Project Implementation Report (PIR) for congressional authorization. CEPP will develop the next set of project components that focus on restoring more natural water flow, depth, and duration into and within the Central Everglades.[20] The draft PIR was completed in August 2013. [21] The U.S. Army Corps signed the Record of Decision for CEPP in August 2015, signifying the completion of the final administrative review for the ecosystem restoration project's report.[22] The report will be transmitted to Congress for authorization.[23]

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[12] Section 373.4592, F.S.
[13] SFWMD, *Long-Term Plan for Achieving Water Quality Goals, Questions and Answers*, http://www.sfwmd.gov/portal/page/portal/xrepository/sfwmd_repository_pdf/q_and_a_long_term_plan.pdf (last visited Feb. 4, 2016).
[14] Chapter 2013-59, s. 1, Laws of Fla.
[15] DEP, *Everglades Water Quality Improvements, Questions & Answers*, http://www.dep.state.fl.us/secretary/news/2012/06/everglades_wq_improvements.pdf (last visited Feb. 4, 2016).
[16] Ch. 2013-59, s. 2, Laws of Fla.
[17] SFWMD, *South Florida Environmental Report 2015, Executive Summary*, Glossary (Mar. 1, 2015) *available at* http://www.sfwmd.gov/portal/page/portal/pg_grp_sfwmd_sfer/portlet_prevreport/2015_sfer_final/2015_sfer_executive_summary_final.pdf.
[18] DEP, *Projects and Goals*, http://www.dep.state.fl.us/evergladesforever/restoration/projects.htm (last visited Feb. 4, 2016).
[19] *Id*.
[20] U.S. Army Corps of Engineers, *Central Everglades Planning Project (CEPP), Facts & Information*, (Sept. 2013) http://www.evergladesrestoration.gov/content/cepp/documents/CEPP_FS_September2013_508.pdf (last visited Feb. 4, 2016).
[21] *Id*.
[22] U.S. Army Corps of Engineers, *Record of Decision signed for Central Everglades Planning Project*, http://www.saj.usace.army.mil/DesktopModules/ArticleCS/Print.aspx?PortalId=44&ModuleId=16629&Article=615490 (last visited Feb 4, 2016).
[23] *Id*.

Northern Everglades and Estuaries Protection Program

The Northern Everglades and Estuaries Protection Program (NEEPP) was established to promote a comprehensive, interconnected watershed approach to protect Lake Okeechobee and the Caloosahatchee and St. Lucie River watersheds. It includes the Lake Okeechobee Watershed Protection Program and the Caloosahatchee and St. Lucie River Watershed Protection Program.[24] The NEEPP led to the creation of the Phase II Technical Plan which provided the measures of quality, quantity, timing, and distribution of water in the northern Everglades ecosystem necessary for restoration.[25] The St. Lucie River and Caloosahatchee River Watershed Protection plans were developed under the NEEPP. The plans include a construction project, pollution control program, and research and water quality monitoring programs, and build upon existing and planned programs and projects to consolidate previous restoration efforts.[26]

The 2016 Legislature enacted legislation, chapter 2016-1, Laws of Florida, which updates and restructures the NEEPP to reflect and build upon the DEP's implementation of basin management action plans (BMAPs) for Lake Okeechobee, the Caloosahatchee River and Estuary, and the St. Lucie River and Estuary. The BMAP will include the construction of water projects, water monitoring programs, and the implementation, verification, and enforcement of best management practices (BMPs) within these watersheds. The BMAPs will now be required to include 5-, 10-, and 15-year milestones toward achieving the total maximum daily loads for those water basins within 20-years.[27]

Springs Restoration, Protection, and Management Projects

Springs form when groundwater is forced out through natural openings in the ground. Florida has more than 700 recognized springs, categorized by flow in cubic feet per second. First magnitude springs are those that discharge 100 cubic feet of water per second or greater. Florida has 33 first magnitude springs in 18 counties that discharge more than 64 million gallons of water per day. Spring discharges, primarily from the Floridan aquifer, are used to determine groundwater quality and the degree of human impact on a spring's recharge area. Rainfall, surface conditions, soil type, mineralogy, the composition and porous nature of the aquifer system, flow, and length of time in the aquifer all contribute to groundwater chemistry.

Excessive nutrient levels, particularly nitrate, are the primary water quality threat to springs.[28] High nitrate levels result from urban and agricultural stormwater runoff and leaching, and inadequately treated wastewater.[29] Spring system water quality is regularly assessed to determine whether it is meeting Florida's standards. When a spring system is not meeting the standard, the system is formally identified as impaired, and the DEP is required to adopt a Total Maximum

[24] Section 373.4595, F.S.
[25] DEP, *Everglades, Northern Everglades and Estuaries Protection Program (NEEPP)*, http://www.dep.state.fl.us/everglades/neepp.htm (last visited Feb. 4, 2016).
[26] Section 373.4595, F.S.
[27] Chapter 2016-1, Laws of Fla.
[28] DEP, *Progress Report: Select First Magnitude Springs and Springs of Regional Significance*, pg. 2 (Nov. 2015) (on file with the Senate Committee on Environmental Preservation and Conservation).
[29] *Id*.

Daily Load (TMDL).[30] A TMDL is a scientific determination of the maximum amount of a given pollutant that a surface water can absorb and still meet the water quality standards that protect human health and aquatic life.[31] To achieve a TMDL, the DEP works with local stakeholders to adopt and implement comprehensive BMAPs.[32] BMAPs represent a comprehensive set of strategies, including permit limits on wastewater facilities, urban and agricultural best management practices, conservation programs, financial assistance and revenue generating activities, designed to implement the pollutant reductions established by the TMDL.[33]

Water quantity or spring flows are affected by drought and other long-term climate conditions and may be affected by excessive water withdrawals.[34] The water management districts (WMDs) or the DEP are required to establish minimum flows and levels (MFLs) for surface and ground waters. The "minimum flow" is the limit at which further withdrawals from a watercourse would significantly harm water resources or ecology; the "minimum level" is the level of a groundwater or surface water body at which further withdrawals would significantly harm water resources.[35] If the flow or level is currently below, or within 20 years will fall below an applicable MFL, the water management district (WMD) is required to implement a recovery or prevention strategy.[36]

The Best Management Practices (BMPs) are established to conserve water and minimize nutrient loss to the environment, particularly through fertilizer application and land and animal management.[37] In coordination with the DEP, the WMDs, and other stakeholders, the Department of Agriculture and Consumer Service's Office of Agriculture Water Policy works to identify and prioritize restoration efforts in springs, including ways to manage more effectively water and nutrient applications in springs protection areas.[38]

Spring restoration, protection, and management projects may be used to achieve TMDLs through a BMAP, address MFLs through a recovery or prevention strategy, or implement BMPs. Examples of such projects include, but are not limited to: investments to wastewater treatment facilities; water quality improvement projects; aquifer recharge projects; reclaimed water projects; purchase of conservation lands for water quality protection; stormwater improvement; water quality sampling or monitoring; meter implementation; or irrigation system efficiency upgrades.

Lake Apopka

Lake Apopka is the state's fourth-largest lake in Florida. The St. John's River Water Management District (SJRWMD) has worked to restore the lake. Ongoing projects to restore the lake include harvesting gizzard shad from the lake to remove phosphorus and nitrogen contained in the fish bodies that are in the lake and the construction of the Lake Apopka Marsh Flow-Way,

[30] Section 403.067, F.S.
[31] DEP, *Total Maximum Daily Loads*, http://www.dep.state.fl.us/water/tmdl/index.htm (last visited Feb. 10, 2016).
[32] Section 403.067, F.S.
[33] DEP, *Total Maximum Daily Loads*, http://www.dep.state.fl.us/water/tmdl/index.htm (last visited Feb. 10, 2016).
[34] DEP, *Progress Report: Select First Magnitude Springs and Springs of Regional Significance*, pg. 3 (Nov. 2015).
[35] Section 373.042, F.S.
[36] Section 373.0421, F.S.
[37] DEP, *Progress Report: Select First Magnitude Springs and Springs of Regional Significance*, pg. 3 (Nov. 2015).
[38] DEP, *Progress Report: Select First Magnitude Springs and Springs of Regional Significance*, Attachment 3 (Nov. 2015).

which is a 760-acre constructed wetland along the northwest shore of Lake Apopka. The wetland system removes phosphorus and suspended material already in Lake Apopka water.[39]

Kings Bay and Crystal River

The Crystal River/Kings Bay springs group is the second largest springs group in the state, with more than 70 springs within the 600-acre bay.[40] The springs group is unique because it flows into a large, open bay. The system is the largest winter refuge for manatees on the state's gulf coast. Portions of Kings Bay are dominated by large amounts of algae growth which can cause reduced water clarity and extreme fluctuations in dissolved oxygen. The Southwest Florida Water Management District (SWFWMD) has taken steps to improve Crystal River and Kings Bay. For example, the SWFWMD is constructing a wetland area on the Three Sisters Springs property to treat stormwater runoff and improve stormwater before it enters into Kings Bay.[41]

III. Effect of Proposed Changes:

The bill amends s. 375.041, F.S., to require specified minimum distributions from the Land Acquisition Trust Fund (LATF) to be used to fund Everglades restoration projects, spring restoration, protection, and management projects, Lake Apopka restoration projects and Kings Bay or Crystal River restoration projects.

Everglades restoration projects

The bill requires an appropriation of funds to be used for Everglades projects that implement the Comprehensive Everglades Restoration Plan (CERP), the Long-Term Plan, or the Northern Everglades and Estuaries Protection Program (NEEPP).

The bill requires an annual appropriation of a minimum of the lesser of 25 percent of the funds remaining in the LATF after the payment of debt service or $145 million for Everglades projects in the following manner:

- $32 million to the South Florida Water Management District for the Long-Term Plan each fiscal year through the 2023-2024 fiscal year;
- Then, after deducting the $32 million, a minimum of the lesser of 76.5 percent of the funds remaining or $100 million for the planning, design, engineering, and construction of the CERP, including the Central Everglades Planning Project, subject to congressional authorization, each fiscal year through the 2025-2026 fiscal year;
- Then, funds remaining are to be available for distribution to CERP or NEEPP projects.

The bill requires the DEP and the SFWMD to give preference to Everglades restoration projects that reduce harmful discharges of water from Lake Okeechobee to the St. Lucie or Caloosahatchee estuaries in a timely manner.

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[39] St. John's River Water Management District, *Lake Apopka Basin*, http://floridaswater.com/lakeapopka/ (last visited Feb. 29, 2016).
[40] Southwest Florida Water Management District (SWFWMD), *Crystal River/Kings Bay, Citrus County*, https://www.swfwmd.state.fl.us/springs/kings-bay/ (last visited Feb. 29, 2016).
[41] SWFWMD, *Three Sisters Springs Wetland Treatment Project*, http://www.swfwmd.state.fl.us/springs/kings-bay/three-sisters-springs-project/ (last visited Feb. 29, 2016).

The bill deletes language that is set to expire July 1, 2016, relating to the payment of debt service on bonds issued before February 1, 2009, by the South Florida Water Management District.

The bill provides an adjustment to the calculation of the distribution for the Everglades if debt service is paid on bonds issued after July 1, 2016, for the purposes provided in the bill.

Spring restoration, protection, and management projects

The bill requires an annual appropriation of a minimum of the lesser of 7.6 percent of the funds remaining in the LATF after the payment of debt service or $50 million for spring restoration, protection, and management projects.

The bill provides an adjustment to the calculation of each distribution for Springs restoration projects if debt service is paid on bonds issued after July 1, 2016, for the purposes provided in the bill.

Lake Apopka and Kings Bay or Crystal River restoration projects

The bill requires an annual appropriation of $5 million annually to the St. Johns River Water Management District for projects dedicated to the restoration of Lake Apopka.

In addition, the bill requires an annual appropriation of $5 million annually to the Southwest Florida Water Management District for projects dedicated to the restoration of Kings Bay or Crystal River.

The bill provides an adjustment to the calculation of each distribution for Lake Apopka and Kings Bay or Crystal River if debt service is paid on bonds issued after July 1, 2016, for the purposes provided in the bill.

The bill takes effect July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

CS/CS/SB 1168 requires specified distributions from the Land Acquisition Trust Fund (LATF) within the Department of Environmental Protection as follows:

Estimated Documentary Stamp Tax Revenue:			$2,506,250,000*		As estimated for FY 2016-2017
	LATF distribution (33% of estimated tax revenue):		$823,830,000*		As required under Art. X, s. 28 of the State Constitution.
	Payment on debt service:		$171,330,000*		As required under Art. X, s. 28 of the State Constitution.
	Remainder of LATF after subtracting debt service	**X**	$652,500,000*		
			% Amount	**Set Amount**	
Allocation for Everglades Projects:	A minimum of the lesser of 25% or $145 million	25% of X	$163,125,000	$145 million	As required under CS/CS/SB 1168.
Distribution:	Long-Term Plan		N/A	$32 million	As required under s. 375.041, F.S.
Distribution:	A minimum of the lesser of 76.5% or $100 million	76.5% of ($145 million minus $32 million)	$86,445,000	$100 million	For the planning, design, engineering, and construction of CERP projects as required under CS/CS/SB 1168.
Balance:		$145m minus $32m minus $86.4m = $26.6m		$26,555,000 million	Available for Everglades projects as required under CS/CS/SB 1168.
Allocation for Springs projects:	A minimum of the lesser of 7.6% or $50 million	7.6% of X	$49,590,000	$50 million	Available for spring restoration, protection, and management

					projects as required under CS/CS/SB 1168
Allocation for Lake Apopka			N/A	$5 million	Available for Lake Apopka restoration projects as required under CS/CS/SB 1168
Allocation for Kings Bay or Crystal River			N/A	$5 million	Available for Kings Bay or Crystal River restoration projects as required under CS/CS/SB 1168
Balance of LATF:		$652.5m minus $145m minus $50m minus $5m minus $5m = $447.5m		$447,500,000**	Available for appropriation for the purposes set forth in Art. X, s. 28 of the State Constitution.

*Based on the Revenue Estimating Conference for Documentary Stamp Tax Collection and Distributions adopted January 19, 2016.
** Based on estimates for Fiscal Year 2016-2017 as provided by the Senate Appropriations Committee staff.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 375.041 of the Florida Statutes.

IX. Additional Information:

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

CS/CS by Appropriations on March 3, 2016:
The committee substitute:

- Reduces the specified minimum distribution from the Land Acquisition Trust Fund (LATF) to fund Everglades projects from $200 million to $145 million.
- Reduces the specified minimum distribution from the LATF to fund Springs restoration projects from $75 million to $50 million.
- Adds an annual appropriation of $5 million from the LATF for Lake Apopka restoration projects.
- Adds an annual appropriation of $5 million from the LATF for Kings Bay or Crystal River restoration projects.
- Provides an adjustment to the calculation of each distribution for the Everglades, Springs, Lake Apopka, and Kings Bay or Crystal River based on debt service paid on bonds issued for such purposes.

CS by Environmental Preservation and Conservation on February 9, 2016:
The CS adds a specified minimum distribution from the Land Acquisition Trust Fund to fund spring restoration, protection, and management projects.

B. Amendments:

None.

By the Committee on Environmental Preservation and Conservation; and Senators Negron, Benacquisto, Soto, Flores, Simpson, and Altman

592-03274-16 20161168c1

A bill to be entitled

An act relating to implementation of the water and land conservation constitutional amendment; amending s. 375.041, F.S.; requiring a minimum specified percentage of funds within the Land Acquisition Trust Fund to be appropriated for Everglades restoration projects; providing a preference in the use of funds to certain projects that reduce harmful discharges to the St. Lucie Estuary and the Caloosahatchee Estuary; requiring a minimum specified percentage of funds within the Land Acquisition Trust Fund to be appropriated for spring restoration, protection, and management projects; deleting an obsolete provision; providing an effective date.

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

Section 1. Subsection (3) of section 375.041, Florida Statutes, is amended to read:

375.041 Land Acquisition Trust Fund.—

(3) Funds distributed into the Land Acquisition Trust Fund pursuant to s. 201.15 shall be applied:

(a) First, to pay debt service or to fund debt service reserve funds, rebate obligations, or other amounts payable with respect to Florida Forever bonds issued under s. 215.618; and pay debt service, provide reserves, and pay rebate obligations and other amounts due with respect to Everglades restoration bonds issued under s. 215.619; and

(b) Of the funds remaining after the payments required under paragraph (a) but before funds may be appropriated or

592-03274-16 20161168c1

dedicated for other uses:

1. A minimum of the lesser of 25 percent or $200 million shall be appropriated annually for Everglades projects that implement the Comprehensive Everglades Restoration Plan as set forth in s. 373.470, including the Central Everglades Planning Project subject to congressional authorization; the Long-Term Plan as defined in s. 373.4592(2); and the Northern Everglades and Estuaries Protection Program as set forth in s. 373.4595. From these funds, $32 million shall be distributed each fiscal year through the 2023-2024 fiscal year to the South Florida Water Management District for the Long-Term Plan as defined in s. 373.4592(2). After deducting the $32 million distributed under this subparagraph, from the funds remaining, a minimum of the lesser of 76.5 percent or $100 million shall be appropriated each fiscal year through the 2025-2026 fiscal year for the planning, design, engineering, and construction of the Comprehensive Everglades Restoration Plan as set forth in s. 373.470, including the Central Everglades Planning Project subject to congressional authorization. The Department of Environmental Protection and the South Florida Water Management District shall give preference to those Everglades restoration projects that reduce harmful discharges of water from Lake Okeechobee to the St. Lucie or Caloosahatchee estuaries in a timely manner.

2. A minimum of the lesser of 7.6 percent or $75 million shall be appropriated annually for spring restoration, protection, and management projects ~~Then, to pay the debt service on bonds issued before February 1, 2009, by the South Florida Water Management District and the St. Johns River Water~~

~~Management District, which are secured by revenues provided pursuant to former s. 373.59, Florida Statutes 2014, or which are necessary to fund debt service reserve funds, rebate obligations, or other amounts payable with respect to such bonds. This paragraph expires July 1, 2016; and~~

~~(c) Then, to distribute $32 million each fiscal year to the South Florida Water Management District for the Long-Term Plan as defined in s. 373.4592(2). This paragraph expires July 1, 2024~~.

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

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

THE FLORIDA SENATE
Tallahassee, Florida 32399-1100

SENATOR JOE NEGRON
32nd District

COMMITTEES:
Appropriations Subcommittee on Criminal and Civil Justice, *Chair*
Appropriations
Banking and Insurance
Ethics and Elections
Higher Education
Regulated Industries
Rules

February 29, 2016

Tom Lee, Chair
Committee on Appropriations
201 The Capitol
404 S Monroe Street
Tallahassee, FL 32399-1100

Re: Senate Bill 1168

Dear Chairman Lee:

I would like to request Senate Bill 1168 relating to the implementation of the land and water conservation constitutional Amendment be placed on the agenda for the next scheduled committee meeting.

Thank you for your consideration of this request.

Sincerely yours,

Joe Negron
State Senator
District 32

JN/hd
c: Cindy Kynoch, Staff Director

REPLY TO:
☐ 3500 SW Corporate Parkway, Suite 204, Palm City, Florida 34990 (772) 219-1665 FAX: (772) 219-1666
☐ 412 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5032

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

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/2016
Meeting Date

SB 1168
Bill Number (if applicable)

Topic Implementation of the Water & Land Conservation Constitutional Amendment
Amendment Barcode (if applicable)

Name Carol Bracy

Job Title Consultant

Address 403 East Park Avenue
Street

Phone 850577.0444

Tallahassee — *City* | Florida — *State* | 32301 — *Zip*

Email Carol@Ballardfl.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Martin County Board of County Commissioners

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3 / 3 /2016
Meeting Date

Topic _____ Bill Number 1168 *(if applicable)*

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

Job Title TRUSTEE

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

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

Speaking: ☑ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/16
Meeting Date

1168
Bill Number (if applicable)

Topic Water & Land Conservation

Amendment Barcode (if applicable)

Name Rebecca O'Hara

Job Title

Address P.O. Box 1757
Street

Phone 701-3678

Tallahassee FL 32302
City *State* *Zip*

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida League of Cities

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Committee			
BILL:	CS/SB 1216		
INTRODUCER:	Commerce and Tourism Committee and Senator Stargel		
SUBJECT:	Reemployment Assistance Fraud		
DATE:	March 2, 2016	REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Little	McKay	CM	**Fav/CS**
2.	Gusky	Miller	ATD	**Recommend: Favorable**
3.	Gusky	Kynoch	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1216 creates the "Department of Economic Opportunity Cybercrime Prevention Act." The bill provides the Department of Highway Safety and Motor Vehicles (DHSMV) the authority to provide reproductions of images and signatures from driver licenses to the Department of Economic Opportunity (DEO) for the purpose of facilitating the detection of fraud and identity theft in reemployment assistance claims.

The bill modifies the disqualification period imposed when an individual is found to have knowingly made a false or fraudulent representation in order to receive reemployment assistance benefits to which the individual would not otherwise be entitled. Specifically, if the false or fraudulent representation is made in furtherance of any state or federal felony crime relating to identity theft or inappropriate use of personally identifying information, the individual will be disqualified from receiving reemployment assistance benefits until any amount received due to the misrepresentation is repaid in full and as follows:

- Five years from the date of the individual's first conviction; and
- 10 years from the date of the individual's second or subsequent conviction.

The bill amends the definition of "racketeering activity" to include false or fraudulent representations made in violation of the Reemployment Assistance Program.

The DEO indicates that it will establish a dedicated reemployment assistance fraud investigation unit, requiring four full-time equivalent (FTE) positions and $286,376 of recurring funds, to

implement the bill.[1] SB 2500, 1st Engrossed, the Senate General Appropriations Bill, includes the requested positions and funding. Expanding the definition of "racketeering activity" to include the third degree felony offense of making a false statement or representation to obtain reemployment assistance benefits is expected to have a positive, insignificant prison bed impact on the Department of Corrections.[2] Expanding the information that the DHSMV shares with the DEO is expected to have a minimal, negative fiscal impact to the DHSMV. See Section V.

The bill provides an effective date of upon becoming law.

II. Present Situation:

Reemployment Assistance Program

The federal Unemployment Insurance Program provides unemployment benefits to eligible workers who are unemployed through no fault of their own (as determined under state law) and who meet the requirements of state law.[3] The program is administered as a partnership of the federal government and the states.[4]

Florida's unemployment insurance program was created by the Legislature in 1937.[5] The program was rebranded as the "Reemployment Assistance Program" in 2012.[6] The DEO is responsible for administering Florida's reemployment assistance laws, primarily through its Division for Workforce Services.[7]

An unemployed individual must apply to the DEO for benefits using Florida's Online Reemployment Assistance System.[8] To receive benefits, a claimant must meet certain monetary and nonmonetary eligibility requirements and provide proof of identification.[9] Key eligibility requirements involve a claimant's earnings during a certain period of time, the manner in which the claimant became unemployed, and the claimant's efforts to find new employment. A notice of claim is sent to a claimant's most recent employer and all employers whose employment records are liable for benefits.[10]

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[1] E-mail from Damon Steffens, Budget Chief, Department of Economic Opportunity, dated January 26, 2016 (on file with the Senate Appropriations Subcommittee on Transportation, Tourism, and Economic Development).
[2] Criminal Justice Impact Conference, *SB 1216 – Reemployment Assistance Fraud* (Jan. 29, 2016), *available at:* http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/SB1216.pdf
[3] United States Department of Labor, Employment and Training Administration, *State Unemployment Insurance Benefits*, *available at* http://workforcesecurity.doleta.gov/unemploy/uifactsheet.asp (last visited Feb. 11, 2016).
[4] There are 53 programs, including the 50 states, Puerto Rico, the Virgin Islands, and the District of Columbia.
[5] Chapter 18402, L.O.F.
[6] Chapter 2012-30, L.O.F.
[7] Section 20.60(5)(c), F.S., and s. 443.171, F.S.
[8] Rule 73B-11.013, F.A.C.
[9] *See* s. 443.091, F.S., and Rule 73B-11.013, F.A.C.
[10] Section 445.151(3)(a), F.S.

Fraudulent Claims

In 2014, the DEO implemented the Fraud Initiative and Rules Rating Engine (FIRRE) program in order to detect fraud and identity theft within public-assistance programs.[11] In the first year of implementation, the FIRRE program detected over 70,000 fraudulent claims for reemployment assistance benefits.[12]

In order to identify falsely filed claims, the FIRRE program cross matches identification information with external entities, including the claimant's social security and driver's license information.[13] To cross match driver's license information, the DEO has been provided limited access to the information database used by the DHSMV.[14] The DEO's current access does not provide digital images contained in DHSMV's Driver and Vehicle Information Database (DAVID), because such access is not authorized under current law.[15] Under s. 322.142, F.S., other state agencies have been given access to reproductions of the digital images for similar purposes.[16]

Penalties and Disqualification

Under current law, any person who establishes a fictitious employing unit[17] by submitting fraudulent documents through a computer system, by alteration or destruction of computer files, or by theft of financial instruments, data, and other assets for the purpose of enabling any person to receive benefits under the reemployment program commits a felony of the third degree.[18] Establishment of a fictitious employing unit in violation of the Reemployment Assistance Program is considered racketeering activity under Florida law.[19]

Any person who makes false or fraudulent representations for the purpose of obtaining benefits contrary to the Reemployment Assistance Program commits a felony of the third degree.[20] Each false or fraudulent representation constitutes a separate offense.[21]A person who makes such representation is subject to a disqualification of benefits, beginning with the week in which the false or fraudulent representation is made.[22] The disqualification may be imposed for a period of up to 1 year following the date the DEO discovers the false or fraudulent representation and until

[11] Letter to Thomas Perez, US Secretary of Labor, from Jesse Panuccio, Exe. Dir. DEO, RE: Identify Theft and Fraud in Public Benefit Systems (March 13, 2015).
[12] *Id.*
[13] Department of Economic Opportunity, *Agency Legislative Bill Analysis*, (Jan. 7, 2016) (on file with the Senate Committee on Commerce and Tourism).
[14] *Id.*
[15] *Id.*
[16] Section 322.142(4), F.S., provides access to the digital images contained in DAVID to the Department of Business and Professional Regulation, the Department of Health, the Department of State, the Department of Children and Family Services, the Agency for Health Care Administration, and the Department of Financial Services.
[17] An employing unit means "an individual or type of organization, including a partnership, limited liability company, association, trust, estate, joint-stock company, insurance company, or corporation, whether domestic or foreign; the receiver, trustee in bankruptcy, trustee or successor of any of the foregoing; or the legal representative of a deceased person; which has or had in its employ one or more individuals performing services for it within this state." Section 443.036(20), F.S.
[18] Section 443.071(4), F.S.
[19] Section 865.02(1)(a)7., F.S.
[20] Section 443.071(1), F.S.
[21] *Id.*
[22] Section 443.101(6), F.S.

any overpayment of benefits resulting from such representation is repaid in full.[23] The duration of disqualification for false or fraudulent representations in other states is comparable to Florida's current penalty, as the disqualification time period in most states is 52 weeks.[24]

A disqualification may be appealed in the same manner as appeals of determinations and redeterminations.[25] However, a conviction of an offense prohibited by s. 443.071, F.S., is conclusive upon a reemployment assistance appeals referee and the Reemployment Assistance Appeals Commission of the making of the false or fraudulent statement.[26]

Recovery for Overpayment

Any person who receives benefits by fraud, to which he or she is not entitled, is liable for repaying those benefits to the DEO.[27] Florida law also allows the DEO to impose a penalty equal to 15 percent of the amount overpaid.[28]

Upon discovery of an overpayment, the DEO determines the amount of overpayment and attempts to recover the overpayment. To enforce this provision, the DEO must find the existence of fraud through a redetermination or a decision within 2 years after the fraud was committed. Any recovery or recoupment of benefits must be commenced within 7 years after the redetermination or decision.[29] The DEO is required to collect the repayment of benefits without interest by the deduction of benefits through a redetermination of benefits or by a civil action.[30]

III. Effect of Proposed Changes:

Section 1 provides that the act may be cited as the "Department of Economic Opportunity Cybercrimes Prevention Act."

Section 2 amends s. 322.142, F.S., relating to color photographic or digital imaged licenses, to authorize the HSMV to make and issue reproductions of color photographic or digital imaged licenses and signatures of licensees to the DEO. The DEO will be able to use such reproductions for the purpose of facilitating the validation of reemployment assistance claims and identifying fraudulent or false reemployment assistance claims. Allowing the DEO access to the HSMV database will likely increase the number of false or fraudulent claims detected by the DEO.[31]

Section 3 amends s. 443.101(6), F.S., relating to the disqualification for reemployment assistance benefits, to increase the time period for which an individual can be disqualified from receiving reemployment assistance benefits when the individual is found to have made false or

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[23] *Id.*
[24] For a review of other state laws, *see* US Dept. of Labor, *Comparison of State Unemployment Laws*, *available at* http://www.unemploymentinsurance.doleta.gov/unemploy/comparison2015.asp (last visited Feb. 12, 2016).
[25] Section 443.151(3), F.S. The Social Security Act requires states to offer "an opportunity for a fair hearing before an impartial tribunal, for all individuals whose claims for unemployment compensation are denied." 42 U.S.C. 503(a)(3).
[26] *Id.*
[27] Section 445.151(6)(a), F.S.
[28] *Id.*
[29] *Id.*
[30] Section 445.151(6)(e), F.S.
[31] Department of Economic Opportunity, *Agency Legislative Bill Analysis*, (Jan. 7, 2016) (on file with the Senate Committee on Commerce and Tourism).

fraudulent representations in violation of the Reemployment Assistance Program. Specifically, the bill provides that if the false or fraudulent representation is made in furtherance of any state or federal felony crime relating to identity theft or inappropriate use of personally identifying information, the individual will be disqualified from receiving reemployment assistance benefits until any amount received due to the misrepresentation is repaid in full and as follows:

- Five years from the date of the individual's first conviction; and
- 10 years from the date of the individual's second or subsequent conviction.

Section 4 amends s. 895.02(1)(a)7, F.S., relating to the definition of "racketeering activity," to include additional actions found to violate the Reemployment Assistance Program. Specifically, the bill expands the offense of racketeering activity to include the crime of making a false or fraudulent representation in order to receive reemployment assistance benefits, which is chargeable under s. 443.01(1), F.S.

Section 5 provides that the bill is effective upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The DEO is already engaged in activities to prevent fraud in the reemployment assistance program within existing resources. The DEO indicates that it will establish a dedicated reemployment assistance fraud investigation unit, requiring 4 full-time equivalent (FTE) positions and $286,376 of recurring funds, to implement the bill.[32] SB 2500, 1st

[32] E-mail from Damon Steffens, Budget Chief, Department of Economic Opportunity, dated January 26, 2016 (on file with the Senate Appropriations Subcommittee on Transportation, Tourism, and Economic Development).

Engrossed, the Senate General Appropriations Bill, includes an interagency transfer of vacant positions and recurring funding from the Special Employment Security Administration Trust Fund to support the fraud investigation unit.

Expanding the definition of "racketeering activity" to include the third degree felony offense of making a false statement or representation to obtain reemployment assistance benefits is expected to have a positive, insignificant prison bed impact on the Department of Corrections.[33]

The DHSMV already shares data with the DEO; expanding the data shared to include reproductions of images and signatures from driver licenses is expected to have a minimal negative fiscal impact to the DHSMV.

VI. Technical Deficiencies:

Generally, laws that create or modify a criminal offense have an effective date of July 1st or October 1st to give the public and the judicial branch sufficient notice. Staff recommends that sections 3 and 4 of the bill have an effective date of July 1, 2016.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 322.142, 443.101, and 895.02.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Commerce and Tourism on February 16, 2016:

The committee substitute:

- Removes the authority of the DEO to hire law enforcement officers in order to investigate, enforce, and prosecute violations of the Reemployment Assistance Program;
- Changes the penalties required to be imposed when an individual is found to have knowingly made a false or fraudulent representation in furtherance of any state or federal felony crime relating to identity theft or inappropriate use of personally identifying information; and
- Removes the authority of the DEO to collect the repayment of benefits received by an individual's false or fraudulent representations through attachment or garnishment.

[33] Criminal Justice Impact Conference, *SB 1216 – Reemployment Assistance Fraud* (Jan. 29, 2016), *available at:* http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/SB1216.pdf

B. Amendments:

None.

By the Committee on Commerce and Tourism; and Senator Stargel

577-03604A-16 20161216c1

A bill to be entitled

An act relating to reemployment assistance fraud; providing a short title; amending s. 322.142, F.S.; adding the Department of Economic Opportunity as an entity that may be issued reproductions from certain files or digital records for specified reasons; amending s. 443.101, F.S.; revising provisions relating to disqualification from reemployment assistance benefits; amending s. 895.02, F.S.; expanding the definition of the term "racketeering activity" to include knowingly making false statements or representations or knowingly failing to disclose a material fact to obtain or increase benefits or other payments under ch. 443, F.S., and other specified laws; providing an effective date.

WHEREAS, the incidence of identity theft and resulting fraud has reached a crisis level, and

WHEREAS, identity theft is especially problematic in this state, which the Federal Trade Commission reports has the highest per capita rate of identity theft in the nation, and

WHEREAS, stolen identities are used to commit an ever-expanding range of fraud, including public assistance fraud, and

WHEREAS, identity theft and related fraud harm those whose identities are stolen, rob the social safety net of precious resources, impose unwarranted costs on taxpayers, and undermine public confidence in government, and

WHEREAS, the Department of Economic Opportunity's efforts to detect, prevent, and prosecute fraud have revealed that thousands of fraudulent claims for reemployment assistance are being filed, and

WHEREAS, the Department of Economic Opportunity has made

577-03604A-16 20161216c1

prevention, detection, and prosecution of reemployment assistance fraud a top priority and has identified additional resources and tools necessary to effectively combat fraud, NOW, THEREFORE,

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

Section 1. This act may be cited as the "Department of Economic Opportunity Cybercrime Prevention Act."

Section 2. Present paragraphs (k) and (l) of subsection (4) of section 322.142, Florida Statutes, are redesignated as paragraphs (l) and (m), respectively, and a new paragraph (k) is added to that subsection, to read:

322.142 Color photographic or digital imaged licenses.—

(4) The department may maintain a film negative or print file. The department shall maintain a record of the digital image and signature of the licensees, together with other data required by the department for identification and retrieval. Reproductions from the file or digital record are exempt from the provisions of s. 119.07(1) and may be made and issued only:

(k) To the Department of Economic Opportunity pursuant to an interagency agreement to facilitate the validation of reemployment assistance claims and the identification of fraudulent or false reemployment assistance claims.

Section 3. Subsection (6) of section 443.101, Florida Statutes, is amended to read:

443.101 Disqualification for benefits.—An individual shall be disqualified for benefits:

(6) For making any false or fraudulent representation for

the purpose of obtaining benefits contrary to this chapter, constituting a violation under s. 443.071. The disqualification imposed under this subsection shall begin with the week in which the false or fraudulent representation is made and shall continue for a period not to exceed 1 year after the date the Department of Economic Opportunity discovers the false or fraudulent representation and until any overpayment of benefits resulting from such representation has been repaid in full. However, if the false or fraudulent representation made for the purpose of obtaining benefits contrary to this chapter, constituting a violation under s. 443.071, is made in furtherance of any state or federal felony crime relating to identity theft or inappropriate use of personally identifying information, the disqualification imposed under this subsection shall be for a period of 5 years after the date the individual is convicted of such state or federal felony crime the first time, and 10 years after the date the individual is convicted of such state or federal felony crime the second or subsequent time.

These disqualifications ~~This disqualification~~ may be appealed in the same manner as any other disqualification imposed under this section. A conviction by any court of competent jurisdiction in this state of the offense prohibited or punished by s. 443.071 is conclusive upon the appeals referee and the commission of the making of the false or fraudulent representation for which disqualification is imposed under this section.

Section 4. Paragraph (a) of subsection (1) of section 895.02, Florida Statutes, is amended to read:

895.02 Definitions.—As used in ss. 895.01-895.08, the term:

(1) "Racketeering activity" means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit:

(a) Any crime that is chargeable by petition, indictment, or information under the following provisions of the Florida Statutes:

1. Section 210.18, relating to evasion of payment of cigarette taxes.

2. Section 316.1935, relating to fleeing or attempting to elude a law enforcement officer and aggravated fleeing or eluding.

3. Section 403.727(3)(b), relating to environmental control.

4. Section 409.920 or s. 409.9201, relating to Medicaid fraud.

5. Section 414.39, relating to public assistance fraud.

6. Section 440.105 or s. 440.106, relating to workers' compensation.

7. Section 443.071(1) or (4) ~~Section 443.071(4)~~, relating to ~~creation of a fictitious employer scheme to commit~~ reemployment assistance fraud.

8. Section 465.0161, relating to distribution of medicinal drugs without a permit as an Internet pharmacy.

9. Section 499.0051, relating to crimes involving contraband and adulterated drugs.

10. Part IV of chapter 501, relating to telemarketing.

11. Chapter 517, relating to sale of securities and investor protection.

12. Section 550.235 or s. 550.3551, relating to dogracing and horseracing.

13. Chapter 550, relating to jai alai frontons.

14. Section 551.109, relating to slot machine gaming.

15. Chapter 552, relating to the manufacture, distribution, and use of explosives.

16. Chapter 560, relating to money transmitters, if the violation is punishable as a felony.

17. Chapter 562, relating to beverage law enforcement.

18. Section 624.401, relating to transacting insurance without a certificate of authority, s. 624.437(4)(c)1., relating to operating an unauthorized multiple-employer welfare arrangement, or s. 626.902(1)(b), relating to representing or aiding an unauthorized insurer.

19. Section 655.50, relating to reports of currency transactions, when such violation is punishable as a felony.

20. Chapter 687, relating to interest and usurious practices.

21. Section 721.08, s. 721.09, or s. 721.13, relating to real estate timeshare plans.

22. Section 775.13(5)(b), relating to registration of persons found to have committed any offense for the purpose of benefiting, promoting, or furthering the interests of a criminal gang.

23. Section 777.03, relating to commission of crimes by accessories after the fact.

24. Chapter 782, relating to homicide.

25. Chapter 784, relating to assault and battery.

26. Chapter 787, relating to kidnapping or human

trafficking.

27. Chapter 790, relating to weapons and firearms.

28. Chapter 794, relating to sexual battery, but only if such crime was committed with the intent to benefit, promote, or further the interests of a criminal gang, or for the purpose of increasing a criminal gang member's own standing or position within a criminal gang.

29. Former s. 796.03, former s. 796.035, s. 796.04, s. 796.05, or s. 796.07, relating to prostitution.

30. Chapter 806, relating to arson and criminal mischief.

31. Chapter 810, relating to burglary and trespass.

32. Chapter 812, relating to theft, robbery, and related crimes.

33. Chapter 815, relating to computer-related crimes.

34. Chapter 817, relating to fraudulent practices, false pretenses, fraud generally, and credit card crimes.

35. Chapter 825, relating to abuse, neglect, or exploitation of an elderly person or disabled adult.

36. Section 827.071, relating to commercial sexual exploitation of children.

37. Section 828.122, relating to fighting or baiting animals.

38. Chapter 831, relating to forgery and counterfeiting.

39. Chapter 832, relating to issuance of worthless checks and drafts.

40. Section 836.05, relating to extortion.

41. Chapter 837, relating to perjury.

42. Chapter 838, relating to bribery and misuse of public office.

43. Chapter 843, relating to obstruction of justice.

44. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or s. 847.07, relating to obscene literature and profanity.

45. Chapter 849, relating to gambling, lottery, gambling or gaming devices, slot machines, or any of the provisions within that chapter.

46. Chapter 874, relating to criminal gangs.

47. Chapter 893, relating to drug abuse prevention and control.

48. Chapter 896, relating to offenses related to financial transactions.

49. Sections 914.22 and 914.23, relating to tampering with or harassing a witness, victim, or informant, and retaliation against a witness, victim, or informant.

50. Sections 918.12 and 918.13, relating to tampering with jurors and evidence.

Section 5. This act shall take effect upon becoming a law.

THE FLORIDA SENATE

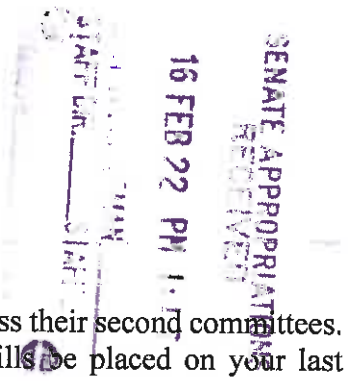
Tallahassee, Florida 32399-1100

COMMITTEES:
Higher Education, *Chair*
Appropriations Subcommittee on Education
Fiscal Policy
Judiciary
Military and Veterans Affairs, Space, and Domestic Security
Regulated Industries

JOINT COMMITTEE:
Joint Committee on Public Counsel Oversight

SENATOR KELLI STARGEL
15th District

February 22, 2016



The Honorable Tom Lee
Senate Appropriations Committee, Chair
418 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399

Dear Chair Lee:

I have several bills that will be heard this week. I fully expect all of them to pass their second committees. With next week's schedule in mind, I am respectfully request that these bills be placed on your last Appropriations agenda, even "if received" is needed as a caveat.

The following bills have Appropriations as their last stop:

SB 608, related to *Emergency Preparedness and Response* - its companion bill, HB 775, is on the House's second reading calendar.

SB 668, related to *Alimony* - its companion bill. HB 455, is on the House's second reading calendar.

SB 824, related to *Dual Enrollment* - its companion bill, HB 775, is on the House's second reading calendar.

SB 830, related to *School Choice* - its companion bill, HB 7029, has passed the House and is being sent over to the Senate for consideration.

SB 1216, related to *Reemployment Assistance Fraud* - its companion bill, HB 1017, is on the House's second reading calendar.

Thank you for your consideration and please do not hesitate to contact me should you have any questions.

Sincerely,

Kelli Stargel

Kelli Stargel
State Senator, District 15

Cc: Cindy Kynoch/ Staff Director

REPLY TO:
☐ 2033 East Edgewood Drive, Suite 1, Lakeland, Florida 33803
☐ 324 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5015

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

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/16
Meeting Date

1216
Bill Number (if applicable)

Topic REEMPLOYMENT ASSISTANCE FRAUD

Amendment Barcode (if applicable)

Name BILL WILSON

Job Title DEO LEGISLATIVE AFFAIRS.

Address CALDWELL BUILDING
Street

TALLAHASSEE FL 32399
City *State* *Zip*

Phone (850) 245-7116

Email BILL.WILSON@DEO.MYFLORIDA.COM

Speaking: ☐ For ☐ Against ☒ Information

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

Representing DEO

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/2016
Meeting Date

Topic _____ Bill Number 1216 *(if applicable)*

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

Job Title TRUSTEE

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

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

Speaking: ☑ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/14
Meeting Date

1214
Bill Number (if applicable)

Topic Reemployment Assistance Fraud

Amendment Barcode (if applicable)

Name Carolyn Johnson

Job Title Policy Director

Address 136 S Bronough St
Street

Tallahassee
City *State* *Zip*

Phone

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FL Chamber of Commerce

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	SB 1270
INTRODUCER:	Senator Simpson
SUBJECT:	Pesticide Registration
DATE:	March 2, 2016
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Weidenbenner	Becker	AG	**Favorable**
2.	Blizzard	DeLoach	AGG	**Recommend: Favorable**
3.	Blizzard	Kynoch	AP	**Pre-meeting**

I. Summary:

SB 1270 eliminates a requirement that a registrant pay a supplemental registration fee for each brand of pesticide that contains an active ingredient for which the United States Environmental Protection Agency has established a food tolerance limit.

The supplemental pesticide registration fee was created by the 2009 Legislature to defray the cost of the Chemical Residue Laboratory (lab) within the Division of Food Safety in the Department of Agriculture and Consumer Services (DACS). Prior to the creation of the fee, the DACS received general revenue to support the lab. Currently, revenues from the supplemental pesticide registration fee support the operations of the lab.

The bill has a significant impact on state funds. The DACS will require $1,801,131 in recurring general revenue to support the Chemical Residue Lab in Fiscal Year 2016-2017, due to the elimination of the supplemental pesticide registration fee provided in this bill.

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

II. Present Situation:

Each brand of pesticide distributed, sold, or offered for sale in this state must be registered with the DACS. The registrant must pay a biennial fee set at $700 effective January 1, 2009, which is to be deposited into the General Inspection Trust Fund.[1] Currently, there are approximately 15,000 pesticide brands registered with the DACS that are subject to this biennial fee.[2]

[1] S. 487.041(1), F.S.

[2] Email from Grace Lovett, Director, Office of Legislative Affairs, Florida Department of Agriculture and Consumer Affairs, (January 14, 2016) (on file with the Senate Committee on Agriculture).

In addition, since January 1, 2009, a supplemental biennial registration fee of $630 is required of registrants of pesticides that contain an active ingredient for which the United States Environmental Protection Agency has established a food tolerance limit in Title 40 Code of Federal Regulations, (CFR) part 180.

Revenue from this supplemental fee is used by the DACS for testing pesticides for food safety and is the primary source of funding for the operations of the Chemical Residue Laboratory (lab) within the Division of Food Safety. Prior to January 1, 2009, this testing program received funding from general revenue as a public health program.[3] Currently, there are approximately 6,700 pesticide brands registered with the DACS that are subject to this biennial supplemental fee.[4]

The lab is responsible for the chemical analysis of poisonous or deleterious chemical residues remaining in or on human food produced or marketed in Florida, as well as for the regulatory enforcement of federal pesticide and antibiotic residue tolerances and guidelines for raw agricultural produce.[5] Each year the lab performs more than 400,000 analyses on 3,000 samples.[6]

III. Effect of Proposed Changes:

Section 1 amends s. 487.041, F.S., to eliminate the requirement that a registrant pay a biennial fee of $630 for each registered brand of pesticide containing an active ingredient for which the United States Environmental Protection Agency has established a food tolerance limit in Title 40 CFR, part 180.

Section 2 provides that this bill takes effect July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

[3] Division of Food Safety analysis of SB 1270, http://abar.laspbs.state.fl.us/ABAR/Document.aspx?id=7022&yr=2016.
[4] Email from Grace Lovett (January 14, 2016).
[5] See http://www.freshfromflorida.com/Divisions-Offices/Food-Safety/Bureaus-and-Sections/Bureau-of-Chemical-Residue-Laboratory. (Website last visited 1/12/2016).
[6] Ibid.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

See Government Sector Impact.

B. Private Sector Impact:

SB 1270 will have a positive fiscal impact on individuals who distribute, sell or offer to sell pesticides due to the elimination of the biennial supplemental pesticide registration fee.

C. Government Sector Impact:

The bill has a significant impact on state funds. The DACS estimates a recurring reduction in revenue in the General Inspection Trust Fund of $1,842,876 generated from the elimination of the supplemental pesticide brand registration fee beginning in Fiscal Year 2016-2017. Prior to the creation of the supplemental fee in 2009, the DACS received general revenue to support the Chemical Residue Laboratory (lab). Currently, the DACS expends revenues received from the supplemental fee to fund operations of the lab. There is no appropriation from the General Revenue Fund to off-set the loss in revenue that supports the lab's operations.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 487.041 of the Florida Statutes.

IX. Additional Information:

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

None.

B. Amendments:

None.

By Senator Simpson

18-00976-16 20161270__

A bill to be entitled

An act relating to pesticide registration; amending s. 487.041, F.S.; deleting provisions relating to supplemental registration fees for certain pesticides that contain active ingredients for which the United States Environmental Protection Agency has established food tolerance limits; deleting a provision requiring the department to publish a list of certain active ingredients; providing an effective date.

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

Section 1. Subsections (1) and (2) of section 487.041, Florida Statutes, are amended to read:

487.041 Registration.—

(1)(a) Effective January 1, 2009, each brand of pesticide, as defined in s. 487.021, which is distributed, sold, or offered for sale, except as provided in this section, within this state or delivered for transportation or transported in intrastate commerce or between points within this state through any point outside this state must be registered in the office of the department, and such registration shall be renewed biennially. Emergency exemptions from registration may be authorized in accordance with the rules of the department. The registrant shall file with the department a statement including:

1. The name, business mailing address, and street address of the registrant.

2. The name of the brand of pesticide.

3. An ingredient statement and a complete current copy of the labeling accompanying the brand of pesticide, which must conform to the registration, and a statement of all claims to be made for it, including directions for use and a guaranteed

18-00976-16 20161270__

analysis showing the names and percentages by weight of each active ingredient, the total percentage of inert ingredients, and the names and percentages by weight of each "added ingredient."

(b) Effective January 1, 2009, for the purpose of defraying expenses of the department in connection with carrying out the provisions of this part, each registrant shall pay a biennial registration fee for each registered brand of pesticide. The registration of each brand of pesticide shall cover a designated 2-year period beginning on January 1 of each odd-numbered year and expiring on December 31 of the following year.

(c) Each registration issued by the department to a registrant for a period beginning in an odd-numbered year shall be assessed a fee of $700 per brand of pesticide and a fee of $200 for each special local need label and experimental use permit, and the registration shall expire on December 31 of the following year. Each registration issued by the department to a registrant for a period beginning in an even-numbered year shall be assessed a fee of $350 per brand of pesticide and fee of $100 for each special local need label and experimental use permit, and the registration shall expire on December 31 of that year.

~~(d)1. Effective January 1, 2009, in addition to the fees assessed pursuant to paragraphs (b) and (c), for the purpose of defraying the expenses of the department for testing pesticides for food safety, each registrant shall pay a supplemental biennial registration fee for each registered brand of pesticide that contains an active ingredient for which the United States Environmental Protection Agency has established a food tolerance limit in 40 C.F.R. part 180. The department shall biennially~~

~~publish by rule a list of the pesticide active ingredients for which a brand of pesticide is subject to the supplemental registration fee.~~

~~2. Each registration issued by the department to a registrant for a period beginning in an odd-numbered year shall be assessed a supplemental registration fee of $630 per brand of pesticide that is subject to the fee pursuant to subparagraph 1. Each registration issued by the department to a registrant for a period beginning in an even-numbered year shall be assessed a supplemental registration fee of $315 per brand of pesticide that is subject to the fee pursuant to subparagraph 1. The department shall retroactively assess the supplemental registration fee for each brand of pesticide that registered on or after January 1, 2009, and that is subject to the fee pursuant to subparagraph 1.~~

(d) ~~(c)~~ All revenues collected, less those costs determined by the department to be nonrecurring or one-time costs, shall be deferred over the 2-year registration period, deposited in the General Inspection Trust Fund, and used by the department in carrying out the provisions of this chapter. ~~Revenues collected from the supplemental registration fee may also be used by the department for testing pesticides for food safety.~~

(e) ~~(f)~~ If the renewal of a brand of pesticide, including the special local need label and experimental use permit, is not filed by January 31 of the renewal year, an additional fee of $25 per brand of pesticide shall be assessed per month and added to the original fee. This additional fee may not exceed $250 per brand of pesticide. The additional fee must be paid by the registrant before the renewal certificate for the registration

of the brand of pesticide is issued. The additional fee shall be deposited into the General Inspection Trust Fund.

(f) ~~(g)~~ This subsection does not apply to distributors or retail dealers selling brands of pesticide if such brands of pesticide are registered by another person.

(g) ~~(h)~~ All registration fees, including ~~supplemental fees and~~ late fees, are nonrefundable.

(h) ~~(i)~~ For any currently registered pesticide product brand that undergoes labeling revisions during the registration period, the registrant shall submit to the department a copy of the revised labeling along with a cover letter detailing such revisions before the sale or distribution in this state of the product brand with the revised labeling. If the labeling revisions require notification of an amendment review by the United States Environmental Protection Agency, the registrant shall submit an additional copy of the labeling marked to identify those revisions.

(i) ~~(j)~~ Effective January 1, 2013, all payments of any pesticide registration fees, including ~~supplemental fees and~~ late fees, shall be submitted electronically using the department's Internet website for registration of pesticide product brands.

(2) The department shall adopt rules governing the procedures for the registration of a brand of pesticide and~~,~~ for the review of data submitted by an applicant for registration of the brand of pesticide~~, and for biennially publishing the list of active ingredients for which a brand of pesticide is subject to the supplemental registration fee pursuant to subparagraph (1)(d)1~~. The department shall determine whether the brand of

pesticide should be registered, registered with conditions, or tested under field conditions in this state. The department shall determine whether each request for registration of a brand of pesticide meets the requirements of current state and federal law. The department, whenever it deems it necessary in the administration of this part, may require the manufacturer or registrant to submit the complete formula, quantities shipped into or manufactured in the state for distribution and sale, evidence of the efficacy and the safety of any pesticide, and other relevant data. The department may review and evaluate a registered pesticide if new information is made available that indicates that use of the pesticide has caused an unreasonable adverse effect on public health or the environment. Such review shall be conducted upon the request of the State Surgeon General in the event of an unreasonable adverse effect on public health or the Secretary of Environmental Protection in the event of an unreasonable adverse effect on the environment. Such review may result in modifications, revocation, cancellation, or suspension of the registration of a brand of pesticide. The department, for reasons of adulteration, misbranding, or other good cause, may refuse or revoke the registration of the brand of any pesticide after notice to the applicant or registrant giving the reason for the decision. The applicant may then request a hearing, pursuant to chapter 120, on the intention of the department to refuse or revoke registration, and, upon his or her failure to do so, the refusal or revocation shall become final without further procedure. The registration of a brand of pesticide may not be construed as a defense for the commission of any offense prohibited under this part.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Community Affairs, *Chair*
Environmental Preservation and Conservation, *Vice Chair*
Appropriations Subcommittee on General Government
Finance and Tax
Judiciary
Transportation

JOINT COMMITTEE:
Joint Legislative Auditing Committee

SENATOR WILTON SIMPSON
18th District

February 11, 2016

The Honorable Tom Lee
Senate Appropriations Committee, Chair
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Lee:

I respectfully request that Senate Bill 1270, relating to *Pesticide Registration* be placed on the committee agenda at your earliest convenience.

Thank you for your consideration, and please do not hesitate to contact me should you have any questions.

Sincerely,

Wilton Simpson, State Senator, 18th District

CC: Appropriations Committee Staff

REPLY TO:
❒ 322 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5018
❒ Post Office Box 938, Brooksville, Florida 34605
❒ Post Office Box 787, New Port Richey, Florida 34656-0787 (727) 816-1120 FAX: (888) 263-4821

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

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

313
Meeting Date

1270
Bill Number (if applicable)

Topic Pesticicle - Support SB 1270

Amendment Barcode (if applicable)

Name Chris Hansen

Job Title Ballard Partners

Address
Street

Phone 577-0444

Tallahassy FL 32301
City *State* *Zip*

Email Chansen@ballardfl.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Bayer Corp

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/16
Meeting Date

1270
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Jim Spratt

Job Title _____

Address 310 W College Ave
Street
TLH FL 32301
City *State* *Zip*

Phone 850-228-1296

Email Jim@magnolia strategies llc.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Fertilizer & Agri-chemical Associations

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/2016
Meeting Date

Topic _____ Bill Number 1270 *(if applicable)*

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

Job Title TRUSTEE

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

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

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

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

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

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

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	PCS/SB 1290 (914914)
INTRODUCER:	Appropriations Committee (Recommended by Appropriations Subcommittee on General Government) and Senator Simpson
SUBJECT:	State Lands
DATE:	March 2, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Istler	Rogers	EP	**Favorable**
2.	Howard	DeLoach	AGG	**Recommend: Fav/CS**
3.	Howard	Kynoch	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 1290 consolidates the acquisition and surplus procedures currently provided in chapter 253, F.S., for nonconservation lands and chapter 259, F.S., for conservation lands. Additionally, the bill:

- Requires conservation lands to be managed for conservation and/or recreation, consistent with the land management plan, rather than for the purposes for which the lands were acquired.
- Authorizes the Department of Environmental Protection (DEP or department) to submit lands for which the managing or leasing entities are not meeting their short-term goals to the Acquisition and Restoration Council (ARC) for review.
- Requires the Board of Trustees of the Internal Improvement Trust Fund (board) to encourage the use of sovereignty submerged lands for minimal secondary non-water dependent uses related to water-dependent uses.
- Creates a process whereby a person who owns land contiguous to land titled to the board is authorized to submit a request to the division to exchange all or a portion of the state-owned land, with the state retaining a permeant conservation easement over all or a portion of the contiguous privately owned land.
- Removes the requirement that the board, before they are authorized to sell any land to which they hold title, must provide notice and afford an opportunity to a county in which the land is situated to receive such lands before the board is authorized to sell such land.

- Requires the department to add federally owned conservation lands, lands on which the federal government holds a conservation easement, and all lands on which the state holds a conservation easement to the Florida State-Owned Lands and Records Information System (FL-SOLARIS) database by July 1, 2018.
- Requires each local government to submit to the DEP a list of all conservation lands it owns or holds a permanent conservation easement on by July 1, 2018. Financially disadvantaged small communities have an additional year to submit the information.
- Directs the department to complete a study regarding the technical and economic feasibility of including privately owned conservation lands in a public lands inventory by July 1, 2018.
- Revises the noticing requirements that a water management district must adhere to when selling or exchanging lands and provides an expedited process for selling surplus lands that are valued at $25,000 or less.
- Requires increased priority to be given to proposed Florida Forever projects that:
  - Can be acquired in less than fee ownership;
  - Contributes to improving the quality and quantity of surface water or groundwater, or;
  - Contributes to improving the water quality and flow of springs.

The bill provides $396,040 in recurring funds and $1,370,528 in nonrecurring funds from the General Revenue Fund appropriated to the Department of Environmental Protection and four full-time equivalent positions with associated salary rate of 182,968 to implement specific provisions of the bill.

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

II. Present Situation:

State Lands

The Board of Trustees of the Internal Improvement Trust Fund (board) consists of the Governor, as the chair, the Chief Financial Officer, the Attorney General, and the Commissioner of Agriculture.[1] All lands held by the board are required to be held in trust for the use and benefit of the people of the state.[2] According to the Department of Environmental Protection (DEP or department), the board has title to approximately 13 million acres of land, which includes 3,146,040 acres of conservation lands, 123,210 acres of nonconservation lands, and approximately 9 million acres of sovereign submerged lands.[3]

Chapter 253, F.S., relating to state lands, was the original authorizing statute for land acquisition and management by the state that it applies to both nonconservation and conservation lands.[4] Over the years, the Legislature created various conservation land acquisition programs and provided additional statutory authorization and requirements for land acquisition. Land management was included in chapter 259, F.S., relating to land acquisitions for conservation or

[1] FLA. CONST. art. IV, s. 4.
[2] Section 253.001, F.S.
[3] Email from Andrew Ketchel, Director, Office of Legislative Affairs, Florida Department of Environmental Protection (Feb. 5, 2016) (on file with the Senate Environmental Preservation and Conservation Committee).
[4] DEP, *Senate Bill 1290 Agency Bill Analysis* (Rev. Jan. 4, 2016) (on file with the Senate Committee on Environmental Preservation and Conservation).

recreation.[5] Currently, both chapters 253 and 259, F.S., are required to be referenced for a complete understanding of the land acquisition, management, and surplus processes for state-owned lands.[6]

Acquisition of State Lands

When the state acquires land, the acquisition agency is required to follow the procedures in s. 253.025, F.S., and, additionally, when acquiring conservation lands, the procedures in s. 259.041, F.S. Before any state agency initiates land acquisition, except purchases of property for transportation facilities and corridors or property for borrow pits for road building purposes, the agency is required to coordinate with the Division of State Lands (division) within the DEP to determine the availability of existing, suitable state-owned lands in the area and the public purpose for which the acquisition is being proposed.[7] Only if no existing suitable state-owned land exists, then the state agency may proceed with the acquisition of the land.[8]

The acquisition statutes require state agencies to follow specific acquisition requirements relating to:

- Marketability of title.
- Appraisal maps and surveys.
- Appraisal reports.
- Maximum offers.
- Negotiations.
- Purchase instruments.
- Closing.
- Joint acquisitions.[9]

When a state agency is acquiring conservation lands, the board is authorized:

- By a majority vote of all its members, direct the department to exercise the power of eminent domain to acquire any properties on the acquisition list approved by the board if:
  - The state has made at least two bona fide offers to purchase the land through negotiation and, notwithstanding those offers, an impasse between the state and the landowner was reached; and
  - The land is of special importance to the state because of one or more of the following reasons:
    - It involves an endangered or natural resource and is in imminent danger of development.
    - It is of unique value to the state and the failure to acquire it will result in irreparable loss to the state.
    - The failure of the state to acquire it will seriously impair the state's ability to manage or protect other state-owned lands.10

[5] *Id*.
[6] *Id*.
[7] Section 253.025(2), F.S.
[8] *Id*.
[9] Sections 253.025 and 259.041, F.S.; Fla. Admin. Code Ch. 18-1.
[10] Section 259.041(14), F.S.

- By an affirmative vote of at least three of its members, direct the department to purchase lands on an immediate basis using up to 15 percent of the funds allocated to the department under the Florida Forever program for the acquisition of lands that:
  - Are listed or placed at auction by the Federal Government as part of the Resolution Trust Corporation sale of lands from failed savings and loan associations;
  - Are listed or placed at auction by the Federal Government as part of the Federal Deposit Insurance Corporation sale of lands from failed banks; or
  - Will be developed or otherwise lost to potential public ownership, or for which federal matching funds will be lost, by the time the land can be purchased under the program within which the land is listed for acquisition.[11]

Additionally, agreements to acquire real property for the purposes described in chapter 259, F.S., relating to land acquisitions for conservation or recreation, chapter 260, F.S., relating to the Florida Greenways and Trails Act, or chapter 375, F.S., relating to outdoor recreation and conservation lands, title to which will vest in the board, may not bind the state until the agreement is reviewed and approved by the department.[12] Additional approval by the board is required if:

- The purchase price agreed to by the seller exceeds the maximum value as authorized by law;
- The contract price agreed upon exceeds $1 million;
- The acquisition is the initial purchase in a Florida Forever project; or
- The purchase involves other conditions established by the board.[13]

If such approval by the board is required then the acquiring agency must provide a justification as to why it is in the public's interest to acquire the parcel or Florida Forever project.[14] Such review and approval of agreements for acquisitions for Florida Greenways and Trails Program properties may be waived by the department in any contract with nonprofit corporations that have agreed to assist the department with the program.[15]

If the contribution of the acquiring agency exceeds $100 million in any one fiscal year, the agreement is required to be submitted to and approved by the Legislative Budget Commission.[16]

Alternatives to fee simple acquisitions

In recognition of the increasing pressures on the natural areas of the state and on open space suitable for recreational use, the Legislature has encouraged the state's conservation and recreational land acquisition agencies to develop creative techniques to maximize the use of acquisition and management funds to augment their traditional, fee simple acquisition programs with the use of alternatives to fee simple acquisition techniques.[17] The Legislature has declared that the use of alternatives to fee simple acquisition techniques by public land acquisition agencies achieves the following public policy goals:

[11] Section 259.041(15), F.S.
[12] Section 259.041(3), F.S.
[13] *Id*.
[14] *Id*.
[15] *Id*.
[16] *Id*.
[17] Section 259.041(11)(a), F.S.

- Allow more lands to be brought under public protection for preservation, conservation, and recreational purposes with less expenditure of public funds.
- Retain, on local government tax rolls, some portion of or interest in lands which are under public protection.
- Reduce long-term management costs by allowing private property owners to continue acting as stewards of their land, where appropriate.[18]

The term "alternatives to fee simple acquisition" includes, but is not limited to: purchase of development rights; obtaining conservation easements; obtaining flowage easements; purchase of timber rights, mineral rights, or hunting rights; purchase of agricultural interests or silvicultural interests; fee simple acquisitions with reservations; creating life estates; or any other acquisition technique that achieves the public policy goals.[19]

When developing the acquisition plan, the Acquisition and Restoration Council (ARC) is authorized to give preference to those less than fee simple acquisitions that provide any public access.[20]

Management of State Lands

The Board of the Internal Improvement Trust Fund (board) is charged with the management, control, supervision, conservation, and protection of all lands owned by, or which may hereafter inure to, the state or any of its agencies, departments, boards or commissions.[21] The board is authorized to enter into leases or similar instruments for the use, benefit, and possession of public lands by agencies which may properly use and possess such lands for the benefit of the state.[22]

Nonconservation Lands

Each manager of nonconservation lands is required to submit to the division a land use plan at least every 10 years in a form and manner prescribed by rule by the board.[23] The division shall review each plan for compliance.[24] All land use plans, whether for single-use or multiple-use properties, must include an analysis of the property to determine if any significant natural or cultural resources are located on the property.[25] Such resources include archaeological and historic sites, state and federally listed plant and animal species, and imperiled natural communities and unique natural features.[26] If such resources occur on the property, the manager is required to consult with the division and other appropriate agencies to develop management strategies to protect such resources.[27]

[18] Section 259.041(11)(a), F.S.
[19] Section 259.041(11)(b), F.S.
[20] Section 259.041(11)(c), F.S.
[21] Section 253.03, F.S.
[22] Section 253.03(2), F.S.
[23] Section 253.034(5), F.S.
[24] *Id*.
[25] *Id*.
[26] *Id*.
[27] *Id*.

Land use plans must also provide for the control of invasive nonnative plants and conservation of soil and water resources, including a description of how the manager plans to control and prevent soil erosion and soil or water contamination.[28] Land use plans submitted by a manager must include reference to the appropriate statutory authority for such use or uses and conform to the appropriate policies and guidelines of the state land management plan.[29]

Conservation Lands

Article X, section 18 of the Florida Constitution requires that "the fee interest in real property held by an entity of the state and designated for natural resources conservation purposes as provided by general law shall be managed for the benefit of the citizens of this state…"[30] Section 253.034, F.S., specifies that state lands acquired pursuant to chapter 259, F.S., are required to be managed to ensure the conservation of the state's plant and animal species and to ensure the accessibility of state lands for the benefit and enjoyment of all people of the state, both present and future.[31] Additionally, all lands acquired and managed under chapter 259, F.S., are required to be managed in a manner that provides the greatest combination of benefits to the public and to the resources, for public outdoor recreation which is compatible with the conservation and protection of public lands, and for the purposes for which the lands were acquired.[32]

Each manager of conservation lands is required to submit a land management plan to the division at least every 10 years.[33] The land management plan must contain, at a minimum, all of the following elements:

- A physical description of the land.
- A quantitative data description of the land which includes an inventory of forest and other natural resources; exotic and invasive plants; hydrological features; infrastructure, including recreational facilities; and other significant land, cultural, or historical features.
- A detailed description of each short-term and long-term land management goal, the associated measurable objectives, and the related activities that are to be performed to meet the land management objectives.
- A schedule of land management activities which contains short-term and long-term land management goals and the related measurable objective and activities.
- A summary budget for the scheduled land management activities of the land management plan. For state lands containing or anticipated to contain imperiled species habitat, the summary budget shall include any fees anticipated from public or private entities for projects to offset adverse impacts to imperiled species or such habitat, which fees shall be used solely to restore, manage, enhance, repopulate, or acquire imperiled species habitat. [34] The summary budget is required to be prepared in such a manner that it facilitates computing an

[28] *Id*.
[29] *Id*.
[30] FLA. CONST. art. X, s. 18.
[31] Section 253.034(5)(a), F.S.
[32] Section 259.032(7), F.S.; s. 259.032(7)(b), F.S., provides that "such management may include, but not be limited to, the following public recreational uses: fishing, hunting, camping, bicycling, hiking, nature study, swimming, boating, canoeing, horseback riding, diving, model hobbyist activities, birding, sailing, jogging, and other related outdoor activities compatible with the purposes for which the lands were acquired."
[33] Section 253.034(5), F.S.
[34] Section 253.034(5)(c), F.S.

aggregate of land management costs for all state-managed lands using the following categories:
- Resource management;
- Administration;
- Support;
- Capital improvements;
- Recreation visitor services; and
- Law enforcement activities.[35]

Each land management plan is required to provide a desired outcome, describe both short-term and long-term management goals, and include measurable objectives to achieve those goals.[36] Short-term goals are required to be achievable within a two-year planning period, and long-term goals are required to be achievable within a 10-year planning period.[37] These short-term and long-term management goals are the basis for all subsequent land management activities.[38]

Short-term and long-term management goals must include measurable objectives for the following, as appropriate:
- Habitat restoration and improvement.
- Public access and recreational opportunities.
- Hydrological preservation and restoration.
- Sustainable forest management.
- Exotic and invasive species maintenance and control.
- Capital facilities and infrastructure.
- Cultural and historical resources.
- Imperiled species habitat maintenance, enhancement, restoration, or population restoration.[39]

Land management plans are required to be updated every 10 years on a rotating basis.[40] Each manager of conservation lands is required to update a land management plan whenever the manager proposes to add new facilities or make substantive land use or management changes that were not addressed in the approved plan, or within one year of the addition of significant new lands.[41]

Regional land management review teams are required to evaluate the extent to which the existing management plan provides sufficient protection to threatened or endangered species, unique or important natural or physical features, geological or hydrological functions, or archaeological features, and the extent to which the land is being managed for the purposes for which it was acquired and the degree to which actual management practices, including public access, are in compliance with the adopted management plan.[42]

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[35] Section 259.037(3), F.S.
[36] Section 253.034(5)(a), F.S.
[37] *Id*.
[38] *Id*.
[39] Section 253.034(5)(b), F.S.
[40] Section 253.034(5)(e), F.S.
[41] Section 253.034(5), F.S.
[42] Section 259.036(3), F.S.

If the land management review team determines that reviewed lands are not being managed for the purposes for which they were acquired or in compliance with the adopted land management plan, management policy statement, or management prospectus, or if the managing agency fails to address the review findings in the updated management plan, the department is required to provide the review findings to the board, and the managing agency must report to the board its reasons for managing the lands as it has.[43] The manager of the land is required to consider the findings and recommendations of the land management review team in finalizing the 10-year update of the land management plan.[44]

By July 1 of each year, each governmental agency and each private entity designated to manage lands is required to report to the department on the progress of funding, staffing, and resource management of every project for which the agency or entity is responsible.[45] The use or possession of any such lands that is not in accordance with an approved land management plan is subject to termination by the board.[46]

Sovereignty Submerged Lands

Article X, section 11 of the Florida Constitution authorizes the private use of portions of sovereign lands, but only when not contrary to the public interest.[47] The board is required to encourage the use of sovereignty submerged lands for water-dependent uses and public access.[48] The term "water-dependent activity" is defined as "an activity which can only be conducted on, in, over, or adjacent to water areas because the activity requires direct access to the water body or sovereignty submerged lands for transportation, recreation, energy production or transmission, or source of water, and where the use of the water or sovereignty submerged lands is an integral part of the activity."[49]

Activities on sovereignty submerged lands are limited to water-dependent activities, unless the board determines that it is in the public interest on a case-by-case basis to authorize an exception.[50] Public projects which are primarily intended to provide access to and use of the waterfront may be permitted to contain minor uses which are not water dependent if:

- Located in areas along seawalls or other non-natural shorelines;

[43] Section 253.036(5), F.S.
[44] Section 259.036(2), F.S.
[45] Section 259.032(8), F.S.
[46] Section 253.034(5)(h), F.S.
[47] Fla. Admin. Code R 18-21.003(51), defines the term "public interest" as a "demonstrable environmental, social, and economic benefits which would accrue to the public at large as a result of a proposed action, and which would clearly exceed all demonstrable environmental, social, and economic costs of the proposed action."
[48] Section 253.03(15), F.S.; Fla. Admin. Code R. 18-21.003(61), defines the term "sovereignty submerged lands" to mean "those lands including but not limited to, tidal lands, islands, sand bars, shallow banks, and lands waterward of the ordinary or mean high water line, beneath navigable fresh water or beneath tidally-influenced waters, to which the State of Florida acquired title on March 3. 1845, by virtue of statehood, and which have not been heretofore conveyed or alienated."
[49] Fla. Admin. Code R. 18-21.003(71); Fla. Admin. Code R. 18-21.003(2), defines the term "activity" as "any use of sovereignty lands which requires board approval for consent of use, lease, easement, sale, or transfer of interest in such sovereignty lands or materials. Activity includes, but is not limited to, the construction of docks, piers, boat ramps, board walks, mooring pilings, dredging of channels, filling, removal of logs, sand, silt, clay, gravel, or shell, and the removal or planting of vegetation on sovereignty lands."
[50] Fla. Admin. Code R. 18-21.004(1)(g).

- Located outside of aquatic preserves or Class II waters;[51] and
- The use is incidental to the basic purpose of the project, and constitutes only minor nearshore encroachments on sovereign lands.[52]

Disposition of State Lands

Surplus

The board determines which lands it holds title to may be surplused.[53] Since 2000, approximately 3,041 acres of conservation lands have been declared surplus and disposed, raising $14,438,157 in revenue.[54] Conservation lands may only be surplused if the board, by an affirmative vote of at least three members, determines that the lands are no longer needed for conservation purposes.[55] The board may dispose of all other lands if the board, by an affirmative vote of at least three members, determines whether the lands are no longer needed.[56]

Requests for surplusing lands may be made by any public or private entity or person.[57] All requests are required to be submitted to the lead managing agency for review and recommendation to the ARC.[58] Before any decision by the board to surplus lands, the ARC is required to review and make recommendations to the board concerning the request.[59] The ARC is required to determine whether the request is compatible with the resource values of and management objectives for such lands.[60]

County or local government requests for surplus lands are expedited throughout the surplusing process.[61] A decision to surplus state-owned nonconservation lands to a county or local government may be made by the board without a review of, or recommendation on, the request from the ARC or the division.[62] The board is required to consider such requests within 60 days of the board's receipt of the request.[63] A decision to surplus state-owned conservation lands is subject to review of, and recommendation on, the request by the ARC.[64] The board is required to consider such requests within 120 days of the board's receipt of the request.[65] Additionally, local governments may request that state lands be specifically declared surplus lands for the purpose

[51] Generally, Class II waters are coastal waters where shellfish harvesting occurs.
[52] *Id*.
[53] Section 253.034(6), F.S.
[54] DEP, *Senate Bill 1290 Agency Bill Analysis* (Rev. Jan. 4, 2016) (on file with the Senate Committee on Environmental Preservation and Conservation).
[55] FLA. CONST. art. X, s. 18.
[56] Section 253.034(6), F.S.
[57] Section 253.034(6)(j), F.S.
[58] *Id*.
[59] Section 253.034(6)(e), F.S.
[60] Section 253.034(6), F.S.
[61] Section 253.0341, F.S.
[62] Section 253.0341(1), F.S.
[63] *Id*.
[64] Section 253.0341(2), F.S.
[65] *Id*.

of providing alternative water supply and water resource development projects; public facilities such as schools, fire, and police facilities; and affordable housing.[66]

Before a building or a parcel of land is offered for sale to a local or federal unit of government or a private party, it must first be offered for lease to state agencies, state universities, and Florida College System institutions, with priority consideration given to state universities and Florida College System institutions.[67] The state university or college has 60 days after receipt of the offer to submit a plan for review and approval by the board regarding the intended use, including future use, of the parcel of land before approval of the lease. The board is required to compare the estimated value of the parcel to any submitted business plan to determine if the sale is in the best interest of the state.[68]

Additionally, the board may not sell any land to which it holds title unless and until it affords an opportunity to the county in which such land is situated.[69] The board is required to notify the applicable board of county commissioners that land is available in the county. The board of county commissioners has 45 days to submit a certified copy of a resolution providing the determination of whether or not it proposes to acquire the available land. If the board timely receives the resolution then the board is required to convey to the county the land at a price that is equal to its appraised market value, subject to terms and conditions as determined by the board. These notification requirements do not apply to any land exchanged by the board; the conveyance of lands located within the Everglades Agricultural Area; or lands managed pursuant to ss. 253.781-253.785, F.S., relating to state lands along the route of the former Cross Florida Barge Canal, the Cross Florida Greenways, or around Lake Rousseau.[70]

At least every 10 years, as a component of each land management plan or land use plan, each manager is required to evaluate and indicate to the board those lands that are not being used for the purpose for which they were originally leased.[71] For conservation lands, the ARC is required to review and recommend to the board whether such lands should be retained in public ownership or disposed of by the board.[72] For nonconservation lands, the division is required to review the lands and recommend to the board whether such lands should be retained in public ownership or disposed of by the board.[73] Lands that are owned by the board but which are not actively managed by any state agency or for which a land management plan has not been completed are required to be reviewed by the ARC for its recommendation as to whether such lands should be disposed.[74]

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[66] Section 253.0341(3), F.S.; s. 373.019(24), F.S., defines the term "water resource development" as "the formulation and implementation of regional water resource management strategies, including the collection and evaluation of surface water and groundwater data; structural and nonstructural programs to protect and manage water resources; the development of regional water resource implementation programs; the construction, operation, and maintenance of major public works facilities to provide for flood control, surface and underground water storage, and groundwater recharge augmentation; and related technical assistance to local governments and to government-owned and privately owned water utilities."
[67] Section 253.034(6), F.S.
[68] Section 253.034(13), F.S.
[69] Section 253.111, F.S.
[70] Section 253.111(6), F.S.
[71] Section 253.034(6)(c), F.S.
[72] *Id*.
[73] *Id*.
[74] Section 253.034(6)(d), F.S.

In reviewing lands owned by the board, the ARC is required to consider whether such lands would be more appropriately owned or managed by the county or other unit of local government in which the land is located and recommend to the board whether a sale, lease, or other conveyance to a local government would be in the best interest of the state and local government.[75] Such lands are required to be offered to the local government for a period of 45 days and the permitted uses for such lands include public schools; public libraries; fire or law enforcement substations; governmental, judicial, or recreational centers; and affordable housing.[76]

Exchange

Section 253.42, F.S., authorizes the board to exchange state lands owned by, vested in, or titled in the name of the board for other lands in the state owned by counties, local governments, individuals, or private or public corporations. The board is authorized to make and enter into contracts or agreements for the purposes of such exchanges and to fix the terms and conditions of any such exchange.[77] In the case of a land exchange involving the disposition of conservation lands, the board is required to determine by an affirmative vote of at least three members that the exchange will result in a net positive conservation benefit.[78] The board is required to select and agree upon the state lands to be exchanged and the lands to be conveyed to the state.[79]

Water Management Districts Sale or Exchange of Lands

Sections 373.056 and 373.089, F.S., establish the manner in which water management districts may dispose of lands, interests, or rights in lands. Before lands, interests, or rights in lands are disposed, the governing board of a water management district must determine that the parcel of land is no longer needed. Surplus lands may be offered for public bid and sold pursuant to s. 373.089, F.S., conveyed by a district to another governmental entity pursuant to s. 373.056, F.S., or used in potential real estate exchange transactions.

The governing board of a water management district may sell surplus lands at any time.[80] The disposal of surplus lands requires a majority vote of the governing board. The disposal of surplus lands that were acquired for conservation purposes requires a determination that the lands are no longer needed for conservation purposes and a two-thirds vote of the governing board.

Before selling surplus lands, a district must publish a notice of intention to sell, which includes a description of the lands to be offered for sale, in a newspaper circulated in the county in which

[75] Section 253.034(6)(f), F.S.
[76] Section 253.034(6)(f), F.S.
[77] Section 253.42, F.S.
[78] Section 253.034(6), F.S.; Fla. Admin. Code R. 18-2.017(38), defines the term "net positive benefit" to mean "any effective action or transaction which promotes the overall purposes for which the land was acquired. It is compensation over and above the required payment of market value for or replacement of the affected parcel to offset and request use or activity which would preclude or affect, in whole or in part, current or future uses of natural resource land that are managed primarily for the conservation and protection of natural, historical, or recreational resources. Net positive benefit shall not be solely monetary compensation, but shall include mitigation and other consideration related to environmental, historical, or recreational benefits, as applicable, to the affected management unit."
[79] Section 253.42(3), F.S.
[80] Section 373.089, F.S.

the land is located once each week for three consecutive weeks. The first publication being not less than 30 days nor more than 45 days before any sale. Surplus lands must be sold for the highest price obtainable, which may not be less than the appraised value of the lands as determined by a certified appraisal obtained within 120 days before the sale.

Florida State-Owned Lands and Records Information System (FL-SOLARIS)

In 2010, the Legislature directed the DEP to create, administer, operate, and maintain a comprehensive system and automated inventory of all state lands and real property leased, owned, rented, occupied, or maintained by a state agency, judicial branch, or water management district.[81] In order to meet the requirement, the department in coordination with the Department of Management Services developed FL-SOLARIS to record and maintain inventory of real estate properties that are "owned, leased, or rented, or otherwise occupied" by any state government entity. The database includes all state-owned lands in which the state has a fee interest, including conservation easements acquired through a formal acquisition process for conservation.[82]

Florida Forever Program

The Florida Forever program was created in 1999 as the successor program to the Preservation 2000 program. The stated goals of the Florida Forever program are to acquire lands and water areas to preserve natural resources and protect water supply, provide opportunities for agricultural activities on working lands, provide outdoor recreational opportunities, preserve the Everglades, prioritize land acquisition process based on science-based assessments of the natural resources, and enhance imperiled species management.[83]

The Acquisition and Restoration Council (ARC) is responsible for evaluating, selecting, and ranking state land acquisition projects under the Florida Forever program.[84] The ARC is a 10-member group composed of:

- Four members appointed by the Governor, three from a scientific discipline related to land, water, or environmental science, and one with at least five years of experience in managing lands for both active and passive types of recreation;
- Four members as follows:
  - The secretary of the Department of Environmental Protection;
  - The director of the Florida Forest Service of the Department of Agriculture and Consumer Services;
  - The executive director of the Fish and Wildlife Conservation Commission;
  - The director of the Division of Historical Resources within the Department of State;
- One member appointed by the Fish and Wildlife Conservation Commission; and
- One member appointed by the Commissioner of Agriculture.[85]

[81] Section 216.0153, F.S.
[82] DEP, *FL-SOLARIS, Background Information*, http://www.dep.state.fl.us/lands/fl_solaris_background.htm (last visited Feb. 5, 2016).
[83] Section 259.105, F.S.
[84] *Id*.
[85] Section 259.035, F.S.

Projects or acquisitions funded through Florida Forever are evaluated and reviewed by the ARC, which determines if a proposed project meets at least two of the following goals:

- Enhances the coordination and completion of land acquisition projects.
- Increase the protection of Florida's biodiversity at the species, natural community, and landscape levels.
- Protects, restores, and maintains the quality and natural functions of land, water, and wetland systems of the state.
- Ensures that sufficient quantities of water are available to meet the current and future needs of natural systems and the citizens of the state.
- Increases natural resource-based public recreational and educational opportunities.
- Preserves significant archaeological or historic sites.
- Increases the amount of forestland available for sustainable management of natural resources.
- Increases the amount of open space available in urban areas.[86]

The goals are evaluated in accordance with specific criteria and numeric performance measures developed by rule.[87] This criteria is used to competitively evaluate, select, and rank projects eligible for Florida Forever funds. The ARC is required to give weight to the following criteria:

- The project meets multiple goals.
- The project is part of an ongoing governmental effort to restore, protect, or develop land areas or water resources.
- The project enhances or facilitates management of properties already under public ownership.
- The project has significant archaeological or historic value.
- The project has funding sources that are identified and assured through at least the first two years of the project.
- The project contributes to the solution of water resource problems on a regional basis.
- The project has a significant portion of its land area in imminent danger of development, in imminent danger of losing its significant natural attributes or recreational open space, or in imminent danger of subdivision which would result in multiple ownership and make acquisition of the project costly or less likely to be accomplished.
- The project implements an element from a plan developed by an ecosystem management team.
- The project is one of the components of the Everglades restoration effort.
- The project may be purchased at 80 percent of appraised value.
- The project may be acquired, in whole or in part, using alternatives to fee simple, including but not limited to, tax incentives, mitigation funds, or other revenues; the purchase of development rights, hunting rights, agricultural or silvicultural rights, or mineral rights; or obtaining conservation easements or flowage easements.

[86] Section 259.105(4), F.S.

[87] Section 259.035(4)(a), F.S.; ch. 2015-229, s. 21, Laws. of Fla., requires the ARC to develop rules, by December 1, 2016, defining specific criteria and numeric performance measures needed for lands that are acquired under the Florida Forever program or with funds deposited into the Land Acquisition Trust Fund pursuant to s. 28(a), Art. X of the State Constitution. These rules are required to be reviewed and adopted by the board, then submitted to the Legislature for consideration by February 1, 2017. The Legislature is authorized to reject, modify, or take no action relative to the proposed rules. If no action is taken, the rules shall be implemented.

- The project is a joint acquisition, either among public agencies, nonprofit organizations, or private entities, or by a public-private partnership.[88]

Each year the division prepares an annual work plan prioritizing projects on the Florida Forever list by category: a critical lands category; a partnerships or regional incentives category; a substantially complete category; a climate-change category; and a less-than-fee category.[89] After at least one public hearing, the ARC may adopt the work plan. A copy of the work plan is required to be provided to the board by October 1 of each year.[90]

Lands acquired for conservation and recreation purposes are to be used as state-designated parks, recreation areas, preserves, reserves, historic or archaeological sites, geologic or botanical sites, recreational trails, forests, wilderness areas, wildlife management areas, urban open space, or other state-designated recreation or conservation lands; or they shall qualify for such state designation and use if they are to be managed by other governmental agencies or non-state entities.[91] Additionally, conservation lands acquired pursuant to the Florida Forever program or other state-funded conservation land purchase programs are authorized, upon a finding by the board, for use as water resource development projects, water supply development projects, stormwater management projects, linear facilities, and sustainable agriculture and forestry. Such additional uses are authorized if:

- The proposed use is consistent with the management plan for such lands;
- The proposed use is compatible with the natural ecosystem and resource values of such lands;
- The proposed use is appropriately located on such lands and where due consideration is given to the use of other available lands;
- The using entity reasonably compensates the titleholder for such use based upon an appropriate measure of value; and
- The proposed use is consistent with the public interest.[92]

III. Effect of Proposed Changes:

Acquisition Procedures

The bill amends s. 253.025, F.S., relating to the acquisition of state lands for purposes other than preservation, conservation, and recreation. The bill repeals s. 259.041, F.S., relating to the acquisition of state-owned lands for preservation, conservation, and recreation purposes, to consolidate the acquisition procedures for all state lands, whether or not they were acquired for conservation, preservation, or recreation purposes.

The following provisions applied only to conservation lands under s. 259.041, F.S., but were moved to s. 253.025, F.S., and will apply to all state lands under the bill:

[88] Section 259.105(9), F.S.
[89] Section 259.105(17), F.S.
[90] *Id*.
[91] Section 259.032(3), F.S.
[92] Section 253.034(10), F.S.

- The authority to waive the acquisition requirements under statute or rule, except under specified circumstances, and substitute other reasonably prudent procedures if the public's interest is reasonably protected.
- The requirement that if the purchase price agreed to by the seller exceeds the value as established pursuant to the rules of the board or if the contract price agreed to by the seller and the acquiring agency exceeds $1 million, the agreement must be submitted to and approved by the Board of Trustees of the Internal Improvement Trust Fund (board). If the board's approval is required, the acquiring agency must provide justification as to why it is in the public's interest to acquire the parcel.
- The authority to obtain a third appraisal if the first two appraisals exceed $1 million and differ significantly.
- The requirement that the agency proposing the acquisition must pay associated costs in addition to appraisal fees. Currently, acquiring agencies are not expressly required to pay associated costs when acquiring nonconservation lands.
- The authority to release an appraisal report for nonconservation lands when the acquiring agency has terminated negotiations.
- The prohibition against the maximum value of a parcel to be purchased by the board, as determined by the highest approved appraisal or pursuant to the rules of the board, increasing or decreasing as a result of a change in zoning or permitted land uses, or changes in market forces or prices that occur within one year after the date the Department of Environmental Protection (DEP or department) or the board approves the contract to purchase the parcel.
- The authority of the secretary of the department or the director of the Division of State Lands (division) to waive the appraisal requirements and to enter into an option agreement to buy a parcel of land before appraisal of the parcel of land.
- The authority to contract for additional real estate acquisition services including, surveying, mapping, environmental audits, title work, and legal and other professional assistance for reviewing acquisition agreements and other documents and to perform acquisition closings.

The following provisions were moved from s. 259.041, F.S., to s. 253.025, F.S., with no effect:

- The rulemaking authority of the board relating to the acquisition of state-owned lands for preservation, conservation, and recreation purposes.
- The eminent domain authority to acquire any conservation parcel identified on the Florida Forever acquisition list established by the Acquisition Restoration Council (ARC) and approved by the board.
- The authority of the board, by an affirmative vote of at least three members, to direct the DEP to purchase lands on an immediate basis using up to 15 percent of the funds allocated to the department under the Florida Forever program for the acquisition of certain lands.
- The provision providing that title to lands that are to be jointly held by the board and a water management district when acquired by a water management district are deemed to meet the standards necessary for ownership by the board.

Additionally, the bill makes the following changes:

- Authorizes the division to use an appraisal prepared by the division to estimate the value of a parcel that is estimated to be worth $100,000 or less, if the director of the division finds that the cost of an outside appraisal is not justified and provided the public's interest is reasonably protected.

- Removes the board's ability to designate a qualified fee appraiser organization.
- Changes a reference to the Division of Business and Professional Regulation to the Department of Agriculture and Consumer Services as land surveyors are regulated by the latter rather than the former.
- Revises the definition of the term "nonprofit organization," relating to organizations that may provide an appraisal to the division, to include nonprofit organizations whose purpose includes the preservation of natural resources for the purposes of the acquisition of conservation lands, rather than nonprofit organizations whose purpose is the preservation of natural resources.
- Authorizes, rather than requires, the department to use outside counsel to review any agreements or documents or to perform acquisition closings unless department staff can conduct the same activity in 15 days or less.

The bill amends s. 253.031, F.S., to remove the requirement that the board keep records and papers at the U.S. Land Office in Gainesville, Florida. All documents are now held in Tallahassee as required by law.[93]

Alternatives to Fee Simple Acquisition

The bill creates s. 253.0251, F.S., to relocate subsection 259.041(11), F.S., relating to alternatives to fee simple acquisitions. The bill adds the Department of Agriculture and Consumer Services (DACS) to the list of entities that are required to implement the use of alternatives to fee simple acquisitions and to educate private landowners about such alternatives and that may enter into joint acquisition agreements for alternatives to fee simple acquisitions. Additionally, the bill deletes s. 259.101(7), F.S., the language of which closely mirrors s. 259.041(11), F.S., but applied to acquisitions under the Preservation 2000 program.

The bill creates s. 570.715, F.S., to require DACS to follow certain acquisition procedures when acquiring conservation easements or less-than-fee interests through the Rural and Family Lands Protection Program pursuant to s. 570.71, F.S. The procedures closely mirror the acquisition procedures required under s. 253.025, F.S. The bill transfers and redesignates the public records exemption for appraisals from s. 259.041(7)(e), F.S., to s. 570.715(5), F.S.

Management Requirements

The bill amends s. 253.03, F.S., to update a reference to a repealed rule that grandfathered-in certain structures to use sovereignty submerged lands. The bill requires the board to encourage the use of sovereignty submerged lands for minimal secondary non-water dependent uses that are related to water-dependent uses.

The bill amends s. 253.034, F.S., to authorize the department, if the managing or leasing entity is not meeting the short-term goals as provided in the applicable land management plan, to submit conservation lands to ARC to review whether the short-term goals should be modified, consider whether the lands should be offered to another entity for management or leasing, or recommend to the board whether to surplus the lands. The bill authorizes the department, if the managing or

[93] DEP, *Senate Bill 1290 Agency Bill Analysis* (Rev. Jan. 4, 2016) (on file with the Senate Committee on Environmental Preservation and Conservation).

leasing entity is not meeting the short-term goals as provided in the applicable land use plan, to submit nonconservation lands to the board to consider whether to require the managing or leasing entity to release its interest in the land and to consider whether to surplus the lands. The planning period for short-term goals in a land management plan is two years and the planning period for short-term goals in a land use plan is five years.

The bill amends s. 253.034(5), F.S., to:

- Require that each updated land management plan identify any conservation lands under the plan, in part or in whole, which are no longer needed for conservation purposes and could be disposed of in fee simple or with the state retaining a permanent conservation easement.
- Require that all state nonconservation lands be managed to provide the greatest benefit to the state and that any use or possession of nonconservation lands which is not in accordance with an approved land use plan is subject to termination by the board.
- Authorize nonconservation lands to be grouped by similar land use types under one land use plan.
- Require each land use plan to contain, at a minimum, all of the following elements:
  - A physical description of the land to include any significant natural or cultural resources as well as management strategies developed by the land manager to protect such resources, as opposed to an analysis of the property to determine if any significant natural or cultural resources are located on the property as required under current law;
  - A desired development outcome;
  - A schedule for achieving the desired development outcome;
  - A description of both short-term (achievable within a five-year planning period) and long-term (achievable within a 10-year planning period) development goals;
  - A management and control plan for invasive nonnative plants;
  - A management and control plan for soil erosion and soil and water contamination, as opposed to providing for the conservation of soil and water resources as required under current law; and
  - Measureable objectives to achieve the goals identified in the land use plan.
- Remove the specification that natural or cultural resources includes archaeological and historic sites, state and federally listed plant and animal species, and imperiled natural communities and unique natural features.
- Provide clarification by adding references to state conservation lands or nonconservation lands where appropriate.
- Remove duplicative language relating to the authority of the secretary of the department, the Commissioner of Agriculture, or the Executive Director of the Fish and Wildlife Conservation Commission to submit a land management plan to the board, if the ARC fails to make a recommendation for the plan.

The bill amends s. 253.7821, F.S., to assign the Cross Florida Greenways State Recreation and Conservation Area to the department, rather than the Office of Greenways Management.

The bill amends s. 259.032, F.S., relating to conservation and recreation lands to:

- Remove the requirement that outdoor activities related to recreation which are authorized be compatible with the purposes for which the lands were acquired.

- Remove the requirement that conservation lands be managed for the purposes for which the lands were acquired.
- Require the board to evaluate and amend the management policy statement for a project to ensure that the policy statement is compatible with conservation and/or recreation rather than consistent with the purposes for which the lands are acquired.
- Remove obsolete language relating to the land management plan for the Babcock Crescent B Ranch, as the land management plan has been created.
- Revise the requirements for individual management plans by:
  - Removing the requirement that the priority schedules for conducting management activities be based on the purposes for which the lands were acquired; and
  - Requiring the determination of the public uses and public access to be compatible with conservation and/or recreation rather than consistent with the purposes for which the lands were acquired.
- Revise the legislative intent that conservation lands be managed and maintained in a manner that is compatible with conservation and/or recreation consistent with the land management plan rather than for the purposes for which the lands were acquired and the requirement that public access and use be consistent with acquisition purposes.
- Conform cross-references.

The bill amends s. 259.035, F.S., to clarify that the ARC provides assistance to the board in reviewing the recommendations and plans for state-owned conservation lands. The ARC does not provide the board with assistance relating to plans for state-owned nonconservation lands.

The bill amends s. 259.036, F.S., relating to the requirements of management review teams to:
- Require the review teams to determine whether conservation, preservation, and recreation lands titled in the name of the board are managed for purposes that are compatible with conservation, preservation, or recreation in accordance with the applicable land management plan, rather than for the purposes for which they were acquired.
- Revise the composition of regional land management review teams to provide a preference for private land managers from the local community and to authorize a member or staff of the jurisdictional water management district to be on the team instead of a member or staff of the local soil and water conservation district board of supervisors.
- Change references from the division to the department.

The bill amends s. 259.037, F.S., to provide an acronym for the Land Management Uniform Accounting Council (LMUAC) and remove the director of the Office of Greenways and Trails from the council.

Under s. 259.047, F.S., a state or acquiring entity is required to make reasonable efforts to keep lands in agricultural production which were in agricultural production at the time of acquisition, where consistent with the purposes for which the property was acquired. The bill amends the language to state if consistent with the purposes of conservation or recreation.

The bill amends s. 259.101, F.S., to revise the language related to the incidental public or private use that is determined by the board or the owning water management district to be compatible with conservation, preservation, or recreation purposes rather than compatible with the purposes

for which such lands were acquired. The bill removes the language relating to alternatives to fee simple acquisition under this section. This language closely mirrors the authorization for alternatives to fee simple acquisitions under the Florida Forever program, which was moved to a new section. The bill conforms cross-references.

Disposition Procedures

The bill amends s. 253.0341, F.S., to include the provisions from s. 253.034(6) and (13), F.S., to provide one section of law that encompasses the surplus requirements for state lands. The bill:

- Removes authorization for local governments to submit surplusing requests directly to the board.
- Removes authorization for the board to decide to surplus nonconservation lands without a review of, or a recommendation on, the request from the ARC or the division.
- Requires all requests to surplus conservation lands to be submitted to the lead managing agency for review and recommendation to the ARC, and all requests to surplus nonconservation lands to be submitted to the division for review and recommendation to the board.
- Under current law, surplusing requests for nonconservation lands by a county or local government were required to be considered by the board within 60 days of the board's receipt of the request. Surplus requests by a county or local government to surplus conservation lands were required to be considered by the board within 120 days of the board's receipt of the request. The bill applies the 60-day review requirement to all requests, not just from a county or local government, and to requests to surplus conservation lands.
- Removes the requirement that a facility or parcel before such facility or parcel is offered for lease or sale be first offered for lease to a state university or Florida College System institution. The requirement is retained for state agencies but is restricted to only apply when a facility or parcel is offered for lease and clarifies that the requirement only applies to nonconservation lands. Additionally, the bill revises the deadline for state agencies to request to lease such facility or parcel from 60 days after the offer for lease to 45 days after. The bill also changes the term from "building" to "facility" to include all possible structures on the parcel.
- Removes language that requires ARC to consider whether lands owned by the board are more appropriately owned or managed by the local government in which the land is located if in the best interests of the state and the local government.
- Clarifies the requirement that the ARC review and make recommendations on requests for surplus lands only applies to conservation lands.
- Removes language relating to the conveyance of title to property on which the Graham Building is located to Miami-Dade County. The conveyance has been executed.
- Removes the authorization for local governments to request that state lands be specifically declared surplus for the purpose of providing alternative water supply and water resource development projects, public facilities, and affordable housing.
- Removes examples of permittable uses of land surplused under certain circumstances to a state, county, or local government.

The bill amends s. 253.111, F.S., to remove the requirement that the board, before it is authorized to sell any land to which it holds title, must provide notice and afford an opportunity

to a county in which the land is situated to receive such lands before the board is authorized to sell such land.

The bill amends s. 253.42, F.S., relating to the exchange of lands, to remove the requirement that any nonconservation lands that were acquired by the state through gift, donation, or any other conveyance for which no consideration was paid must first be offered at no cost to a county or local government so long as the use proposed by the county or local government is for a public purpose. The bill creates a new process that authorizes a person who owns land contiguous to state-owned lands to submit a request to the division to exchange all or a portion of the privately owned land for all or a portion of the state-owned land. Under such exchange, the state would retain a permanent conservation easement over all or a portion of the exchanged state-owned land and a permanent conservation easement over all or a portion of the exchanged privately owned land. The bill requires the division, if the division elects to proceed with a request, to submit the request to the ARC for review, in which case the ARC is required to provide recommendations to the division. The division is required to review the request and the ARC's recommendations and may provide recommendations to the board. The bill authorizes the board to approve the request if:

- At least 30 percent of the perimeter of the privately owned land is bordered by state-owned land and the exchange does not create an inholding.
- The approval does not result in a violation of the terms of a preexisting lease or agreement by the board, the Department of Environmental Protection, the Department of Agriculture and Consumer Services, or the Fish and Wildlife Conservation Commission.
- For state-owned land purchased for conservation purposes, the board makes a determination that the exchange of land under this subsection will result in a net positive conservation benefit.
- The approval does not conflict with any existing flowage easement.
- The request is approved by three or more members of the board of trustees.

The bill specifies that state-owned sovereign submerged land is not authorized for this type of exchange and that special consideration is required to be given to requests that maintain public access for any recreational purpose allowed on the state-owned land at the time the request is submitted to the board. The bill provides that a person who maintains public access on such lands is entitled to a limitation on liability. The bill requires that any land subject to a permanent conservation easement granted under this process is subject to inspection by the department to ensure compliance with the terms of the permanent conservation easement.

The bill amends s. 253.782, F.S., to remove the directive requiring the department to retain ownership of and maintain all lands or interests in land owned by the board, including all fee and less-than-fee interests in lands previously owned by the canal authority in Lake Rousseau and the Cross Florida Barge Canal right-of-way from Lake Rousseau at U.S. Highway 41 west to and including the Withlacoochee River.

The bill amends s. 373.089, F.S., and:

- Extends the timeframe in which a certified appraisal must be obtained for determining the minimum price at which the land may be sold by a water management district (WMD) from 120 days to 360 days before the effective date of a contract for the sale; and

- Revises the period from which the first publication of the required notice must occur to not more than 360 days before any sale, rather than 45 days; and provide an expedited process for the sale of surplus lands titled to a WMD and valued at $25,000 or less.

Under the expedited process, instead of requiring a WMD to publish a notice of intention to sell in a newspaper circulated in the county in which a parcel of land valued at $25,000 or less is situated for three consecutive weeks, the bill requires a governing board to publish the notice of intention to sell one time only. Additionally, the governing board is required to send notice to adjacent property owners by certified mail and publish the notice on its website. Fourteen days after publication of such notice, the bill authorizes a water management district to sell such a parcel to an adjacent property owner or accept sealed bids if there are two or more owners of adjacent property and sell the parcel to the highest bidder. Thirty days after publication of such notice, the bill authorizes a water management district to accept sealed bids and sell such a parcel to the highest bidder.

Florida State-Owned Lands and Records Information System (FL-SOLARIS)

The bill creates s. 253.87, F.S., to require the DEP to expand the scope of the FL-SOLARIS database as follows:

- By July 1, 2018, that the database include all federally owned conservation lands in the state, all lands on which the Federal Government retains a permanent conservation easement in the state, and all lands on which the state retains a permanent conservation easement.
- By July 1, 2018, and at least every five years thereafter, that counties and municipalities identify all conservation lands that it owns in fee simple and all lands on which it retains a permanent conservation easement and submit, in a manner determined by the department, a list of such lands to the department. If a municipality qualifies as a financially disadvantaged small community, it has until July 1, 2019, to complete this requirement.[94]
- Directs the DEP to add the lands on a list submitted by a county or municipality to the database within six months after receiving the list.
- Directs the DEP to update the database at least every five years.
- Authorizes the department to conduct a study on the technical and economic feasibility of including the following lands in the database or a similar public lands inventory:
    - All lands on which local comprehensive plans, land use restrictions, zoning ordinances, or land development regulations prohibit the land from being developed or limit the amount of development to one unit per 40 or more acres;
    - All publicly and privately owned lands for which development rights have been transferred;
    - All privately owned lands under a permanent conservation easement;
    - All lands owned by a nonprofit or nongovernmental organization for conservation purposes; and
    - All lands that are part of a mitigation bank.

[94] Section 403.1838, F.S., defines the term "financially disadvantaged small community as "a municipality that has a population of 10,000 or fewer, according to the latest decennial census and a per capita annual income less than the state per capita annual income as determined by the United States Department of Commerce."

- Requires the DEP to submit a report regarding the study on the technical and economic feasibility of including such lands in the database to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2018.

Florida Forever Program

The bill amends s. 259.01, F.S., to revise the short title for chapter 259, F.S., from the "Land Conservation Act of 1972" to the "Land Conservation Program."

The bill repeals s. 259.02, F.S., relating to the bonding authority for state capital projects for environmentally endangered lands up to $200 million and outdoor recreation lands up to $40 million. The bond issuance has been satisfied.[95]

The bill amends s. 259.105, F.S., to:

- Provide increased priority under Florida Forever for:
  Projects that can be acquired in less than fee ownership such as permanent conservation easements;
  - Projects that contribute to improving quality and quantity of surface water and groundwater; or
  - Projects that contribute to improving the water quality and flow of springs.
- Remove the requirement that where habitat or potentially restorable habitat for imperiled species is located on state lands, the short-term and long-term management goals included in the land management plan must advance the goals and objectives of imperiled species management consistent with the purposes for which the land was acquired without restricting the other uses identified in the management plan. This language was moved to s. 259.032(8)(c), F.S., but the requirement that the goals and objectives of imperiled species management plan be consistent with the purposes for which the land was acquired was removed.
- Requires that the rules adopted by the Department of Agriculture and Consumer Services concerning the application, acquisition, and project ranking process for conservation easements be consistent with the acquisition process provided for in s. 570.715, F.S, rather than s. 259.041, F.S.
- Clarify that an affirmative vote of at least five members of the ARC is required to place a proposed project on the priority list.
- Remove legislative ratification requirements for rules that have been ratified and taken effect.
- Conform cross-references.

The bill amends s. 259.1052, F.S., to delete distribution requirements under Florida Forever relating to the Babcock Crescent B Ranch. This language is obsolete as the acquisition project is completed.

The bill amends ss. 73.015, 125.355, 166.045, 215.82, 215.965, 253.027, 253.7824, 260.015, 260.016, 369.317, 373.139, 375.031, 375.041, 380.05, 380.055, 380.508, 589.07, 944.10, 957.04, 985.682, and 1013.14, F.S., to conform cross-references.

[95] DEP, *Senate Bill 1290 Agency Bill Analysis* (Rev. Jan. 4, 2016) (on file with the Senate Committee on Environmental Preservation and Conservation).

The bill appropriates the sums of $396,040 in recurring funds and $1,370,528 in nonrecurring funds from the General Revenue Fund to the department and authorizes four full-time equivalent positions with associated salary rate of 182,968 to implement the amendments in this bill to ss. 253.034, F.S., along with s. 253.87, F.S.

The bill is effective July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill requires each county and municipality to submit to the DEP a list of all conservation lands owned in fee simple by the entity and lands on which the entity holds a permanent conservation easement. The bill may require counties and municipalities to take actions requiring the expenditure of funds. As a result, the county and municipality mandates provision of Article VII, section 18, of the Florida Constitution may apply. A law having an insignificant fiscal impact is exempt from the requirements of Article VII, section 18, of the Florida Constitution. The cost to counties and municipalities to identify and submit the list to the department is indeterminate at this time. If the cost will have an insignificant fiscal impact the exemption may apply.

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:

Disposition of State Lands

PCS/SB 1290 will have a significant fiscal impact on Department of Environmental Protection (DEP or department) related to the review of whether land managers have met their short-term and long-term goals for nonconservation lands and whether such lands should be offered for surplus. The DEP estimates the need for two additional full-time employees and a total cost of $280,784. These costs include a study to determine the

costs for updating the Integrated Land Management System and the Land Information Tracking System which is needed to implement the requirements of the bill. These costs are estimated to be between $100,000 and $150,000 (see chart on next page).[96]

Disposition of State Lands				
Category/Description	FTE	Recurring	Nonrecurring	Total Costs
Salaries and Benefits	2.0	$110,000	-	$110,000
Expenses		$12,332	$7,764	$20,096
Contracted Services System Upgrades (range from $100,000 to $150,000)			$150,000	$150,000
Transfer to DMS-HR Services-Statewide Contract		$688	-	$688
Total	**2.0**	**$123,020**	**$157,764**	**$280,784**

Florida State-Owned Lands and Records Information System (FL-SOLARIS)

The bill has a significant impact on the department by requiring that all federally owned conservation lands, lands on which the federal government holds a conservation easement, and all lands on which the state holds a conservation easement be included in the FL-SOLARIS. The additional costs total $1,635,784 and include:[97]

- For the federal conservation lands, federal conservation easements, and state conservation easements:
  - One full-time employee to produce the initial data, establish federal contacts to acquire data, and to maintain the system and data;
  - A recurring task order with the Florida Natural Areas Inventory to use its conservation managed land data; and
  - A new FL-SOLARIS Conservation Lands Module for the federal and state data to be designed, tested, and implemented before the data can be loaded.
- For the county and municipality conservation lands and easements:
  - Completion of a new FL-SOLARIS Conservation Lands Module; and
  - One full-time employee to act as liaison to counties and municipalities to produce the initial data, assure compliance, quality control, and maintain the county and municipal conservation data in FL-SOLARIS.

[96] DEP, Senate Bill 1290 Agency Bill Analysis (Rev. Jan. 4, 2016) (on file with the Senate Committee on Environmental Preservation and Conservation).

[97] Id.

The bill also requires the DEP to conduct a study and submit a report on the technical and economic feasibility of including lands within various criteria in FL-SOLARIS. The department estimates that this cost will be $500,000.[98]

FL-SOLARIS				
Category/Description	FTE	Recurring	Nonrecurring	Total Costs
Salaries and Benefits	2.0	$145,000	-	$145,000
Expenses		$12,332	$7,764	$20,096
Contracted Services/System Development and Maintenance*		$95,000	$855,000	$950,000
Contracted Services/ FNAI Data		$20,000	-	$20,000
Contacted Services Feasibility Study			$500,000	$500,000
Transfer to DMS-HR Services-Statewide Contract		$688	-	$688
Total	**2.0**	**$273,020**	**$1,362,764**	**$1,635,784**

The total costs for the additional duties and responsibilities related to the disposition of state lands and changes and expansion of the FL-SOLARIS are four full-time equivalent positions and $1,916,568.

The bill appropriates $396,040 in recurring funds and $1,370,528 in nonrecurring funds from the General Revenue Fund to the Department of Environmental Protection and four full-time equivalent positions with associated salary rate of 182,968 to implement specific provisions of the bill.

The DEP can absorb rulemaking costs using existing resources.

The bill may have an indeterminate negative fiscal impact on counties and municipalities by requiring them to submit to the department a list of all conservation lands owned by the entity and lands on which the entity holds permanent conservation easement.

VI. Technical Deficiencies:

None.

[98] *Id*.

VII. Related Issues:

The bill moves language relating to alternatives to fee simple acquisitions from s. 259.041, F.S., to the newly created s. 253.0251, F.S. The requirement that each applicant within a project application must provide a statement as to why they are seeking full fee simple, rather than using an alternative to fee simple, was moved and revised under the bill to apply to all applications for alternatives to fee simple. With the revision, the language no longer makes sense, see lines 830-834. This provision should be reinstated to the original language and moved to s. 259.105, F.S., relating to the Florida Forever project application requirements.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 253.025, 253.03, 253.031, 253.034, 253.0341, 253.111, 253.42, 253.782, 253.7821, 259.01, 259.032, 259.035, 259.036, 259.037, 259.041, 259.047, 259.101, 259.105, 259.1052, 373.089, 73.015, 125.355, 166.045, 215.82, 215.965, 253.027, 253.7824, 260.015, 260.016, 369.317, 373.139, 375.031, 375.041, 380.05, 380.055, 380.508, 589.07, 944.10, 957.04, 985.682, and 1013.14.

This bill creates the following sections of the Florida Statutes: 253.0251, 253.87, 570.715.

This bill repeals section 259.02 of the Florida Statutes.

IX. Additional Information:

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

Recommended CS by Appropriations Subcommittee on General Government on February 24, 2016:
The committee substitute:

- Requires the Department of Agriculture and Consumer Services to implement initiatives for using alternatives to fee simple acquisitions; to educate private landowners about such alternatives; and to follow specified acquisition procedures when using such alternatives.
- Authorizes the Department of Environmental Protection to review whether the short-term goals stated in a land management plan should be modified when a leasing or managing entity is not meeting such goals.
- Clarifies that reviews of land management plans must include identification for surplusing purposes of any conservation lands that are no longer needed for conservation purposes, rather than identify conservation lands to surplus.
- Authorizes state nonconservation lands to be grouped by similar land use type under one land use plan.
- Removes language requiring the Division to conduct additional 10-year reviews of state-owned lands.
- Removes the priority provided to state universities and Florida College institutions to lease a facility or parcel of land that is being offered for lease or sale. State agencies retain this priority, but it is limited to when a facility or parcel is being offered for lease.

- Requires that ARC provide recommendations on each request to exchange interests in private land for adjacent public lands as authorized under the bill.
- Removes the requirement that the board, before they are authorized to sell any land to which they hold title, must provide notice and afford an opportunity to a county in which the land is situated to receive such lands before the board is authorized to sell such land.
- Removes the revision to the definition of the term "water resource development project."
- Makes revisions throughout the bill to require that conservation lands be managed for conservation and/or recreation, consistent with the land management plan.
- Revises the noticing requirements for a water management district when selling or exchanging lands and provides an expedited process for selling surplus lands that are valued at $25,000 or less.
- Adds an appropriation, positions, and salary rate.

B. Amendments:

None.

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576-04152A-16

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on General Government)

A bill to be entitled

An act relating to state lands; amending s. 253.025, F.S.; authorizing the Board of Trustees of the Internal Improvement Trust Fund to waive certain requirements and rules and substitute procedures relating to the acquisition of state lands under certain conditions; providing that title to certain acquired lands are vested in the board; providing for the administration of such lands; authorizing the board to adopt specified rules; revising requirements for the appraisal of lands proposed for acquisition; requiring an agency proposing an acquisition to pay the associated costs; deleting provisions directing the board to approve qualified fee appraisal organizations; requiring fee appraisers to submit certain affidavits to an agency before contracting with a participant in a multiparty agreement; prohibiting fee appraisers from negotiating with property owners; revising the minimum survey standards incorporated by reference for conducting certified surveys; authorizing the disclosure of confidential appraisal reports under certain conditions; providing for public agencies and nonprofit organizations to enter into written agreements with the Department of Environmental Protection rather than the Division of State Lands to purchase and hold property for subsequent resale to the board rather than the

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division; revising the definition of the term "nonprofit organization"; directing the board to adopt by rule the method for determining the value of parcels sought to be acquired by state agencies; providing requirements for such acquisitions; expanding the scope of real estate acquisition services for which the board and state agencies may contract; authorizing the Department of Environmental Protection to use outside counsel to review any agreements or documents or to perform acquisition closings under certain conditions; requiring state agencies to furnish the Department of Environmental Protection rather than the Division of State Lands with specified acquisition documents; providing that the purchase price of certain parcels is not subject to an increase or decrease as a result of certain circumstances; authorizing the board of trustees to direct the Department of Environmental Protection to exercise eminent domain for the acquisition of certain conservation parcels under certain circumstances; authorizing the Department of Environmental Protection to exercise condemnation authority directly or by contracting with the Department of Transportation or a water management district to provide such service; authorizing the board of trustees to direct the Department of Environmental Protection to purchase lands on an immediate basis using specified funds; authorizing the board of trustees to waive or modify all procedures required for such land acquisition;


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providing that title to certain lands held jointly by the board of trustees and a water management district meet the standards necessary for ownership by the board; creating s. 253.0251, F.S.; providing for the use of alternatives to fee simple acquisition for land purchases by the Department of Environmental Protection, the Department of Agriculture and Consumer Services, and water management districts; amending s. 253.03, F.S.; deleting provisions directing the board of trustees to adopt by rule an annual administrative fee for certain leases and similar instruments; revising the criteria by which specified structures have the right to continue submerged land leases; directing the board of trustees to adopt by rule an annual administrative fee for certain leases and instruments; authorizing nonwater-dependent uses for submerged lands; amending s. 253.031, F.S.; providing for the Department of Environmental Protection to maintain documents concerning all state lands; deleting an obsolete provision; amending s. 253.034, F.S.; authorizing the Department of Environmental Protection to submit certain state-owned lands to the Acquisition and Restoration Council or board of trustees for review and consideration; requiring that all nonconservation land use plans are managed to provide the greatest benefit to the state; deleting provisions requiring an analysis of natural or cultural resources as part of a nonconservation land use plan; specifying that certain management and


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short-term and long-term goals for the conservation of plant and animal species apply to conservation lands; providing conditions under which the Secretary of Environmental Protection, Commissioner of Agriculture, or executive director of the Fish and Wildlife Conservation Commission or their designees are required to submit land management plans to the board of trustees; requiring that updated land management plans identify conservation lands that are no longer needed for conservation purposes; deleting provisions directing the board of trustees to make certain determinations regarding the surplus and disposition of state lands; deleting provisions requiring that buildings and parcels of land be offered for lease to state agencies, state universities, and Florida College System institutions before being offered for lease or sale to a local or federal unit of government or a private party; amending s. 253.0341, F.S.; deleting provisions authorizing counties and local governments to submit requests for the surplus of state-owned lands and requiring that such requests be expedited; directing the board of trustees to make certain determinations regarding the surplus and disposition of state lands; providing that lands acquired before a certain date using specified proceeds are deemed to have been acquired for conservation purposes; providing that certain lands used by the Department of Corrections, the Department of Management Services, and the Department of

Transportation may not be designated as lands acquired for conservation purposes; requiring updated land management plans to identify conservation and nonconservation lands that are no longer used for the purposes for which they were originally leased and that could be disposed of; deleting an obsolete provision; requiring that facilities and nonconservation parcels of land be offered for lease to state agencies before being offered for lease to a local or federal unit of government, state university, Florida College System institution, or private party; providing for the valuation and disposition of surplus lands; providing for the deposit of proceeds from the sale of such lands; authorizing the board of trustees to adopt rules; requiring surplus lands conveyed to a local government for affordable housing to be disposed of by the local government; amending s. 253.111, F.S.; deleting provisions requiring the board of trustees to afford an opportunity to local governments to purchase certain state-owned lands; revising provisions relating to the rights of riparian owners to secure certain state-owned lands; amending s. 253.42, F.S.; authorizing individuals or entities to submit requests to the Division of State Lands to exchange state-owned land for privately held land; requiring the state to retain permanent conservation easements over the state-owned land and all or a portion of the privately held land; requiring the division, under certain circumstances, to submit requests to the Acquisition

and Restoration Council for review and recommendation and to the board of trustees with recommendations from the division and the council; providing applicability; directing the board of trustees to consider a request if certain conditions are met; providing special consideration for certain requests; providing that such lands are subject to inspection; amending s. 253.782, F.S.; deleting a provision directing the Department of Environmental Protection to retain ownership of and maintain lands or interests in land owned by the board of trustees; amending s. 253.7821, F.S.; assigning the Cross Florida Greenways State Recreation and Conservation Area to the Department of Environmental Protection rather than the Office of Greenways Management within the Office of the Secretary; creating s. 253.87, F.S.; directing the Department of Environmental Protection to include certain county, municipal, state, and federal lands in the Florida State-Owned Lands and Records Information System (FL-SOLARIS) database and to update the database at specified intervals; requiring counties, municipalities, and financially disadvantaged small communities to submit a list of certain lands to the department by a specified date and at specified intervals; directing the department to conduct a study and submit a report to the Governor and the Legislature on the technical and economic feasibility of including certain lands in the database or a similar public lands inventory; amending s. 259.01,

F.S.; renaming the "Land Conservation Act of 1972" as the "Land Conservation Program"; repealing s. 259.02, F.S., relating to issuance of state bonds for certain land projects; amending s. 259.032, F.S.; conforming cross-references; revising provisions relating to the management of conservation and recreation lands to conform with changes made by the act; revising duties of the Acquisition and Restoration Council; amending s. 259.035, F.S.; requiring recipients of funds from the Land Acquisition Trust Fund to annually report certain performance measures to the Department of Environmental Protection rather than the Division of State Lands; amending s. 259.036, F.S.; revising the composition of the regional land management review team; providing for the Department of Environmental Protection rather than the Division of State Lands to act as the review team coordinator; revising requirements for conservation and recreation land management reviews and plans; amending s. 259.037, F.S.; removing the director of the Office of Greenways and Trails from the Land Management Uniform Accounting Council; repealing s. 259.041(1)-(6) and (8)-(19), F.S., relating to the acquisition of state-owned lands for preservation, conservation, and recreation purposes; amending s. 259.047, F.S.; revising provisions relating to the acquisition of land on which an agricultural lease exists to conform with changes made by the act; amending s. 259.101, F.S.; conforming cross-references; revising provisions

relating to alternate use of lands acquired under the Florida Preservation 2000 Act to conform with changes made by the act; deleting provisions for alternatives to fee simple acquisition of such lands to conform with changes made by the act; amending s. 259.105, F.S.; deleting provisions requiring the advancement of certain goals and objectives of imperiled species management on state lands to conform with changes made by the act; conforming cross-references; revising provisions directing the Acquisition and Restoration Council to give increased priority to certain projects when developing proposed rules relating to Florida Forever funding and additions to the Conservation and Recreation Lands list; deleting provisions requiring that such rules be submitted to the Legislature for review; amending s. 259.1052, F.S.; deleting provisions authorizing the Department of Environmental Protection to distribute revenues from the Florida Forever Trust Fund for the acquisition of a portion of Babcock Crescent B Ranch; creating s. 570.715, F.S., and transferring, renumbering, and amending s. 259.04(7), F.S.; providing procedures for the acquisition of conservation easements by the Department of Agriculture and Consumer Services; amending s. 373.089, F.S.; extending the timeframe within which a certified appraisal may be obtained for parcels of land to be sold as surplus; providing an additional exception to the requirement that the governing board first offer title to certain lands;

revising the procedures a water management district must follow for publishing a notice of intention to sell surplus lands; providing an exception from such notice requirements if a parcel of land is valued below a certain threshold; authorizing such parcels to be sold directly to the highest bidder; amending ss. 73.015, 125.355, 166.045, 215.82, 215.965, 253.027, 253.7824, 260.015, 260.016, 369.317, 373.139, 375.031, 375.041, 380.05, 380.055, 380.508, 589.07, 944.10, 957.04, 985.682, and 1013.14, F.S.; conforming cross-references; providing an appropriation and authorizing positions; providing an effective date.

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

Section 1. Section 253.025, Florida Statutes, is amended to read:

253.025 Acquisition of state lands ~~for purposes other than preservation, conservation, and recreation~~.—

(1)(a) ~~Neither~~ The Board of Trustees of the Internal Improvement Trust Fund or ~~nor~~ its duly authorized agent may not ~~shall~~ commit the state, through any instrument of negotiated contract or agreement for purchase, to the purchase of lands with or without appurtenances unless ~~the provisions of~~ this section has ~~have~~ been fully complied with.

(b) Except for the requirements of subsections (4), (11), and (22), if the public's interest is reasonably protected, the board of trustees may:

1. Waive any requirements of this section.

2. Waive any rules adopted pursuant to this section, notwithstanding chapter 120.

3. Substitute other reasonably prudent procedures.

(c) ~~However,~~ The board of trustees may also substitute federally mandated acquisition procedures for the provisions of this section if ~~when~~ federal funds are available and will be used ~~utilized~~ for the purchase of lands, title to which will vest in the board of trustees, and qualification for such federal funds requires compliance with federally mandated acquisition procedures.

(d) Notwithstanding ~~any provisions in~~ this section ~~to the contrary~~, if lands are being acquired by the board of trustees for the anticipated sale, conveyance, or transfer to the Federal Government pursuant to a joint state and federal acquisition project, the board of trustees may use appraisals obtained by the Federal Government in the acquisition of such lands. The board of trustees may waive any provision of this section when land is being conveyed from a state agency to the board.

(e) The title to lands acquired pursuant to this section shall vest in the board of trustees pursuant to s. 253.03(1) unless otherwise provided by law, and all such titled lands shall be administered pursuant to s. 253.03.

(2) Before ~~Prior to~~ any state agency initiates ~~initiating~~ any land acquisition, except for ~~as pertains to~~ the purchase of property for transportation facilities and transportation corridors and property for borrow pits for road building purposes, the agency shall coordinate with the Division of State Lands to determine the availability of existing, suitable state-owned lands in the area and the public purpose for which the

acquisition is being proposed. If the state agency determines that no suitable state-owned lands exist, the state agency may proceed to acquire such lands by employing all available statutory authority for acquisition.

(3) The board of trustees is authorized to adopt rules to implement this section, including rules governing the terms and conditions of land purchases. The rules shall address, with specificity, but need not be limited to:

(a) The procedures to be followed in the acquisition process, including selection of appraisers, surveyors, title agents, and closing agents, and the content of appraisal reports.

(b) The determination of the value of parcels which the state has an interest in acquiring.

(c) Special requirements when multiple landowners are involved in an acquisition.

(d) Requirements for obtaining written option agreements so that the interests of the state are fully protected.

(4) An agreement to acquire real property for the purposes described in this chapter, chapter 259, chapter 260, or chapter 375, title to which will vest in the board of trustees, may not bind the state before the agreement is reviewed and approved by the Department of Environmental Protection as complying with this section and any rules adopted pursuant to this section. If any of the following conditions exist, the agreement shall be submitted to and approved by the board of trustees:

(a) The purchase price agreed to by the seller exceeds the value as established pursuant to the rules of the board of trustees;

(b) The contract price agreed to by the seller and the acquiring agency exceeds $1 million;

(c) The acquisition is the initial purchase in a Florida Forever project; or

(d) Other conditions that the board of trustees may adopt by rule. Such conditions may include, but are not limited to, Florida Forever projects when title to the property being acquired is considered nonmarketable or is encumbered in such a way as to significantly affect its management.

If approval of the board of trustees is required pursuant to this subsection, the acquiring agency must provide a justification as to why it is in the public's interest to acquire the parcel or Florida Forever project. Approval of the board of trustees is also required for Florida Forever projects the department recommends acquiring pursuant to subsections (11) and (22). Review and approval of agreements for acquisitions for Florida Greenways and Trails Program properties pursuant to chapter 260 may be waived by the department in any contract with nonprofit corporations that have agreed to assist the department with this program. If the contribution of the acquiring agency exceeds $100 million in any one fiscal year, the agreement shall be submitted to and approved by the Legislative Budget Commission.

(5) ~~(3)~~ Land acquisition procedures provided for in this section are for voluntary, negotiated acquisitions.

(6) ~~(4)~~ For the purposes of this section, the term "negotiations" does not include preliminary contacts with the property owner to determine the availability of the property,

existing appraisal data, existing abstracts, and surveys.

(7) ~~(5)~~ Evidence of marketable title shall be provided by the landowner before ~~prior to~~ the conveyance of title, as provided in the final agreement for purchase. Such evidence of marketability shall be in the form of title insurance or an abstract of title with a title opinion. The board of trustees may waive the requirement that the landowner provide evidence of marketable title, and, in such case, the acquiring agency shall provide evidence of marketable title. The board of trustees or its designee may waive the requirement of evidence of marketability for acquisitions of property assessed by the county property appraiser at $10,000 or less, if ~~where~~ the Division of State Lands finds, based upon such review of the title records as is reasonable under the circumstances, that there is no apparent impediment to marketability, or to management of the property by the state.

(8) ~~(6)~~ Before approval by the board of trustees, or, when applicable, the Department of Environmental Protection, of any agreement to purchase land pursuant to this chapter, chapter 259, chapter 260, or chapter 375, and before ~~Prior to~~ negotiations with the parcel owner to purchase any other land ~~pursuant to this section~~, title to which will vest in the board of trustees, an appraisal of the parcel shall be required as follows:

(a) The board of trustees shall adopt by rule the method for determining the value of parcels sought to be acquired by state agencies pursuant to this section.

(b) ~~(a)~~ Each parcel to be acquired shall have at least one appraisal. Two appraisals are required when the estimated value

of the parcel exceeds $1 million. However, if both appraisals exceed $1 million and differ significantly, a third appraisal may be obtained. If ~~When~~ a parcel is estimated to be worth $100,000 or less and the director of the Division of State Lands finds that the cost of an outside appraisal is not justified, a comparable sales analysis, an appraisal prepared by the division, or other reasonably prudent procedures may be used by the division to estimate the value of the parcel, provided the public's interest is reasonably protected. The state is not required to appraise the value of lands and appurtenances that are being donated to the state.

(c) ~~(b)~~ Appraisal fees and associated costs shall be paid by the agency proposing the acquisition. ~~The board of trustees shall approve qualified fee appraisal organizations.~~ All appraisals used for the acquisition of lands pursuant to this section shall be prepared by a ~~member of an approved appraisal organization or by a~~ state-certified appraiser. The board of trustees shall adopt rules for selecting individuals to perform appraisals pursuant to this section. Each fee appraiser selected to appraise a particular parcel shall, before ~~prior to~~ contracting with the agency or a participant in a multiparty agreement, submit to the ~~that~~ agency an affidavit substantiating that he or she has no vested or fiduciary interest in such parcel.

(d) The fee appraiser and the review appraiser for the agency may not act in any manner that may be construed as negotiating with the owner of a parcel proposed for acquisition.

(e) ~~(c)~~ The board of trustees shall adopt by rule the minimum criteria, techniques, and methods to be used in the

preparation of appraisal reports. Such rules shall incorporate, to the extent practicable, generally accepted appraisal standards. Any appraisal issued for acquisition of lands pursuant to this section must comply with the rules adopted by the board of trustees. A certified survey must be made which meets the minimum requirements for upland parcels established in the ~~Minimum Technical~~ Standards of Practice for Land Surveying in Florida published by the Department of Agriculture and Consumer Services ~~Business and Professional Regulation~~ and which accurately portrays, to the greatest extent practicable, the condition of the parcel as it currently exists. The requirement for a certified survey may, in part or in whole, be waived by the board of trustees any time before ~~prior to~~ submitting the agreement for purchase to the Division of State Lands. When an existing boundary map and description of a parcel are determined by the division to be sufficient for appraisal purposes, the division director may temporarily waive the requirement for a survey until any time before ~~prior to~~ conveyance of title to the parcel. ~~The fee appraiser and the review appraiser for the agency shall not act in any way that may be construed as negotiating with the property owner.~~

(f) ~~(d)~~ Appraisal reports are confidential and exempt from ~~the provisions of~~ s. 119.07(1), for use by the agency and the board of trustees, until an option contract is executed or, if no option contract is executed, until 2 weeks before a contract or agreement for purchase is considered for approval by the board of trustees. The Department of Environmental Protection may disclose appraisal reports to private landowners during negotiations for acquisitions using alternatives to fee simple

techniques, if the department determines that disclosure of such reports will bring the proposed acquisition to closure. However, the private landowner must agree to maintain the confidentiality of the reports or information. ~~However,~~ The department ~~Division of State Lands~~ may also disclose appraisal information to public agencies or nonprofit organizations that agree to maintain the confidentiality of the reports or information when joint acquisition of property is contemplated, or when a public agency or nonprofit organization enters into a written agreement with the department ~~division~~ to purchase and hold property for subsequent resale to the board of trustees ~~division~~. In addition, the department ~~division~~ may use, as its own, appraisals obtained by a public agency or nonprofit organization, if ~~provided~~ the appraiser is selected from the department's ~~division's~~ list of appraisers and the appraisal is reviewed and approved by the department ~~division~~. For ~~the~~ purposes of this paragraph, the term "nonprofit organization" means an organization that ~~whose purpose is the preservation of natural resources, and which~~ is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code and, for purposes of the acquisition of conservation lands, an organization whose purpose must include the preservation of natural resources. The agency may release an appraisal report when the passage of time has rendered the conclusions of value in the report invalid or when the acquiring agency has terminated negotiations.

(g) ~~(c)~~ Before ~~Prior to~~ acceptance of an appraisal, the agency shall submit a copy of such report to the division ~~of State Lands~~. The division shall review such report for

compliance with the rules of the board ~~of trustees~~. Any questions of applicability of laws affecting an appraisal shall be addressed by the legal office of the agency.

(h) ~~(f)~~ The appraisal report shall be accompanied by the sales history of the parcel for at least the previous ~~prior~~ 5 years. Such sales history shall include all parties and considerations with the amount of consideration verified, if possible. If a sales history would not be useful, or it is ~~its~~ cost prohibitive compared to the value of a parcel, the sales history may be waived by the board of trustees. The board of trustees shall adopt a rule specifying guidelines for waiver of a sales history.

(i) ~~(g)~~ The board of trustees may consider an appraisal acquired by a seller, or any part thereof, in negotiating to purchase a parcel, but such appraisal may not be used in lieu of an appraisal required by this subsection or to determine the maximum offer allowed by law.

(j)1. The board of trustees shall adopt by rule the method for determining the value of parcels sought to be acquired by state agencies pursuant to this section. An offer by a state agency may not exceed the value for that parcel as determined pursuant to the highest approved appraisal or the value determined pursuant to the rules of the board of trustees, whichever value is less.

2. For a joint acquisition by a state agency and a local government or other entity apart from the state, the joint purchase price may not exceed 150 percent of the value for a parcel as determined in accordance with the limits in subparagraph 1. The state agency share of a joint purchase offer

may not exceed what the agency may offer singly pursuant to subparagraph 1.

3. This paragraph does not apply to the acquisition of historically unique or significant property as determined by the Division of Historical Resources of the Department of State.

Notwithstanding this subsection, on behalf of the board of trustees and before the appraisal of parcels approved for purchase under this chapter or chapter 259, the Secretary of Environmental Protection or the director of the Division of State Lands may enter into option contracts to buy such parcels. Any such option contract shall state that the final purchase price is subject to approval by the board of trustees or, if applicable, the Secretary of Environmental Protection, and that the final purchase price may not exceed the maximum offer allowed by law. Any such option contract presented to the board of trustees for final purchase price approval shall explicitly state that payment of the final purchase price is subject to an appropriation from the Legislature. The consideration for such an option may not exceed $1,000 or 0.01 percent of the estimate by the department of the value of the parcel, whichever amount is greater.

(9) ~~(7)~~ (a) When the owner is represented by an agent or broker, negotiations may not be initiated or continued until a written statement verifying such agent’s or broker’s legal or fiduciary relationship with the owner is on file with the agency.

(b) The board of trustees or any state agency may contract for real estate acquisition services, including, but not limited

to, contracts for real estate commission fees, surveying, mapping, environmental audits, title work, and legal and other professional assistance to review acquisition agreements and other documents and to perform acquisition closings. However, the Department of Environmental Protection may use outside counsel to review any agreements or documents or to perform acquisition closings unless department staff can conduct the same activity in 15 days or less.

(c) Upon the initiation of negotiations, the state agency shall inform the owner in writing that all agreements for purchase are subject to approval by the board of trustees.

(d) All offers or counteroffers shall be documented in writing and shall be confidential and exempt from ~~the provisions of~~ s. 119.07(1) until an option contract is executed, or if no option contract is executed, until 2 weeks before a contract or agreement for purchase is considered for approval by the board of trustees. The agency shall maintain complete and accurate records of all offers and counteroffers for all projects.

~~(c)1. The board of trustees shall adopt by rule the method for determining the value of parcels sought to be acquired by state agencies pursuant to this section. No offer by a state agency, except an offer by an agency acquiring lands pursuant to s. 259.041, may exceed the value for that parcel as determined pursuant to the highest approved appraisal or the value determined pursuant to the rules of the board of trustees, whichever value is less.~~

~~2. In the case of a joint acquisition by a state agency and a local government or other entity apart from the state, the joint purchase price may not exceed 150 percent of the value for~~

~~a parcel as determined in accordance with the limits prescribed in subparagraph 1. The state agency share of a joint purchase offer may not exceed what the agency may offer singly as prescribed by subparagraph 1.~~

~~3. The provisions of this paragraph do not apply to the acquisition of historically unique or significant property as determined by the Division of Historical Resources of the Department of State.~~

(e)~~(f)~~ When making an offer to a landowner, a state agency shall consider the desirability of a single cash payment in relation to the maximum offer allowed by law.

(f)~~(g)~~ The state shall have the authority to reimburse the owner for the cost of the survey when deemed appropriate. The reimbursement is ~~shall~~ not ~~be~~ considered a part of the purchase price.

(g)~~(h)~~ A final offer shall be in the form of an option contract or agreement for purchase and shall be signed and attested to by the owner and the representative of the agency. Before the agency executes the option contract or agreement for purchase, the contract or agreement shall be reviewed for form and legality by legal staff of the agency. Before the agency signs the agreement for purchase or exercises the option contract, the provisions of s. 286.23 shall be complied with. Within 10 days after the signing of the agreement for purchase, the state agency shall furnish the Department of Environmental Protection ~~Division of State Lands~~ with the original of the agreement for purchase along with copies of the disclosure notice, evidence of marketability, the accepted appraisal report, the fee appraiser’s affidavit, a statement that the

inventory of existing state-owned lands was examined and contained no available suitable land in the area, and a statement outlining the public purpose for which the acquisition is being made and the statutory authority therefor.

(h) ~~(i)~~ Within 45 days after ~~of~~ receipt by the Department of Environmental Protection ~~Division of State Lands~~ of the agreement for purchase and the required documentation, the board of trustees or, if ~~when~~ the purchase price does not exceed $100,000, its designee shall ~~either~~ reject or approve the agreement. An approved agreement for purchase is binding on both parties. Any agreement which has been disapproved shall be returned to the agency, along with a statement as to the deficiencies of the agreement or the supporting documentation. An agreement for purchase which has been disapproved by the board of trustees may be resubmitted when such deficiencies have been corrected.

(10) ~~(8)~~ (a) A ~~No~~ dedication, gift, grant, or bequest of lands and appurtenances may not be accepted by the board of trustees until the receiving state agency supplies sufficient evidence of marketability of title. The board of trustees may not accept by dedication, gift, grant, or bequest any lands and appurtenances that are determined as being owned by the state ~~either~~ in fee or by virtue of the state's sovereignty or which are so encumbered so as to preclude the use of such lands and appurtenances for any reasonable public purpose. The board of trustees may accept a dedication, gift, grant, or bequest of lands and appurtenances without formal evidence of marketability, or when the title is nonmarketable, if the board or its designee determines that such lands and appurtenances

have value and are reasonably manageable by the state, and that their acceptance would serve the public interest. The state is not required to appraise the value of such donated lands and appurtenances as a condition of receipt.

(b) A ~~No~~ deed filed in the public records to donate lands to the board of trustees does not ~~of the Internal Improvement Trust Fund shall be construed to~~ transfer title to or vest title in the board of trustees unless ~~there shall also be filed in the public records,~~ a document indicating that the board of trustees has agreed to accept the transfer of title to such donated lands is also filed in the public records.

(c) Notwithstanding any other provision of law, the maximum value of a parcel to be purchased by the board of trustees as determined by the highest approved appraisal or as determined pursuant to the rules of the board of trustees may not be increased or decreased as a result of a change in zoning or permitted land uses, or changes in market forces or prices that occur within 1 year after the date the Department of Environmental Protection or the board of trustees approves a contract to purchase the parcel.

(11) Notwithstanding this section, the board of trustees, by an affirmative vote of at least three members, voting at a regularly scheduled and advertised meeting, may direct the Department of Environmental Protection to exercise the power of eminent domain pursuant to chapters 73 and 74 to acquire any conservation parcel identified on the acquisition list established by the Acquisition and Restoration Council and approved by the board of trustees pursuant to chapter 259. However, the board of trustees may only make such a vote under

the following circumstances:

(a) The state has made at least two bona fide offers to purchase the land through negotiation and, notwithstanding those offers, an impasse between the state and the landowner was reached.

(b) The land is of special importance to the state because of one or more of the following reasons:

1. It involves an endangered or natural resource and is in imminent danger of development.

2. It is of unique value to the state and the failure to acquire it will result in irreparable loss to the state.

3. The failure of the state to acquire it will seriously impair the state's ability to manage or protect other state-owned lands.

Pursuant to this subsection, the department may exercise condemnation authority directly or by contracting with the Department of Transportation or a water management district to provide that service. If the Department of Transportation or a water management district enters into such a contract with the department, the Department of Transportation or a water management district may use statutorily approved methods and procedures ordinarily used by the agency for condemnation purposes.

(12) ~~(9)~~ Any conveyance to the board of trustees of fee title shall be made by no less than a special warranty deed, unless the conveyance is from the Federal Government, the county government, or another state agency or, in the event of a gift or donation by quitclaim deed, if the board of trustees, or its

designee, determines that the acceptance of such quitclaim deed is in the best interest of the public. A quitclaim deed may also be accepted to aid in clearing title or boundary questions. ~~The title to lands acquired pursuant to this section shall vest in the board of trustees as provided in s. 253.03(1). All such lands, title to which is vested in the board pursuant to this section, shall be administered pursuant to the provisions of s. 253.03.~~

(13) ~~(10)~~ The board of trustees may purchase tax certificates or tax deeds issued in accordance with chapter 197 relating to property eligible for purchase under this section.

(14) ~~(11)~~ The Auditor General shall conduct audits of acquisitions and divestitures which, according to his or her preliminary assessments of board-approved acquisitions and divestitures, he or she deems necessary. These preliminary assessments shall be initiated not later than 60 days after ~~following~~ the board of trustees' final approval ~~by the board~~ of land acquisitions under this section. If an audit is conducted, the Auditor General shall submit an audit report to the board of trustees, the President of the Senate, the Speaker of the House of Representatives, and their designees.

(15) ~~(12)~~ The board of trustees and all affected agencies shall adopt and may modify or repeal such rules and regulations as are necessary to carry out ~~the purposes of~~ this section, including rules governing the terms and conditions of land purchases. Such rules shall address the procedures to be followed, when multiple landowners are involved in an acquisition, in obtaining written option agreements so that the interests of the state are fully protected.

(16)~~(13)~~(a) The board of trustees ~~of the Internal Improvement Trust Fund~~ may deed property to the Department of Agriculture and Consumer Services, so that the Department of Agriculture and Consumer Services is ~~department shall be~~ able to sell, convey, transfer, exchange, trade, or purchase land on which a forestry facility resides for money or other more suitable property on which to relocate the facility. Any sale or purchase of property by the Department of Agriculture and Consumer Services shall follow the requirements of subsections (7)-(10) and (12) ~~(5)-(9)~~. Any sale shall be at fair market value, and any trade shall ensure that the state is getting at least an equal value for the property. Except as provided in subsections (7)-(10) and (12) ~~(5)-(9)~~, the Department of Agriculture and Consumer Services is excluded from following the provisions of this chapter and chapters 259 and 375. This exclusion does ~~shall~~ not apply to lands acquired for conservation purposes in accordance with s. 253.0341(1) or (2) ~~253.034(6)(a) or (b)~~.

(b) In the case of a sale by the Department of Agriculture and Consumer Services of a forestry facility, the proceeds of the sale shall be deposited ~~go~~ into the Department of Agriculture and Consumer Services Incidental Trust Fund. The Legislature may, at the request of the Department of Agriculture and Consumer Services ~~department~~, appropriate such money within the trust fund to the Department of Agriculture and Consumer Services ~~department~~ for purchase of land and construction of a facility to replace the disposed facility. All proceeds other than land from any sale, conveyance, exchange, trade, or transfer conducted pursuant to ~~as provided for in~~ this

subsection shall be deposited into ~~placed within~~ the Department of Agriculture and Consumer Services ~~department's~~ Incidental Trust Fund.

(c) Additional funds may be added from time to time by the Legislature to further the relocation and construction of forestry facilities. If ~~In the instance where~~ an equal trade of land occurs, money from the trust fund may be appropriated for building construction even though no money was received from the trade.

(17)~~(14)~~ Any agency that acquires land on behalf of the board of trustees is authorized to request disbursement of payments for real estate closings in accordance with a written authorization from an ultimate beneficiary to allow a third party authorized by law to receive such payment provided the Chief Financial Officer determines that such disbursement is consistent with good business practices and can be completed in a manner minimizing costs and risks to the state.

(18)~~(15)~~ Pursuant to s. 944.10, the Department of Corrections is responsible for obtaining appraisals and entering into option agreements and agreements for the purchase of state correctional facility sites. An option agreement or agreement for purchase is not binding upon the state until it is approved by the board of trustees ~~of the Internal Improvement Trust Fund~~. The provisions of paragraphs (8)(c), (e), and (f) and (9)(b), (c), and (d) ~~(6)(b), (c), and (d) and (7)(b), (c), and (d)~~ apply to all appraisals, offers, and counteroffers of the Department of Corrections for state correctional facility sites.

(19)~~(16)~~ Many parcels of land acquired pursuant to this section may contain cattle-dipping vats as defined in s.

376.301. The state is encouraged to continue with the acquisition of such lands, including any ~~the~~ cattle-dipping vats ~~vat~~.

(20)~~(17)~~ Pursuant to s. 985.682, the Department of Juvenile Justice is responsible for obtaining appraisals and entering into option agreements and agreements for the purchase of state juvenile justice facility sites. An option agreement or agreement for purchase is not binding upon the state until it is approved by the board of trustees ~~of the Internal Improvement Trust Fund~~. The provisions of paragraphs (8)(c), (e), and (f) and (9)(b), (c), and (d) ~~(6)(b), (c), and (d) and (7)(b), (c), and (d)~~ apply to all appraisals, offers, and counteroffers of the Department of Juvenile Justice for state juvenile justice facility sites.

(21)~~(18)~~ The board of trustees may acquire, pursuant to s. 288.980(2)(b), nonconservation lands from the annual list submitted by the Department of Economic Opportunity for the purpose of buffering a military installation against encroachment.

(22) The board of trustees, by an affirmative vote of at least three members, may direct the department to purchase lands on an immediate basis using up to 15 percent of the funds allocated to the department pursuant to s. 259.105 for the acquisition of lands that:

(a) Are listed or placed at auction by the Federal Government as part of the Resolution Trust Corporation sale of lands from failed savings and loan associations;

(b) Are listed or placed at auction by the Federal Government as part of the Federal Deposit Insurance Corporation

sale of lands from failed banks; or

(c) Will be developed or otherwise lost to potential public ownership, or for which federal matching funds will be lost, by the time the land can be purchased under the program within which the land is listed for acquisition.

For such acquisitions, the board of trustees may waive or modify all procedures required for land acquisition pursuant to this chapter and all competitive bid procedures required pursuant to chapters 255 and 287. Lands acquired pursuant to this subsection must, at the time of purchase, be on one of the acquisition lists established pursuant to chapter 259, or be essential for water resource development, protection, or restoration, or a significant portion of the lands must contain natural communities or plant or animal species that are listed by the Florida Natural Areas Inventory as critically imperiled, imperiled, or rare, or as excellent quality occurrences of natural communities.

(23) Title to lands to be held jointly by the board of trustees and a water management district and acquired pursuant to s. 373.139 may be deemed to meet the standards necessary for ownership by the board of trustees, notwithstanding this section or related rules.

Section 2. Section 253.0251, Florida Statutes, is created to read:

253.0251 Alternatives to fee simple acquisition.—

(1) The Legislature finds that:

(a) With the increasing pressures on the natural areas of this state and on open space suitable for recreational use, the

state must develop creative techniques to maximize the use of acquisition and management funds.

(b) The state's conservation and recreational land acquisition agencies should be encouraged to augment their traditional, fee simple acquisition programs with the use of alternatives to fee simple acquisition techniques. In addition, the Legislature finds that generations of private landowners have been good stewards of their land, protecting or restoring native habitats and ecosystems to the benefit of the natural resources of this state, its heritage, and its citizens. The Legislature also finds that using alternatives to fee simple acquisition by public land acquisition agencies will achieve the following public policy goals:

1. Allow more lands to be brought under public protection for preservation, conservation, and recreational purposes with less expenditure of public funds.

2. Retain, on local government tax rolls, some portion of or interest in lands which are under public protection.

3. Reduce long-term management costs by allowing private property owners to continue acting as stewards of their land, when appropriate.

Therefore, it is the intent of the Legislature that public land acquisition agencies develop programs to pursue alternatives to fee simple acquisition and to educate private landowners about such alternatives and the benefits of such alternatives. It is also the intent of the Legislature that a portion of the shares of Florida Forever bond proceeds be used to purchase eligible properties using alternatives to fee simple acquisition.

(2) All applications for alternatives to fee simple acquisition projects shall identify, within their acquisition plans, projects that require a full fee simple interest to achieve the public policy goals, together with the reasons full title is determined to be necessary. The state agencies and the water management districts may use alternatives to fee simple acquisition to bring the remaining projects in their acquisition plans under public protection. For purposes of this section, the phrase "alternatives to fee simple acquisition" includes, but is not limited to, purchase of development rights; obtaining conservation easements; obtaining flowage easements; purchase of timber rights, mineral rights, or hunting rights; purchase of agricultural interests or silvicultural interests; fee simple acquisitions with reservations; creating life estates; or any other acquisition technique that achieves the public policy goals listed in subsection (1). It is presumed that a private landowner retains the full range of uses for all the rights or interests in the landowner's land which are not specifically acquired by the public agency. The lands upon which hunting rights are specifically acquired pursuant to this section shall be available for hunting in accordance with the management plan or hunting regulations adopted by the Fish and Wildlife Conservation Commission, unless the hunting rights are purchased specifically to protect activities on adjacent lands.

(3) When developing the acquisition plan pursuant to s. 259.105, the Acquisition and Restoration Council may give preference to those less than fee simple acquisitions that provide any public access. However, the Legislature recognizes that public access is not always appropriate for certain less

than fee simple acquisitions. Therefore, any proposed less than fee simple acquisition may not be rejected simply because public access would be limited.

(4) The Department of Environmental Protection, the Department of Agriculture and Consumer Services, and each water management district shall implement initiatives for using alternatives to fee simple acquisition and to educate private landowners about such alternatives. The Department of Environmental Protection, the Department of Agriculture and Consumer Services, and the water management districts may enter into joint acquisition agreements to jointly fund the purchase of lands using alternatives to fee simple techniques.

(5) The Legislature finds that the lack of direct sales comparison information has served as an impediment to successful implementation of alternatives to fee simple acquisition. It is the intent of the Legislature that, in the absence of direct comparable sales information, appraisals of alternatives to fee simple acquisitions be based on the difference between the full fee simple valuation and the value of the interests remaining with the seller after acquisition.

(6) The public agency that has been assigned management responsibility shall inspect and monitor any less than fee simple interest according to the terms of the purchase agreement relating to such interest.

(7) For less than fee simple acquisitions pursuant to s. 570.71, the Department of Agriculture and Consumer Services shall comply with the acquisition procedures set forth in s. 570.715.

Section 3. Subsection (2), paragraph (c) of subsection (7),

and subsections (11) and (15) of section 253.03, Florida Statutes, are amended to read:

253.03 Board of trustees to administer state lands; lands enumerated.—

(2) It is the intent of the Legislature that the board of trustees ~~of the Internal Improvement Trust Fund~~ continue to receive proceeds from the sale or disposition of the products of lands and the sale of lands of which the use and possession are not subsequently transferred by appropriate lease or similar instrument from the board of trustees to the proper using agency. Such using agency shall be entitled to the proceeds from the sale of products on, under, growing out of, or connected with lands which such using agency holds under lease or similar instrument from the board of trustees. The board of trustees ~~of the Internal Improvement Trust Fund~~ is directed and authorized to enter into leases or similar instruments for the use, benefit, and possession of public lands by agencies which may properly use and possess them for the benefit of the state. ~~The board of trustees shall adopt by rule an annual administrative fee for all existing and future leases or similar instruments, to be charged agencies that are leasing land from it. This annual administrative fee assessed for all leases or similar instruments is to compensate the board for costs incurred in the administration and management of such leases or similar instruments.~~

(7)

(c) Structures which are listed in or are eligible for the National Register of Historic Places or the State Inventory of Historic Places which are over the waters of the state ~~of~~

~~Florida~~ and which have a submerged land lease, or have been grandfathered-in to use sovereignty submerged lands until January 1, 1998, pursuant to former rule 18-21.00405, Florida Administrative Code, as it existed in rule on March 15, 1990, shall have the right to continue such submerged land leases, regardless of the fact that the present landholder is not an adjacent riparian landowner, so long as the lessee maintains the structure in a good state of repair consistent with the guidelines for listing. If the structure is damaged or destroyed, the lessee may ~~shall be allowed to~~ reconstruct, so long as the reconstruction is consistent with the integrity of the listed structure and does not increase the footprint of the structure. If a listed structure ~~so listed~~ falls into disrepair and the lessee is not willing to repair and maintain it consistent with its listing, the state may cancel the submerged lease and ~~either~~ repair and maintain the property or require that the structure be removed from sovereignty submerged lands.

(11) The board of trustees ~~of the Internal Improvement Trust Fund~~ may adopt rules to provide for the assessment and collection of reasonable fees, commensurate with the actual cost to the board, for disclaimers, easements, exchanges, gifts, leases, releases, or sales of any interest in lands or any applications therefor and for reproduction of documents. All revenues received from the application fees charged by a water management district to process applications that include a request to use state lands are to be retained by the water management district. The board of trustees shall adopt by rule an annual administrative fee for all existing and future leases or similar instruments to be charged to agencies that are

leasing land from the board of trustees. This annual administrative fee assessed for all leases or similar instruments is to compensate the board of trustees for costs incurred in the administration and management of such leases or similar instruments.

(15) The board of trustees ~~of the Internal Improvement Trust Fund~~ shall encourage the use of sovereign submerged lands for public access and water-dependent uses which may include related minimal secondary nonwater-dependent uses ~~and public access~~.

Section 4. Subsections (8) and (9) of section 253.031, Florida Statutes, are renumbered as subsections (7) and (8), respectively, and present subsections (2) and (7) of that section are amended, to read:

253.031 Land office; custody of documents concerning land; moneys; plats.—

(2) The board ~~of trustees of the Internal Improvement Trust Fund~~ shall have custody of, and the department shall maintain, all the records, surveys, plats, maps, field notes, and patents and all other evidence touching the title and description of the public domain.

~~(7) The board shall receive all of the tract books, plats, and such records and papers heretofore kept in the United States Land Office at Gainesville, Alachua County, as may be surrendered by the Secretary of the Interior; and the board shall carefully and safely keep and preserve all of said tract books, plats, records, and papers as part of the public records of its office, and at any time allow any duly accredited authority of the United States, full and free access to any and~~

~~all of such tract books, plats, records, and papers, and shall furnish any duly accredited authority of the United States with copies of any such records without charge.~~

Section 5. Section 253.034, Florida Statutes, is amended to read:

253.034 State-owned lands; uses.—

(1) All lands acquired pursuant to chapter 259 shall be managed to serve the public interest by protecting and conserving land, air, water, and the state's natural resources, which contribute to the public health, welfare, and economy of the state. These lands shall be managed to provide for areas of natural resource based recreation, and to ensure the survival of plant and animal species and the conservation of finite and renewable natural resources. The state's lands and natural resources shall be managed using a stewardship ethic that assures these resources will be available for the benefit and enjoyment of all people of the state, both present and future. It is the intent of the Legislature that, where feasible and consistent with the goals of protection and conservation of natural resources associated with lands held in the public trust by the Board of Trustees of the Internal Improvement Trust Fund, public land not designated for single-use purposes pursuant to paragraph (2)(b) be managed for multiple-use purposes. All multiple-use land management strategies shall address public access and enjoyment, resource conservation and protection, ecosystem maintenance and protection, and protection of threatened and endangered species, and the degree to which public-private partnerships or endowments may allow the entity with management responsibility to enhance its ability to manage

these lands. The Acquisition and Restoration Council ~~created in s. 259.035~~ shall recommend rules to the board of trustees, and the board of trustees shall adopt rules necessary to carry out the purposes of this section.

(2) As used in this section, the term ~~following phrases have the following meanings~~:

(a) "Multiple use" means the harmonious and coordinated management of timber, recreation, conservation of fish and wildlife, forage, archaeological and historic sites, habitat and other biological resources, or water resources so that they are used ~~utilized~~ in the combination that will best serve the people of the state, making the most judicious use of the land for some or all of these resources and giving consideration to the relative values of the various resources. Where necessary and appropriate for all state-owned lands that are larger than 1,000 acres in project size and are managed for multiple uses, buffers may be formed around any areas that require special protection or have special management needs. Such buffers may ~~shall~~ not exceed more than one-half of the total acreage. Multiple uses within a buffer area may be restricted to provide the necessary buffering effect desired. Multiple use in this context includes both uses of land or resources by more than one management entity, which may include private sector land managers. In any case, lands identified as multiple-use lands in the land management plan shall be managed to enhance and conserve the lands and resources for the enjoyment of the people of the state.

(b) "Single use" means management for one particular purpose to the exclusion of all other purposes, except that the

using entity shall have the option of including in its management program compatible secondary purposes which will not detract from or interfere with the primary management purpose. Such single uses may include, but are not necessarily restricted to, the use of agricultural lands for production of food and livestock, the use of improved sites and grounds for institutional purposes, and the use of lands for parks, preserves, wildlife management, archaeological or historic sites, or wilderness areas where the maintenance of essentially natural conditions is important. All submerged lands shall be considered single-use lands and shall be managed primarily for the maintenance of essentially natural conditions, the propagation of fish and wildlife, and public recreation, including hunting and fishing where deemed appropriate by the managing entity.

(c) "Conservation lands" means lands that are currently managed for conservation, outdoor resource-based recreation, or archaeological or historic preservation, except those lands that were acquired solely to facilitate the acquisition of other conservation lands. Lands acquired for uses other than conservation, outdoor resource-based recreation, or archaeological or historic preservation may ~~shall~~ not be designated conservation lands except as otherwise authorized under this section. These lands shall include, but not be limited to, the following: correction and detention facilities, military installations and facilities, state office buildings, maintenance yards, state university or Florida College System institution campuses, agricultural field stations or offices, tower sites, law enforcement and license facilities,

laboratories, hospitals, clinics, and other sites that do not possess ~~no~~ significant natural or historical resources. However, lands acquired solely to facilitate the acquisition of other conservation lands, and for which the land management plan has not yet been completed or updated, may be evaluated by the Board of Trustees of the Internal Improvement Trust Fund on a case-by-case basis to determine if they will be designated conservation lands.

(d) "Public access," as used in this chapter and chapter 259, means access by the general public to state lands and water, including vessel access made possible by boat ramps, docks, and associated support facilities, where compatible with conservation and recreation objectives.

Lands acquired by the state as a gift, through donation, or by any other conveyance for which no consideration was paid, and which are not managed for conservation, outdoor resource-based recreation, or archaeological or historic preservation under a land management plan approved by the board of trustees are not conservation lands.

(3) Recognizing that recreational trails purchased with rails-to-trails funds pursuant to former s. 259.101(3)(g), Florida Statutes 2014, or s. 259.105(3)(h) have had historic transportation uses and that their linear character may extend many miles, the Legislature intends that if the necessity arises to serve public needs, after balancing the need to protect trail users from collisions with automobiles and a preference for the use of overpasses and underpasses to the greatest extent feasible and practical, transportation uses shall be allowed to

cross recreational trails purchased pursuant to former s. 259.101(3)(g), Florida Statutes 2014, or s. 259.105(3)(h). When these crossings are needed, the location and design should consider and mitigate the impact on humans and environmental resources, and the value of the land shall be paid based on fair market value.

(4) A ~~No~~ management agreement, lease, or other instrument authorizing the use of lands owned by the board of trustees may not ~~of the Internal Improvement Trust Fund shall~~ be executed for a period greater than is necessary to provide for the reasonable use of the land for the existing or planned life cycle or amortization of the improvements, except that an easement in perpetuity may be granted by the board of trustees ~~of the Internal Improvement Trust Fund~~ if the improvement is a transportation facility. If an entity managing or leasing state-owned lands from the board of trustees does not meet the short-term goals under paragraph (5)(b) for conservation lands, the Department of Environmental Protection may submit the lands to the Acquisition and Restoration Council to review whether the short-term goals should be modified, consider whether the lands should be offered to another entity for management or leasing, or recommend to the board of trustees whether to surplus the lands. If an entity managing or leasing state-owned lands from the board of trustees does not meet the short-term goals under paragraph (5)(i) for nonconservation lands, the department may submit the lands to the board of trustees to consider whether to require the managing or leasing entity to release its interest in the lands and to consider whether to surplus the lands. If the state-owned lands are determined to be surplus, the board of

trustees may require an entity to release its interest in the lands. An entity managing or leasing state-owned lands from the board of trustees may not sublease such lands without prior review by the Division of State Lands and, for conservation lands, by the Acquisition and Restoration Council ~~created in s. 259.035~~. All management agreements, leases, or other instruments authorizing the use of lands owned by the board of trustees shall be reviewed for approval by the board of trustees or its designee. The council is not required to review subleases of parcels which are less than 160 acres in size.

(5) Each manager of conservation lands shall submit to the Division of State Lands a land management plan at least every 10 years in a form and manner adopted ~~prescribed~~ by rule of ~~by~~ the board of trustees and in accordance with ~~the provisions of~~ s. 259.032. Each manager of conservation lands shall also update a land management plan whenever the manager proposes to add new facilities or make substantive land use or management changes that were not addressed in the approved plan, or within 1 year after ~~of~~ the addition of significant new lands. Each manager of nonconservation lands shall submit to the Division of State Lands a land use plan at least every 10 years in a form and manner adopted ~~prescribed~~ by rule of ~~by~~ the board of trustees. The division shall review each plan for compliance with the requirements of this subsection and the requirements of the rules adopted ~~established~~ by the board of trustees pursuant to this section. All nonconservation land use plans, whether for single-use or multiple-use properties, shall be managed to provide the greatest benefit to the state ~~include an analysis of the property to determine if any significant natural or cultural~~

~~resources are located on the property. Such resources include archaeological and historic sites, state and federally listed plant and animal species, and imperiled natural communities and unique natural features. If such resources occur on the property, the manager shall consult with the Division of State Lands and other appropriate agencies to develop management strategies to protect such resources. Land use plans shall also provide for the control of invasive nonnative plants and conservation of soil and water resources, including a description of how the manager plans to control and prevent soil erosion and soil or water contamination. Land use plans submitted by a manager shall include reference to appropriate statutory authority for such use or uses and shall conform to the appropriate policies and guidelines of the state land management plan~~. Plans for managed areas larger than 1,000 acres shall contain an analysis of the multiple-use potential of the property~~,~~ which includes ~~analysis shall include~~ the potential of the property to generate revenues to enhance the management of the property. In addition ~~Additionally~~, the plan shall contain an analysis of the potential use of private land managers to facilitate the restoration or management of these lands. If ~~In those cases where~~ a newly acquired property has a valid conservation plan that was developed by a soil and conservation district, such plan shall be used to guide management of the property until a formal land use plan is completed.

(a) State conservation lands shall be managed to ensure the conservation of the state's plant and animal species and to ensure the accessibility of state lands for the benefit and enjoyment of all people of the state, both present and future.

Each land management plan for state conservation lands shall provide a desired outcome, describe both short-term and long-term management goals, and include measurable objectives to achieve those goals. Short-term goals shall be achievable within a 2-year planning period, and long-term goals shall be achievable within a 10-year planning period. These short-term and long-term management goals shall be the basis for all subsequent land management activities.

(b) Short-term and long-term management goals for state conservation lands shall include measurable objectives for the following, as appropriate:

1. Habitat restoration and improvement.
2. Public access and recreational opportunities.
3. Hydrological preservation and restoration.
4. Sustainable forest management.
5. Exotic and invasive species maintenance and control.
6. Capital facilities and infrastructure.
7. Cultural and historical resources.
8. Imperiled species habitat maintenance, enhancement, restoration, or population restoration.

(c) The land management plan shall, at a minimum, contain the following elements:

1. A physical description of the land.
2. A quantitative data description of the land which includes an inventory of forest and other natural resources; exotic and invasive plants; hydrological features; infrastructure, including recreational facilities; and other significant land, cultural, or historical features. The inventory shall reflect the number of acres for each resource

and feature, when appropriate. The inventory shall be of such detail that objective measures and benchmarks can be established for each tract of land and monitored during the lifetime of the plan. All quantitative data collected shall be aggregated, standardized, collected, and presented in an electronic format to allow for uniform management reporting and analysis. The information collected by the Department of Environmental Protection pursuant to s. 253.0325(2) shall be available to the land manager and his or her assignee.

3. A detailed description of each short-term and long-term land management goal, the associated measurable objectives, and the related activities that are to be performed to meet the land management objectives. Each land management objective must be addressed by the land management plan, and if ~~where~~ practicable, a ~~no~~ land management objective may not ~~shall~~ be performed to the detriment of the other land management objectives.

4. A schedule of land management activities which contains short-term and long-term land management goals and the related measurable objective and activities. The schedule shall include for each activity a timeline for completion, quantitative measures, and detailed expense and manpower budgets. The schedule shall provide a management tool that facilitates development of performance measures.

5. A summary budget for the scheduled land management activities of the land management plan. For state lands containing or anticipated to contain imperiled species habitat, the summary budget shall include any fees anticipated from public or private entities for projects to offset adverse impacts to imperiled species or such habitat, which fees shall

be used solely to restore, manage, enhance, repopulate, or acquire imperiled species habitat. The summary budget shall be prepared in such manner that it facilitates computing an aggregate of land management costs for all state-managed lands using the categories described in s. 259.037(3).

(d) Upon completion, the land management plan must ~~will~~ be transmitted to the Acquisition and Restoration Council for review. The ~~Acquisition and Restoration~~ council shall have 90 days after receipt of the plan to review the plan and submit its recommendations to the board of trustees. During the review period, the land management plan may be revised if agreed to by the primary land manager and the ~~Acquisition and Restoration~~ council taking into consideration public input. ~~If the Acquisition and Restoration Council fails to make a recommendation for a land management plan, the secretary of the Department of Environmental Protection, Commissioner of Agriculture, or Executive Director of the Fish and Wildlife Conservation Commission or their designees shall submit the land management plan to the board of trustees.~~ The land management plan becomes effective upon approval by the board of trustees.

(e) Land management plans are to be updated every 10 years on a rotating basis. Each updated land management plan must identify any conservation lands under the plan, in part or in whole, that are no longer needed for conservation purposes and could be disposed of in fee simple or with the state retaining a permanent conservation easement.

(f) In developing land management plans, at least one public hearing shall be held in any one affected county.

(g) The Division of State Lands shall make available to the

public an electronic copy of each land management plan for parcels that exceed 160 acres in size. The division ~~of State Lands~~ shall review each plan for compliance with the requirements of this subsection, the requirements of chapter 259, and the requirements of the rules adopted ~~established~~ by the board of trustees pursuant to this section. The Acquisition and Restoration Council shall also consider the propriety of the recommendations of the managing entity with regard to the future use of the property, the protection of fragile or nonrenewable resources, the potential for alternative or multiple uses not recognized by the managing entity, and the possibility of disposal of the property by the board of trustees. After its review, the council shall submit the plan, along with its recommendations and comments, to the board of trustees. The council shall specifically recommend to the board of trustees whether to approve the plan as submitted, approve the plan with modifications, or reject the plan. If the ~~Acquisition and Restoration~~ council fails to make a recommendation for a land management plan, the Secretary ~~of the Department~~ of Environmental Protection, Commissioner of Agriculture, or executive director of the Fish and Wildlife Conservation Commission or their designees shall submit the land management plan to the board of trustees.

(h) The board of trustees ~~of the Internal Improvement Trust Fund~~ shall consider the land management plan submitted by each entity and the recommendations of the Acquisition and Restoration Council and the Division of State Lands and shall approve the plan with or without modification or reject such plan. The use or possession of any such lands that is not in

accordance with an approved land management plan is subject to termination by the board of trustees.

(i)1. State nonconservation lands shall be managed to provide the greatest benefit to the state. State nonconservation lands may be grouped by similar land use types under one land use plan. Each land use plan shall, at a minimum, contain the following elements:

a. A physical description of the land to include any significant natural or cultural resources as well as management strategies developed by the land manager to protect such resources.

b. A desired development outcome.

c. A schedule for achieving the desired development outcome.

d. A description of both short-term and long-term development goals.

e. A management and control plan for invasive nonnative plants.

f. A management and control plan for soil erosion and soil and water contamination.

g. Measureable objectives to achieve the goals identified in the land use plan.

2. Short-term goals shall be achievable within a 5-year planning period and long-term goals shall be achievable within a 10-year planning period.

3. The use or possession of any such lands that is not in accordance with an approved land use plan is subject to termination by the board of trustees.

4. Land use plans submitted by a manager shall include

reference to appropriate statutory authority for such use or uses and shall conform to the appropriate policies and guidelines of the state land management plan.

~~(6) The Board of Trustees of the Internal Improvement Trust Fund shall determine which lands, the title to which is vested in the board, may be surplused. For conservation lands, the board shall determine whether the lands are no longer needed for conservation purposes and may dispose of them by an affirmative vote of at least three members. In the case of a land exchange involving the disposition of conservation lands, the board must determine by an affirmative vote of at least three members that the exchange will result in a net positive conservation benefit. For all other lands, the board shall determine whether the lands are no longer needed and may dispose of them by an affirmative vote of at least three members.~~

~~(a) For the purposes of this subsection, all lands acquired by the state before July 1, 1999, using proceeds from Preservation 2000 bonds, the former Conservation and Recreation Lands Trust Fund, the former Water Management Lands Trust Fund, Environmentally Endangered Lands Program, and the Save Our Coast Program and titled to the board which are identified as core parcels or within original project boundaries are deemed to have been acquired for conservation purposes.~~

~~(b) For any lands purchased by the state on or after July 1, 1999, before acquisition, the board must determine which parcels must be designated as having been acquired for conservation purposes. Lands acquired for use by the Department of Corrections, the Department of Management Services for use as state offices, the Department of Transportation, except those~~

~~specifically managed for conservation or recreation purposes, or the State University System or the Florida College System may not be designated as having been purchased for conservation purposes.~~

~~(c) At least every 10 years, as a component of each land management plan or land use plan and in a form and manner prescribed by rule by the board, each manager shall evaluate and indicate to the board those lands that are not being used for the purpose for which they were originally leased. For conservation lands, the council shall review and recommend to the board whether such lands should be retained in public ownership or disposed of by the board. For nonconservation lands, the division shall review such lands and recommend to the board whether such lands should be retained in public ownership or disposed of by the board.~~

~~(d) Lands owned by the board which are not actively managed by any state agency or for which a land management plan has not been completed pursuant to subsection (5) must be reviewed by the council or its successor for its recommendation as to whether such lands should be disposed of by the board.~~

~~(e) Before any decision by the board to surplus lands, the Acquisition and Restoration Council shall review and make recommendations to the board concerning the request for surplusing. The council shall determine whether the request for surplusing is compatible with the resource values of and management objectives for such lands.~~

~~(f) In reviewing lands owned by the board, the council shall consider whether such lands would be more appropriately owned or managed by the county or other unit of local government~~

~~in which the land is located. The council shall recommend to the board whether a sale, lease, or other conveyance to a local government would be in the best interests of the state and local government. The provisions of this paragraph in no way limit the provisions of ss. 253.111 and 253.115. Such lands shall be offered to the state, county, or local government for a period of 45 days. Permittable uses for such surplus lands may include public schools; public libraries; fire or law enforcement substations; governmental, judicial, or recreational centers; and affordable housing meeting the criteria of s. 420.0004(3). County or local government requests for surplus lands shall be expedited throughout the surplusing process. If the county or local government does not elect to purchase such lands in accordance with s. 253.111, any surplusing determination involving other governmental agencies shall be made when the board decides the best public use of the lands. Surplus properties in which governmental agencies have expressed no interest must then be available for sale on the private market.~~

~~(g) The sale price of lands determined to be surplus pursuant to this subsection and s. 253.82 shall be determined by the division, which shall consider an appraisal of the property, or, if the estimated value of the land is $500,000 or less, a comparable sales analysis or a broker's opinion of value. The division may require a second appraisal. The individual or entity that requests to purchase the surplus parcel shall pay all costs associated with determining the property's value, if any.~~

~~1. A written valuation of land determined to be surplus pursuant to this subsection and s. 253.82, and related documents~~

~~used to form the valuation or which pertain to the valuation, are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.~~

~~a. The exemption expires 2 weeks before the contract or agreement regarding the purchase, exchange, or disposal of the surplus land is first considered for approval by the board.~~

~~b. Before expiration of the exemption, the division may disclose confidential and exempt appraisals, valuations, or valuation information regarding surplus land:~~

~~(I) During negotiations for the sale or exchange of the land.~~

~~(II) During the marketing effort or bidding process associated with the sale, disposal, or exchange of the land to facilitate closure of such effort or process.~~

~~(III) When the passage of time has made the conclusions of value invalid.~~

~~(IV) When negotiations or marketing efforts concerning the land are concluded.~~

~~2. A unit of government that acquires title to lands hereunder for less than appraised value may not sell or transfer title to all or any portion of the lands to any private owner for 10 years. Any unit of government seeking to transfer or sell lands pursuant to this paragraph must first allow the board of trustees to reacquire such lands for the price at which the board sold such lands.~~

~~(h) Parcels with a market value over $500,000 must be initially offered for sale by competitive bid. The division may use agents, as authorized by s. 253.431, for this process. Any parcels unsuccessfully offered for sale by competitive bid, and~~

~~parcels with a market value of $500,000 or less, may be sold by any reasonable means, including procuring real estate services, open or exclusive listings, competitive bid, auction, negotiated direct sales, or other appropriate services, to facilitate the sale.~~

~~(i) After reviewing the recommendations of the council, the board shall determine whether lands identified for surplus are to be held for other public purposes or are no longer needed. The board may require an agency to release its interest in such lands. A state agency, county, or local government that has requested the use of a property that was to be declared as surplus must secure the property under lease within 90 days after being notified that it may use such property.~~

~~(j) Requests for surplusing may be made by any public or private entity or person. All requests shall be submitted to the lead managing agency for review and recommendation to the council or its successor. Lead managing agencies have 90 days to review such requests and make recommendations. Any surplusing requests that have not been acted upon within the 90-day time period shall be immediately scheduled for hearing at the next regularly scheduled meeting of the council or its successor. Requests for surplusing pursuant to this paragraph are not required to be offered to local or state governments as provided in paragraph (f).~~

~~(k) Proceeds from the sale of surplus conservation lands purchased before July 1, 2015, shall be deposited into the Florida Forever Trust Fund.~~

~~(l) Proceeds from the sale of surplus conservation lands purchased on or after July 1, 2015, shall be deposited into the~~

~~Land Acquisition Trust Fund, except when such lands were purchased with funds other than those from the Land Acquisition Trust Fund or a land acquisition trust fund created to implement s. 28, Art. X of the State Constitution, the proceeds shall be deposited into the fund from which the lands were purchased.~~

~~(m) Funds received from the sale of surplus nonconservation lands or lands that were acquired by gift, by donation, or for no consideration shall be deposited into the Internal Improvement Trust Fund.~~

~~(n) Notwithstanding this subsection, such disposition of land may not be made if it would have the effect of causing all or any portion of the interest on any revenue bonds issued to lose the exclusion from gross income for federal income tax purposes.~~

~~(o) The sale of filled, formerly submerged land that does not exceed 5 acres in area is not subject to review by the council or its successor.~~

~~(p) The board may adopt rules to administer this section which may include procedures for administering surplus land requests and criteria for when the division may approve requests to surplus nonconservation lands on behalf of the board.~~

(6) ~~(7)~~ This section does ~~shall~~ not ~~be construed so as to~~ affect:

(a) Other provisions of this chapter relating to oil, gas, or mineral resources.

(b) The exclusive use of state-owned land subject to a lease by the board of trustees ~~of the Internal Improvement Trust Fund~~ of state-owned land for private uses and purposes.

(c) Sovereignty lands not leased for private uses and

purposes.

(7) ~~(8)~~ (a) The Legislature recognizes the value of the state's conservation lands as water recharge areas and air filters.

(b) If state-owned lands are subject to annexation procedures, the Division of State Lands must notify the county legislative delegation of the county in which the land is located.

(8) ~~(9)~~ Land management plans required to be submitted by the Department of Corrections, the Department of Juvenile Justice, the Department of Children and Families, or the Department of Education are not subject to ~~the provisions for~~ review by the Acquisition and Restoration Council ~~or its successor described in subsection (5)~~. Management plans filed by these agencies shall be made available to the public for a period of 90 days at the administrative offices of the parcel or project affected by the management plan and at the Tallahassee offices of each agency. Any plans not objected to during the public comment period shall be deemed approved. Any plans for which an objection is filed shall be submitted to the board of trustees ~~of the Internal Improvement Trust Fund~~ for consideration. The board of trustees ~~of the Internal Improvement Trust Fund~~ shall approve the plan with or without modification, or reject the plan. The use or possession of any such lands which is not in accordance with an approved land management plan is subject to termination by the board of trustees.

(9) ~~(10)~~ The following additional uses of conservation lands acquired pursuant to the Florida Forever program and other state-funded conservation land purchase programs shall be

authorized, upon a finding by the board of trustees, if they meet the criteria specified in paragraphs (a)-(e): water resource development projects, water supply development projects, stormwater management projects, linear facilities, and sustainable agriculture and forestry. Such additional uses are authorized if ~~where~~:

(a) The use is not inconsistent with the management plan for such lands;

(b) The use is compatible with the natural ecosystem and resource values of such lands;

(c) The ~~proposed~~ use is appropriately located on such lands and if ~~where~~ due consideration is given to the use of other available lands;

(d) The using entity reasonably compensates the titleholder for such use based upon an appropriate measure of value; and

(e) The use is consistent with the public interest.

A decision by the board of trustees pursuant to this section shall be given a presumption of correctness. Moneys received from the use of state lands pursuant to this section shall be returned to the lead managing entity in accordance with s. 259.032(9)(c).

(10) ~~(11)~~ Lands listed as projects for acquisition may be managed for conservation pursuant to s. 259.032, on an interim basis by a private party in anticipation of a state purchase in accordance with a contractual arrangement between the acquiring agency and the private party that may include management service contracts, leases, cost-share arrangements or resource conservation agreements. Lands designated as eligible under this

subsection shall be managed to maintain or enhance the resources the state is seeking to protect by acquiring the land. Funding for these contractual arrangements may originate from the documentary stamp tax revenue deposited into the Land Acquisition Trust Fund. No more than $6.2 million may be expended from the Land Acquisition Trust Fund for this purpose.

(11)~~(12)~~ Any lands available to governmental employees, including water management district employees, for hunting or other recreational purposes shall also be made available to the general public for such purposes.

~~(13) Before a building or parcel of land is offered for lease or sale to a local or federal unit of government or a private party, it shall first be offered for lease to state agencies, state universities, and Florida College System institutions, with priority consideration given to state universities and Florida College System institutions. Within 60 days after the offer for lease of a surplus building or parcel, a state university or Florida College System institution that requests the lease must submit a plan for review and approval by the Board of Trustees of the Internal Improvement Trust Fund regarding the intended use, including future use, of the building or parcel of land before approval of a lease. Within 60 days after the offer for lease of a surplus building or parcel, a state agency that requests the lease of such facility or parcel must submit a plan for review and approval by the board of trustees regarding the intended use. The state agency plan must, at a minimum, include the proposed use of the facility or parcel, the estimated cost of renovation, a capital improvement plan for the building, evidence that the building or parcel~~

~~meets an existing need that cannot otherwise be met, and other criteria developed by rule by the board of trustees. The board or its designee shall compare the estimated value of the building or parcel to any submitted business plan to determine if the lease or sale is in the best interest of the state. The board of trustees shall adopt rules pursuant to chapter 120 for the implementation of this section.~~

Section 6. Section 253.0341, Florida Statutes, is amended to read:

253.0341 Surplus of state-owned lands ~~to counties or local governments. Counties and local governments may submit surplusing requests for state-owned lands directly to the board of trustees. County or local government requests for the state to surplus conservation or nonconservation lands, whether for purchase or exchange, shall be expedited throughout the surplusing process. Property jointly acquired by the state and other entities shall not be surplused without the consent of all joint owners.~~

(1) The board of trustees shall determine which lands, the title to which is vested in the board, may be surplused. For all conservation lands, the Acquisition and Restoration Council shall make a recommendation to the board of trustees, and the board of trustees shall determine whether the lands are no longer needed for conservation purposes. If the board of trustees determines the lands are no longer needed for conservation purposes, it may dispose of such lands by an affirmative vote of at least three members. In the case of a land exchange involving the disposition of conservation lands, the board of trustees must determine by an affirmative vote of

at least three members that the exchange will result in a net positive conservation benefit. For all nonconservation lands, the board of trustees shall determine whether the lands are no longer needed. If the board of trustees determines the lands are no longer needed, it may dispose of such lands by an affirmative vote of at least three members. Local government requests for the state to surplus conservation or nonconservation lands, whether for purchase or exchange, shall be expedited throughout the surplusing process. Property jointly acquired by the state and other entities may not be surplused without the consent of all joint owners ~~The decision to surplus state-owned nonconservation lands may be made by the board without a review of, or a recommendation on, the request from the Acquisition and Restoration Council or the Division of State Lands. Such requests for nonconservation lands shall be considered by the board within 60 days of the board's receipt of the request~~.

(2) For purposes of this section, all lands acquired by the state before July 1, 1999, using proceeds from Preservation 2000 bonds, the former Conservation and Recreation Lands Trust Fund, the former Water Management Lands Trust Fund, Environmentally Endangered Lands Program, and the Save Our Coast Program and titled to the board of trustees which are identified as core parcels or within original project boundaries are deemed to have been acquired for conservation purposes ~~County or local government requests for the surplusing of state-owned conservation lands are subject to review of, and recommendation on, the request to the board by the Acquisition and Restoration Council. Requests to surplus conservation lands shall be considered by the board within 120 days of the board's receipt~~

~~of the request~~.

(3) For any lands purchased by the state on or after July 1, 1999, before acquisition, the board of trustees must determine which parcels must be designated as having been acquired for conservation purposes. Lands acquired for use by the Department of Corrections; the Department of Management Services for use as state offices; the Department of Transportation, except those lands specifically managed for conservation or recreation purposes; the State University System; or the Florida College System may not be designated as having been acquired for conservation purposes ~~A local government may request that state lands be specifically declared surplus lands for the purpose of providing alternative water supply and water resource development projects as defined in s. 373.019, public facilities such as schools, fire and police facilities, and affordable housing. The request shall comply with the requirements of subsection (1) if the lands are nonconservation lands or subsection (2) if the lands are conservation lands. Surplus lands that are conveyed to a local government for affordable housing shall be disposed of by the local government under the provisions of s. 125.379 or s. 166.0451~~.

(4) At least every 10 years, as a component of each land management plan or land use plan and in a form and manner adopted by rule of the board of trustees, each manager shall evaluate and indicate to the board of trustees those lands that are not being used for the purpose for which they were originally leased. For conservation lands, the Acquisition and Restoration Council shall review and recommend to the board of

trustees whether such lands should be retained in public ownership or disposed of by the board of trustees. For nonconservation lands, the Division of State Lands shall review and recommend to the board of trustees whether such lands should be retained in public ownership or disposed of by the board of trustees ~~Notwithstanding the requirements of this section and the requirements of s. 253.034 which provides a surplus process for the disposal of state lands, the board shall convey to Miami-Dade County title to the property on which the Graham Building, which houses the offices of the Miami-Dade State Attorney, is located. By January 1, 2008, the board shall convey fee simple title to the property to Miami-Dade County for a consideration of one dollar. The deed conveying title to Miami-Dade County must contain restrictions that limit the use of the property for the purpose of providing workforce housing as defined in s. 420.5095, and to house the offices of the Miami-Dade State Attorney. Employees of the Miami-Dade State Attorney and the Miami-Dade Public Defender who apply for and meet the income qualifications for workforce housing shall receive preference over other qualified applicants~~.

(5) Conservation lands owned by the board of trustees which are not actively managed by any state agency or for which a land management plan has not been completed pursuant to s. 253.034(5) must be reviewed by the Acquisition and Restoration Council for its recommendation as to whether such lands should be disposed of by the board of trustees.

(6) Before any decision by the board of trustees to surplus conservation lands, the Acquisition and Restoration Council shall review and make recommendations to the board of trustees

concerning the request for surplusing. The council shall determine whether the request for surplusing is compatible with the resource values of and management objectives for such lands.

(7) Before a facility or parcel of nonconservation land is offered for lease to a local or federal unit of government, state university, Florida College System institution, or private party, it shall first be offered for lease to state agencies. Within 45 days after the offer for lease of a facility or parcel, a state agency that requests the lease must submit a plan to the board of trustees that includes a description of the proposed use, including future use, of the facility or parcel. The board of trustees must review and approve the plan before approving the lease. The state agency plan must, at a minimum, include the proposed use of the facility or parcel, the estimated cost of renovation, a capital improvement plan for the building, evidence that the facility or parcel meets an existing need that cannot otherwise be met, and other criteria adopted by rule of the board of trustees. The board of trustees or its designee shall compare the estimated value of the facility or parcel to any submitted business plan to determine if the lease or sale is in the best interest of the state. The board of trustees shall adopt rules pursuant to chapter 120 to implement this section. A state agency that has requested the use of a facility or parcel must secure the facility or parcel with a fully executed lease within 90 days after being notified that it may use such facility or parcel or the request is voidable.

(8) The sale price of lands determined to be surplus pursuant to this section and s. 253.82 shall be determined by the Division of State Lands, which shall consider an appraisal

of the property or, if the estimated value of the land is $500,000 or less, a comparable sales analysis or a broker's opinion of value. The division may require a second appraisal. The individual or entity that requests to purchase the surplus parcel shall pay all costs associated with determining the property's value, if any.

(a) A written valuation of land determined to be surplus pursuant to this section and s. 253.82, and related documents used to form the valuation or which pertain to the valuation, are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

1. The exemption expires 2 weeks before the contract or agreement regarding the purchase, exchange, or disposal of the surplus land is first considered for approval by the board of trustees.

2. Before expiration of the exemption, the Division of State Lands may disclose confidential and exempt appraisals, valuations, or valuation information regarding surplus land:

a. During negotiations for the sale or exchange of the land;

b. During the marketing effort or bidding process associated with the sale, disposal, or exchange of the land to facilitate closure of such effort or process;

c. When the passage of time has made the conclusions of value invalid; or

d. When negotiations or marketing efforts concerning the land are concluded.

(b) A unit of government that acquires title to lands pursuant to this section for less than appraised value may not

sell or transfer title to all or any portion of the lands to any private owner for 10 years. A unit of government seeking to transfer or sell lands pursuant to this paragraph must first allow the board of trustees to reacquire such lands for the price at which the board of trustees sold such lands.

(9) Parcels with a market value over $500,000 must be initially offered for sale by competitive bid. Any parcels unsuccessfully offered for sale by competitive bid, and parcels with a market value of $500,000 or less, may be sold by any reasonable means, including procuring real estate services, open or exclusive listings, competitive bid, auction, negotiated direct sales, or other appropriate services, to facilitate the sale.

(10) After reviewing the recommendations of the Acquisition and Restoration Council, the board of trustees shall determine whether conservation lands identified for surplus should be held for other public purposes or are no longer needed. The board of trustees may require an agency to release its interest in such lands. An entity approved to use conservation lands by the board of trustees must secure the property under a fully executed lease within 90 days after being notified that it may use such property or the request is voidable.

(11) Requests to surplus lands may be made by any public or private entity or person and shall be determined by the board of trustees. All requests to surplus conservation lands shall be submitted to the lead managing agency for review and recommendation to the Acquisition and Restoration Council, and all requests to surplus nonconservation lands shall be submitted to the Division of State Lands for review and recommendation to

the board of trustees. The lead managing agencies shall review such requests and make recommendations to the council within 90 days after receipt of the requests. Any requests to surplus conservation lands that are not acted upon within the 90-day period shall be immediately scheduled for hearing at the next regularly scheduled meeting of the council. Requests to surplus lands shall be considered by the board of trustees within 60 days after receipt of the requests from the council or division. Requests to surplus lands pursuant to this subsection are not required to be offered to state agencies as provided in subsection (7).

(12) Proceeds from the sale of surplus conservation lands purchased before July 1, 2015, shall be deposited into the Florida Forever Trust Fund.

(13) Proceeds from the sale of surplus conservation lands purchased on or after July 1, 2015, shall be deposited into the Land Acquisition Trust Fund, except when such lands were purchased with funds other than those from the Land Acquisition Trust Fund or a land acquisition trust fund created to implement s. 28, Art. X of the State Constitution, the proceeds shall be deposited into the fund from which the lands were purchased.

(14) Funds received from the sale of surplus nonconservation lands or lands that were acquired by gift, by donation, or for no consideration shall be deposited into the Internal Improvement Trust Fund.

(15) Notwithstanding this section, such disposition of land may not be made if it would have the effect of causing all or any portion of the interest on any revenue bonds issued to lose the exclusion from gross income for federal income tax purposes.

(16) The sale of filled, formerly submerged land that does not exceed 5 acres in area is not subject to review by the Acquisition and Restoration Council.

(17) The board of trustees may adopt rules to administer this section, including procedures for administering surplus land requests and criteria for when the Division of State Lands may approve requests to surplus nonconservation lands on behalf of the board of trustees.

(18) Surplus lands that are conveyed to a local government for affordable housing shall be disposed of by the local government under s. 125.379 or s. 166.0451.

Section 7. Section 253.111, Florida Statutes, is amended to read:

253.111 Riparian owners of land ~~Notice to board of county commissioners before sale.~~ ~~The Board of Trustees of the Internal Improvement Trust Fund of the state may not sell any land to which they hold title unless and until they afford an opportunity to the county in which such land is situated to receive such land on the following terms and conditions:~~

~~(1) If an application is filed with the board requesting that they sell certain land to which they hold title and the board decides to sell such land or if the board, without such application, decides to sell such land, the board shall, before consideration of any private offers, notify the board of county commissioners of the county in which such land is situated that such land is available to such county. Such notification shall be given by registered mail, return receipt requested.~~

~~(2) The board of county commissioners of the county in which such land is situated shall, within 40 days after receipt~~

~~of such notification from the board, determine by resolution whether or not it proposes to acquire such land.~~

~~(3) If the board receives, within 45 days after notice is given to the board of county commissioners pursuant to subsection (1), the certified copy of the resolution provided for in subsection (2), the board shall forthwith convey to the county such land at a price that is equal to its appraised market value established by generally accepted professional standards for real estate appraisal and subject to such other terms and conditions as the board determines.~~

~~(4) Nothing in this section restricts any right otherwise granted to the board by this chapter to convey land to which they hold title to the state or any department, office, authority, board, bureau, commission, institution, court, tribunal, agency, or other instrumentality of or under the state. The word "land" as used in this act means all lands vested in the Board of Trustees of the Internal Improvement Trust Fund.~~

(1) ~~(5)~~ If a ~~any~~ riparian owner exists with respect to any land to be sold by the board of trustees, such riparian owner shall have a right to secure such land, ~~which right is prior in interest to the right in the county created by this section,~~ provided that such riparian owner shall be required to pay for such land upon such prices, terms, and conditions as determined by the board of trustees. Such riparian owner may waive this ~~prior~~ right~~, in which case this section shall apply~~.

(2) ~~(6)~~ This section does not apply to:

(a) Any land exchange approved by the board of trustees;

(b) The conveyance of any lands located within the

Everglades Agricultural Area; or

(c) Lands managed pursuant to ss. 253.781-253.785.

Section 8. Section 253.42, Florida Statutes, is amended to read:

253.42 Board of trustees may exchange lands. ~~The provisions of~~ This section applies ~~apply~~ to all lands owned by, vested in, or titled in the name of the board of trustees whether the lands were acquired by the state as a purchase, or through gift, donation, or any other conveyance for which no consideration was paid.

(1) The board of trustees may exchange any lands owned by, vested in, or titled in its ~~the~~ name ~~of the board~~ for other lands in the state owned by counties, local governments, individuals, or private or public corporations, and may fix the terms and conditions of any such exchange. ~~Any nonconservation lands that were acquired by the state through gift, donation, or any other conveyance for which no consideration was paid must first be offered at no cost to a county or local government unless otherwise provided in a deed restriction of record or other legal impediment, and so long as the use proposed by the county or local government is for a public purpose.~~ For conservation lands acquired by the state through gift, donation, or any other conveyance for which no consideration was paid, the state may request land of equal conservation value from the county or local government but no other consideration.

(2) In exchanging state-owned lands not acquired by the state through gift, donation, or any other conveyance for which no consideration was paid, with counties or local governments, the board of trustees shall require an exchange of equal value.

Equal value is defined as the conservation benefit of the lands being offered for exchange by a county or local government being equal or greater in conservation benefit than the state-owned lands. Such exchanges may include cash transactions if based on an appropriate measure of value of the state-owned land, but must also include the determination of a net-positive conservation benefit by the Acquisition and Restoration Council, irrespective of appraised value.

(3) The board of trustees shall select and agree upon the state lands to be exchanged and the lands to be conveyed to the state and shall pay or receive any sum of money the board of trustees deems ~~deemed~~ necessary ~~by the board~~ for the purpose of equalizing the value of the exchanged property. The board of trustees is authorized to make and enter into contracts or agreements for such purpose or purposes.

(4)(a) A person who owns land contiguous to state-owned land titled to the board of trustees may submit a request to the Division of State Lands to exchange all or a portion of the privately owned land for all or a portion of the state-owned land, whereby the state retains a permanent conservation easement over all or a portion of the exchanged state-owned land and a permanent conservation easement over all or a portion of the exchanged privately owned land. State-owned land exchanged pursuant to this subsection shall be contiguous to the privately owned land upon which the state retains a permanent conservation easement. If the division elects to proceed with a request, the division must submit the request to the Acquisition and Restoration Council for review and the council must provide recommendations to the division. If the division elects to

forward a request to the board of trustees, the division must provide its recommendations and the recommendations of the council to the board. This subsection does not apply to state-owned sovereign submerged land.

(b) After receiving a request and the division's recommendations, the board of trustees shall consider such request and recommendations and may approve the request if:

1. At least 30 percent of the perimeter of the privately owned land is bordered by state-owned land and the exchange does not create an inholding.

2. The approval does not result in a violation of the terms of a preexisting lease or agreement by the board of trustees, the Department of Environmental Protection, the Department of Agriculture and Consumer Services, or the Fish and Wildlife Conservation Commission.

3. For state-owned land purchased for conservation purposes, the board of trustees makes a determination that the exchange of land under this subsection will result in a net positive conservation benefit.

4. The approval does not conflict with any existing flowage easement.

5. The request is approved by three or more members of the board of trustees.

(c) Special consideration shall be given to a request that maintains public access for any recreational purpose allowed on the state-owned land at the time the request is submitted to the board of trustees. A person who maintains public access pursuant to this paragraph is entitled to the limitation on liability provided in s. 375.251.

(d) Land subject to a permanent conservation easement granted pursuant to this subsection is subject to inspection by the Department of Environmental Protection to ensure compliance with the terms of the permanent conservation easement.

Section 9. Subsection (2) of section 253.782, Florida Statutes, is amended to read:

253.782 Retention of state-owned lands in and around Lake Rousseau and the Cross Florida Barge Canal right-of-way from Lake Rousseau west to the Withlacoochee River.—

(2) The Department of Environmental Protection is authorized ~~and directed~~ to retain ownership of and maintain all lands or interests in land owned by the Board of Trustees of the Internal Improvement Trust Fund, including all fee and less than fee ~~less-than-fee~~ interests in lands previously owned by the canal authority in Lake Rousseau and the Cross Florida Barge Canal right-of-way from Lake Rousseau at U.S. Highway 41 west to and including the Withlacoochee River.

Section 10. Section 253.7821, Florida Statutes, is amended to read:

253.7821 Cross Florida Greenways State Recreation and Conservation Area assigned to the Department of Environmental Protection ~~Office of the Executive Director~~.—The Cross Florida Greenways State Recreation and Conservation Area is ~~hereby~~ established and ~~is initially~~ assigned to the department ~~Office of Greenways Management within the Office of the Secretary~~. The department ~~office~~ shall manage the greenways pursuant to the department's existing statutory authority until administrative rules are adopted by the department. However, the provisions of this act shall control in any conflict between this act and any

other authority of the department.

Section 11. Section 253.87, Florida Statutes, is created to read:

253.87 Inventory of state, federal, and local government conservation lands by the Department of Environmental Protection.—

(1) By July 1, 2018, the department shall include in the Florida State-Owned Lands and Records Information System (FL-SOLARIS) database all federally owned conservation lands in the state, all lands on which the Federal Government retains a permanent conservation easement in the state, and all lands on which the state retains a permanent conservation easement. The department shall update the database at least every 5 years.

(2) By July 1, 2018, for counties and municipalities, and by July 1, 2019, for financially disadvantaged small communities, as defined in s. 403.1838, and at least every 5 years thereafter, respectively, each county, municipality, and financially disadvantaged small community shall identify all conservation lands that it owns in fee simple and all lands on which it retains a permanent conservation easement and submit, in a manner determined by the department, a list of such lands to the department. Within 6 months after receiving such list, the department shall add such lands to the FL-SOLARIS database.

(3) By January 1, 2018, the department shall conduct a study and submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the technical and economic feasibility of including the following lands in the FL-SOLARIS database or a similar public lands inventory:

(a) All lands on which local comprehensive plans, land use restrictions, zoning ordinances, or land development regulations prohibit the land from being developed or limit the amount of development to one unit per 40 or more acres.

(b) All publicly and privately owned lands for which development rights have been transferred.

(c) All privately owned lands under a permanent conservation easement.

(d) All lands owned by a nonprofit or nongovernmental organization for conservation purposes.

(e) All lands that are part of a mitigation bank.

Section 12. Section 259.01, Florida Statutes, is amended to read:

259.01 Short title.—This chapter shall be known and may be cited as the "Land Conservation Program ~~Act of 1972~~."

Section 13. Section 259.02, Florida Statutes, is repealed.

Section 14. Subsections (6), (7), and (8) and paragraphs (a) and (d) of section (9) of section 259.032, Florida Statutes, are amended to read:

259.032 Conservation and recreation lands.—

(6) Conservation and recreation lands are subject to the selection procedures of s. 259.035 and related rules and shall be acquired in accordance with acquisition procedures for state lands provided for in s. 253.025 ~~259.041~~, except as otherwise provided by the Legislature. An inholding or an addition to conservation and recreation lands is not subject to the selection procedures of s. 259.035 if the estimated value of such inholding or addition does not exceed $500,000. When at least 90 percent of the acreage of a project has been purchased

for conservation and recreation purposes, the project may be removed from the list and the remaining acreage may continue to be purchased. Funds appropriated to acquire conservation and recreation lands may be used for title work, appraisal fees, environmental audits, and survey costs related to acquisition expenses for lands to be acquired, donated, or exchanged which qualify under the categories of this section, at the discretion of the board. When the Legislature has authorized the department ~~of Environmental Protection~~ to condemn a specific parcel of land and such parcel has already been approved for acquisition, the land may be acquired in accordance with ~~the provisions of~~ chapter 73 or chapter 74, and the funds appropriated to acquire conservation and recreation lands may be used to pay the condemnation award and all costs, including reasonable attorney fees, associated with condemnation.

(7) All lands managed under this chapter and s. 253.034 shall be:

(a) Managed in a manner that will provide the greatest combination of benefits to the public and to the resources.

(b) Managed for public outdoor recreation which is compatible with the conservation and protection of public lands. Such management may include, but not be limited to, the following public recreational uses: fishing, hunting, camping, bicycling, hiking, nature study, swimming, boating, canoeing, horseback riding, diving, model hobbyist activities, birding, sailing, jogging, and other related outdoor activities ~~compatible with the purposes for which the lands were acquired~~.

~~(c) Managed for the purposes for which the lands were acquired, consistent with paragraph (9)(a).~~

(c) ~~(d)~~ Concurrent with its adoption of the annual list of acquisition projects pursuant to s. 259.035, the board ~~of trustees~~ shall adopt a management prospectus for each project. The management prospectus shall delineate:

1. The management goals for the property;

2. The conditions that will affect the intensity of management;

3. An estimate of the revenue-generating potential of the property, if appropriate;

4. A timetable for implementing the various stages of management and for providing access to the public, if applicable;

5. A description of potential multiple-use activities as described in this section and s. 253.034;

6. Provisions for protecting existing infrastructure and for ensuring the security of the project upon acquisition;

7. The anticipated costs of management and projected sources of revenue, including legislative appropriations, to fund management needs; and

8. Recommendations as to how many employees will be needed to manage the property, and recommendations as to whether local governments, volunteer groups, the former landowner, or other interested parties can be involved in the management.

(d) ~~(c)~~ Concurrent with the approval of the acquisition contract pursuant to s. 253.025(4)(c) ~~259.041(3)(c)~~ for any interest in lands except those lands ~~being~~ acquired pursuant to ~~under the provisions of~~ s. 259.1052, the board ~~of trustees~~ shall designate an agency or agencies to manage such lands. The board shall evaluate and amend, as appropriate, the management policy

statement for the project as provided by s. 259.035 to ensure that the policy statement is compatible with conservation, recreation, or both~~, consistent with the purposes for which the lands are acquired~~. For any fee simple acquisition of a parcel which is or will be leased back for agricultural purposes, or any acquisition of a less than fee ~~less-than-fee~~ interest in land that is or will be used for agricultural purposes, the board ~~of trustees of the Internal Improvement Trust Fund~~ shall first consider having a soil and water conservation district, created pursuant to chapter 582, manage and monitor such interests.

(e) ~~(f)~~ State agencies designated to manage lands acquired under this chapter or with funds deposited into the Land Acquisition Trust Fund, except those lands acquired under s. 259.1052, may contract with local governments and soil and water conservation districts to assist in management activities, including the responsibility of being the lead land manager. Such land management contracts may include a provision for the transfer of management funding to the local government or soil and water conservation district from the land acquisition trust fund of the lead land managing agency in an amount adequate for the local government or soil and water conservation district to perform its contractual land management responsibilities and proportionate to its responsibilities, and which otherwise would have been expended by the state agency to manage the property.

(f) ~~(g)~~ Immediately following the acquisition of any interest in conservation and recreation lands, the department ~~of Environmental Protection~~, acting on behalf of the board ~~of trustees~~, may issue to the lead managing entity an interim

assignment letter to be effective until the execution of a formal lease.

(8)(a) State, regional, or local governmental agencies or private entities designated to manage lands under this section shall develop and adopt, with the approval of the board ~~of trustees~~, an individual management plan for each project designed to conserve and protect such lands and their associated natural resources. Private sector involvement in management plan development may be used to expedite the planning process.

(b) Individual management plans required by s. 253.034(5), for parcels over 160 acres, shall be developed with input from an advisory group. Members of this advisory group shall include, at a minimum, representatives of the lead land managing agency, comanaging entities, local private property owners, the appropriate soil and water conservation district, a local conservation organization, and a local elected official. If habitat or potentially restorable habitat for imperiled species is located on state lands, the Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services shall be included on any advisory group required under chapter 253, and the short-term and long-term management goals required under chapter 253 must advance the goals and objectives of imperiled species management without restricting other uses identified in the management plan. The advisory group shall conduct at least one public hearing within the county in which the parcel or project is located. For those parcels or projects that are within more than one county, at least one areawide public hearing shall be acceptable and the lead managing agency shall invite a local elected official from each county. The

areawide public hearing shall be held in the county in which the core parcels are located. Notice of such public hearing shall be posted on the parcel or project designated for management, advertised in a paper of general circulation, and announced at a scheduled meeting of the local governing body before the actual public hearing. The management prospectus required pursuant to paragraph (7)(c) ~~(7)(d)~~ shall be available to the public for a period of 30 days before ~~prior to~~ the public hearing.

(c) Once a plan is adopted, the managing agency or entity shall update the plan at least every 10 years in a form and manner adopted ~~prescribed~~ by rule of the board ~~of trustees~~. Such updates, for parcels over 160 acres, shall be developed with input from an advisory group. Such plans may include transfers of leasehold interests to appropriate conservation organizations or governmental entities designated by the ~~Land Acquisition and Management Advisory~~ council ~~or its successor,~~ for uses consistent with the purposes of the organizations and the protection, preservation, conservation, restoration, and proper management of the lands and their resources. Volunteer management assistance is encouraged, including, but not limited to, assistance by youths participating in programs sponsored by state or local agencies, by volunteers sponsored by environmental or civic organizations, and by individuals participating in programs for committed delinquents and adults.

(d)~~1.~~ For each project for which lands are acquired after July 1, 1995, an individual management plan shall be adopted and in place no later than 1 year after the essential parcel or parcels identified in the priority list developed pursuant to s. 259.105 have been acquired. The department ~~of Environmental~~

~~Protection~~ shall distribute only 75 percent of the acquisition funds to which a budget entity or water management district would otherwise be entitled to any budget entity or any water management district that has more than one-third of its management plans overdue.

~~2. The requirements of subparagraph 1. do not apply to the individual management plan for the Babcock Crescent B Ranch being acquired pursuant to s. 259.1052. The management plan for the ranch shall be adopted and in place no later than 2 years following the date of acquisition by the state.~~

(e) Individual management plans shall conform to the appropriate policies and guidelines of the state land management plan and shall include, but not be limited to:

1. A statement of the purpose for which the lands were acquired, the projected use or uses as defined in s. 253.034, and the statutory authority for such use or uses.

2. Key management activities necessary to achieve the desired outcomes, including, but not limited to, providing public access, preserving and protecting natural resources, protecting cultural and historical resources, restoring habitat, protecting threatened and endangered species, controlling the spread of nonnative plants and animals, performing prescribed fire activities, and other appropriate resource management.

3. A specific description of how the managing agency plans to identify, locate, protect, and preserve, or otherwise use fragile, nonrenewable natural and cultural resources.

4. A priority schedule for conducting management activities~~, based on the purposes for which the lands were acquired~~.

5. A cost estimate for conducting priority management activities, to include recommendations for cost-effective methods of accomplishing those activities.

6. A cost estimate for conducting other management activities which would enhance the natural resource value or public recreation value ~~for which the lands were acquired~~. The cost estimate shall include recommendations for cost-effective methods of accomplishing those activities.

7. A determination of the public uses and public access that would be compatible with conservation, recreation, or both ~~that would be consistent with the purposes for which the lands were acquired~~.

(f) The Division of State Lands shall submit a copy of each individual management plan for parcels which exceed 160 acres in size to each member of the ~~Acquisition and Restoration~~ council, which shall:

1. Within 60 days after receiving a plan from the Division of State Lands, review each plan for compliance with the requirements of this subsection and with the requirements of the rules adopted ~~established~~ by the board pursuant to this subsection.

2. Consider the propriety of the recommendations of the managing agency with regard to the future use or protection of the property.

3. After its review, submit the plan, along with its recommendations and comments, to the board ~~of trustees~~, with recommendations as to whether to approve the plan as submitted, approve the plan with modifications, or reject the plan.

(g) The board ~~of trustees~~ shall consider the individual

management plan submitted by each state agency and the recommendations of the ~~Acquisition and Restoration~~ council and the department ~~Division of State Lands~~ and shall approve the plan with or without modification or reject such plan. The use or possession of any lands owned by the board ~~of trustees~~ which is not in accordance with an approved individual management plan is subject to termination by the board ~~of trustees~~.

By July 1 of each year, each governmental agency and each private entity designated to manage lands shall report to the Secretary of Environmental Protection on the progress of funding, staffing, and resource management of every project for which the agency or entity is responsible.

(9)(a) The Legislature recognizes that acquiring lands pursuant to this chapter serves the public interest by protecting land, air, and water resources which contribute to the public health and welfare, providing areas for natural resource based recreation, and ensuring the survival of unique and irreplaceable plant and animal species. The Legislature intends for these lands to be managed and maintained in a manner that is compatible with conservation, recreation, or both, consistent with the land management plan ~~for the purposes for which they were acquired~~ and for the public to have access to and use of these lands if public access ~~where it is consistent with acquisition purposes and~~ would not harm the resources the state is seeking to protect on the public's behalf.

(d) Up to one-fifth of the funds appropriated for the purposes identified in paragraph (b) shall be reserved by the board ~~of trustees~~ for interim management of acquisitions and for

associated contractual services, to ensure the conservation and protection of natural resources on project sites and to allow limited public recreational use of lands. Interim management activities may include, but not be limited to, resource assessments, control of invasive, nonnative species, habitat restoration, fencing, law enforcement, controlled burning, and public access consistent with preliminary determinations made pursuant to paragraph (7)(f) ~~(7)(g)~~. The board ~~of trustees~~ shall make these interim funds available immediately upon purchase.

Section 15. Subsection (3) and paragraph (a) of subsection (4) of section 259.035, Florida Statutes, are amended to read:

259.035 Acquisition and Restoration Council.—

(3) The council shall provide assistance to the board ~~of trustees~~ in reviewing the recommendations and plans for state-owned conservation lands required under s. 253.034 and this chapter. The council shall, in reviewing such ~~recommendations and~~ plans, consider the optimization of multiple-use and conservation strategies to accomplish the provisions funded pursuant to former s. 259.101(3)(a), Florida Statutes 2014, and to s. 259.105(3)(b).

(4)(a) By December 1, 2016, the ~~Acquisition and Restoration~~ council shall develop rules defining specific criteria and numeric performance measures needed for lands that are to be acquired for public purpose under the Florida Forever program pursuant to s. 259.105 or with funds deposited into the Land Acquisition Trust Fund pursuant to s. 28(a), Art. X of the State Constitution. These rules shall be reviewed and adopted by the board, then submitted to the Legislature for consideration by February 1, 2017. The Legislature may reject, modify, or take no

action relative to the proposed rules. If no action is taken, the rules shall be implemented. Subsequent to their approval, each recipient of funds from the Land Acquisition Trust Fund shall annually report to the department ~~Division of State Lands~~ on each of the numeric performance measures accomplished during the previous fiscal year.

Section 16. Subsections (1), (2), (4), and (5) of section 259.036, Florida Statutes, are amended to read:

259.036 Management review teams.—

(1) To determine whether conservation, preservation, and recreation lands titled in the name of the board ~~of Trustees of the Internal Improvement Trust Fund~~ are being managed for ~~the~~ purposes that are compatible with conservation, preservation, or recreation ~~for which they were acquired and~~ in accordance with a land management plan adopted pursuant to s. 259.032, the board ~~of trustees~~, acting through the department ~~of Environmental Protection~~, shall cause periodic management reviews to be conducted as follows:

(a) The department shall establish a regional land management review team composed of the following members:

1. One individual who is from the county or local community in which the parcel or project is located and who is selected by the county commission in the county which is most impacted by the acquisition.

2. One individual from the Division of Recreation and Parks of the department.

3. One individual from the Florida Forest Service of the Department of Agriculture and Consumer Services.

4. One individual from the Fish and Wildlife Conservation

Commission.

5. One individual from the department's district office in which the parcel is located.

6. A private land manager, preferably from the local community, mutually agreeable to the state agency representatives.

7. A member or staff from the jurisdictional water management district or ~~of the~~ local soil and water conservation district board of supervisors.

8. A member of a conservation organization.

(b) The department ~~staff of the Division of State Lands~~ shall act as the review team coordinator for the purposes of establishing schedules for the reviews and other staff functions. The Legislature shall appropriate funds necessary to implement land management review team functions.

(2) The land management review team shall review select management areas before ~~prior to~~ the date the manager is required to submit a 10-year land management plan update. For management areas that exceed 1,000 acres in size, the department ~~Division of State Lands~~ shall schedule a land management review at least every 5 years. A copy of the review shall be provided to the manager, the department ~~Division of State Lands~~, and the ~~Acquisition and Restoration~~ council. The manager shall consider the findings and recommendations of the land management review team in finalizing the required 10-year update of its management plan.

(4) In the event a land management plan has not been adopted within the timeframes specified in s. 259.032(8), the department may direct a management review of the property, to be

conducted by the land management review team. The review shall consider the extent to which the land is being managed in a manner that is compatible with conservation, recreation, or both ~~for the purposes for which it was acquired~~ and the degree to which actual management practices are in compliance with the management policy statement and management prospectus for that property.

(5) If the land management review team determines that reviewed lands are not being managed in a manner that is compatible with conservation, recreation, or both, consistent ~~for the purposes for which they were acquired or in compliance~~ with the adopted land management plan, management policy statement, or management prospectus, or if the managing agency fails to address the review findings in the updated management plan, the department shall provide the review findings to the board, and the managing agency must report to the board its reasons for managing the lands as it has.

Section 17. Section 259.037, Florida Statutes, is amended to read:

259.037 Land Management Uniform Accounting Council.—

(1) The Land Management Uniform Accounting Council (LMUAC) is created within the Department of Environmental Protection and shall consist of the director of the Division of State Lands, the director of the Division of Recreation and Parks, and the director of the Office of Coastal and Aquatic Managed Areas~~, and the director of the Office of Greenways and Trails~~ of the department ~~of Environmental Protection~~; the director of the Florida Forest Service of the Department of Agriculture and Consumer Services; the executive director of the Fish and

Wildlife Conservation Commission; and the director of the Division of Historical Resources of the Department of State, or their respective designees. Each state agency represented on the LMUAC ~~council~~ shall have one vote. The chair of the LMUAC ~~council~~ shall rotate annually in the foregoing order of state agencies. The agency of the representative serving as chair ~~of the council~~ shall provide staff support for the LMUAC ~~council~~. The Division of State Lands shall serve as the recipient of and repository for the LMUAC's ~~council's~~ documents. The LMUAC ~~council~~ shall meet at the request of the chair.

(2) The Auditor General and the director of the Office of Program Policy Analysis and Government Accountability, or their designees, shall advise the LMUAC ~~council~~ to ensure that appropriate accounting procedures are used ~~utilized~~ and that a uniform method of collecting and reporting accurate costs of land management activities are created and can be used by all agencies.

(3)(a) All land management activities and costs must be assigned to a specific category, and any single activity or cost may not be assigned to more than one category. Administrative costs, such as planning or training, shall be segregated from other management activities. Specific management activities and costs must initially be grouped, at a minimum, within the following categories:

1. Resource management.
2. Administration.
3. Support.
4. Capital improvements.
5. Recreation visitor services.

6. Law enforcement activities.

Upon adoption of the initial list of land management categories by the LMUAC ~~council~~, agencies assigned to manage conservation or recreation lands shall~~, on July 1, 2000, begin to~~ account for land management costs in accordance with the category to which an expenditure is assigned.

(b) Each reporting agency shall also:

1. Include a report of the available public use opportunities for each management unit of state land, the total management cost for public access and public use, and the cost associated with each use option.

2. List the acres of land requiring minimal management effort, moderate management effort, and significant management effort pursuant to s. 259.032(9)(c). For each category created in paragraph (a), the reporting agency shall include the amount of funds requested, the amount of funds received, and the amount of funds expended for land management.

3. List acres managed and cost of management for each park, preserve, forest, reserve, or management area.

4. List acres managed, cost of management, and lead manager for each state lands management unit for which secondary management activities were provided.

5. Include a report of the estimated calculable financial benefits to the public for the ecosystem services provided by conservation lands, based on the best readily available information or science that provides a standard measurement methodology to be consistently applied by the land managing agencies. Such information may include, but need not be limited

to, the value of natural lands for protecting the quality and quantity of drinking water through natural water filtration and recharge, contributions to protecting and improving air quality, benefits to agriculture through increased soil productivity and preservation of biodiversity, and savings to property and lives through flood control.

(4) The LMUAC ~~council~~ shall provide a report of the agencies' expenditures pursuant to the adopted categories to the Acquisition and Restoration Council and the Division of State Lands for inclusion in its annual report required pursuant to s. 259.036.

(5) Should the LMUAC ~~council~~ determine that the list of land management categories needs to be revised, it shall meet upon the call of the chair.

(6) Biennially, each reporting agency shall also submit an operational report for each management area along with an approved management plan. The report should assess the progress toward achieving short-term and long-term management goals of the approved management plan, including all land management activities, and identify any deficiencies in management and corrective actions to address identified deficiencies as appropriate. This report shall be submitted to the Acquisition and Restoration Council and the Division of State Lands for inclusion in its annual report required pursuant to s. 259.036.

Section 18. Subsections (1) through (6) and subsections (8) through (19) of section 259.041, Florida Statutes, are repealed.

Section 19. Subsection (2) of section 259.047, Florida Statutes, is amended to read:

259.047 Acquisition of land on which an agricultural lease

exists.—

(2) If ~~Where~~ consistent with the purposes of conservation and recreation ~~for which the property was acquired~~, the state or acquiring entity shall make reasonable efforts to keep lands in agricultural production which are in agricultural production at the time of acquisition.

Section 20. Subsection (8) of section 259.101, Florida Statutes, is renumbered as subsection (7), and subsection (5), paragraph (a) of subsection (6), and present subsection (7) of that section are amended, to read:

259.101 Florida Preservation 2000 Act.—

(5) DISPOSITION OF LANDS.—

(a) Any lands acquired pursuant to former paragraphs (3)(a), (3)(c), (3)(d), (3)(e), (3)(f), or (3)(g) of this section, Florida Statutes 2014, if title to such lands is vested in the board ~~of Trustees of the Internal Improvement Trust Fund~~, may be disposed of by the board ~~of Trustees of the Internal Improvement Trust Fund~~ in accordance with the provisions and procedures set forth in s. 253.0341 ~~253.034(6)~~, and lands acquired pursuant to former paragraph (3)(b) of this section, Florida Statutes 2014, may be disposed of by the owning water management district in accordance with the procedures and provisions set forth in ss. 373.056 and 373.089 provided such disposition also shall satisfy the requirements of paragraphs (b) and (c).

(b) Before land acquired with Preservation 2000 funds may be surplused as required by s. 253.0341 ~~253.034(6)~~ or determined to be no longer required for its purposes under s. 373.056(4), as applicable, there shall first be a determination by the board

~~of Trustees of the Internal Improvement Trust Fund~~, or, in the case of water management district lands, by the owning water management district, that such land no longer needs to be preserved in furtherance of the intent of the Florida Preservation 2000 Act. Any lands eligible to be disposed of under this procedure also may be used to acquire other lands through an exchange of lands if such lands obtained in an exchange are described in the same paragraph of former subsection (3) of this section, Florida Statutes 2014, as the lands disposed.

(c) Revenue derived from the disposal of lands acquired with Preservation 2000 funds may not be used for any purpose except for deposit into the Florida Forever Trust Fund within the department ~~of Environmental Protection~~, for recredit to the share held under former subsection (3) of this section, Florida Statutes 2014, in which such disposed land is described.

(6) ALTERNATE USES OF ACQUIRED LANDS.—

(a) The board ~~of Trustees of the Internal Improvement Trust Fund~~, or, in the case of water management district lands, the owning water management district, may authorize the granting of a lease, easement, or license for the use of any lands acquired pursuant to former subsection (3) of this section, Florida Statutes 2014, for any governmental use permitted by s. 17, Art. IX of the State Constitution of 1885, as adopted by s. 9(a), Art. XII of the State Constitution, and any other incidental public or private use that is determined by the board or the owning water management district to be compatible with conservation, preservation, or recreation ~~the~~ purposes ~~for which such lands were acquired~~.

~~(7) ALTERNATIVES TO FEE SIMPLE ACQUISITION.—~~

~~(a) The Legislature finds that, with the increasing pressures on the natural areas of this state, the state must develop creative techniques to maximize the use of acquisition and management moneys. The Legislature finds that the state's environmental land-buying agencies should be encouraged to augment their traditional, fee simple acquisition programs with the use of alternatives to fee simple acquisition techniques. The Legislature also finds that using alternatives to fee simple acquisition by public land-buying agencies will achieve the following public policy goals:~~

~~1. Allow more lands to be brought under public protection for preservation, conservation, and recreational purposes at less expense using public funds.~~

~~2. Retain, on local government tax rolls, some portion of or interest in lands that are under public protection.~~

~~3. Reduce long-term management costs by allowing private property owners to continue acting as stewards of the land, as appropriate.~~

~~Therefore, it is the intent of the Legislature that public land-buying agencies develop programs to pursue alternatives to fee simple acquisition and to educate private landowners about such alternatives and the benefits of such alternatives. It also is the intent of the Legislature that the department and the water management districts spend a portion of their shares of Preservation 2000 bond proceeds to purchase eligible properties using alternatives to fee simple acquisition. Finally, it is the intent of the Legislature that public agencies acquire lands in~~

~~fee simple for public access and recreational activities. Lands protected using alternatives to fee simple acquisition techniques may not be accessible to the public unless such access is negotiated with and agreed to by the private landowners who retain interests in such lands.~~

~~(b) The Land Acquisition Advisory Council and the water management districts shall identify, within their 1997 acquisition plans, those projects that require a full fee simple interest to achieve the public policy goals, along with the reasons why full title is determined to be necessary. The council and the water management districts may use alternatives to fee simple acquisition to bring the remaining projects in their acquisition plans under public protection. For the purposes of this subsection, the term "alternatives to fee simple acquisition" includes the purchase of development rights; conservation easements; flowage easements; the purchase of timber rights, mineral rights, or hunting rights; the purchase of agricultural interests or silvicultural interests; land protection agreements; fee simple acquisitions with reservations; or any other acquisition technique that achieves the public policy goals identified in paragraph (a). It is presumed that a private landowner retains the full range of uses for all the rights or interests in the landowner's land which are not specifically acquired by the public agency. Life estates and fee simple acquisitions with leaseback provisions do not qualify as an alternative to fee simple acquisition under this subsection, although the department and the districts are encouraged to use such techniques if appropriate.~~

~~(c) The department and each water management district shall~~

~~implement initiatives to use alternatives to fee simple acquisition and to educate private landowners about such alternatives. These initiatives must include at least two acquisitions a year by the department and each water management district utilizing alternatives to fee simple.~~

~~(d) The Legislature finds that the lack of direct sales comparison information has served as an impediment to successful implementation of alternatives to fee simple acquisition. It is the intent of the Legislature that, in the absence of direct comparable sales information, appraisals of alternatives to fee simple acquisitions be based on the difference between the full fee simple valuation and the value of the interests remaining with the seller after acquisition.~~

~~(c) The public agency that has been assigned management responsibility shall inspect and monitor any less-than-fee-simple interest according to the terms of the purchase agreement relating to such interest.~~

~~(f) The department and the water management districts may enter into joint acquisition agreements to jointly fund the purchase of lands using alternatives to fee simple techniques.~~

Section 21. Paragraph (a) of subsection (2), paragraphs (i) and (l) of subsection (3), subsections (10) and (13), paragraph (i) of subsection (15), and subsection (19) of section 259.105, Florida Statutes, are amended to read:

259.105 The Florida Forever Act.—

(2)(a) The Legislature finds and declares that:

1. Land acquisition programs have provided tremendous financial resources for purchasing environmentally significant lands to protect those lands from imminent development or

alteration, thereby ensuring present and future generations' access to important waterways, open spaces, and recreation and conservation lands.

2. The continued alteration and development of the state's ~~Florida's~~ natural and rural areas to accommodate the state's growing population have contributed to the degradation of water resources, the fragmentation and destruction of wildlife habitats, the loss of outdoor recreation space, and the diminishment of wetlands, forests, working landscapes, and coastal open space.

3. The potential development of the state's ~~Florida's~~ remaining natural areas and escalation of land values require government efforts to restore, bring under public protection, or acquire lands and water areas to preserve the state's essential ecological functions and invaluable quality of life.

4. It is essential to protect the state's ecosystems by promoting a more efficient use of land, to ensure opportunities for viable agricultural activities on working lands, and to promote vital rural and urban communities that support and produce development patterns consistent with natural resource protection.

5. The state's ~~Florida's~~ groundwater, surface waters, and springs are under tremendous pressure due to population growth and economic expansion and require special protection and restoration efforts, including the protection of uplands and springsheds that provide vital recharge to aquifer systems and are critical to the protection of water quality and water quantity of the aquifers and springs. To ensure that sufficient quantities of water are available to meet the current and future

needs of the natural systems and citizens of the state, and assist in achieving the planning goals of the department and the water management districts, water resource development projects on public lands, if ~~where~~ compatible with the resource values of and management objectives for the lands, are appropriate.

6. The needs of urban, suburban, and small communities in the state ~~Florida~~ for high-quality outdoor recreational opportunities, greenways, trails, and open space have not been fully met by previous acquisition programs. Through such programs as the Florida Communities Trust and the Florida Recreation Development Assistance Program, the state shall place additional emphasis on acquiring, protecting, preserving, and restoring open space, ecological greenways, and recreation properties within urban, suburban, and rural areas where pristine natural communities or water bodies no longer exist because of the proximity of developed property.

7. Many of the state's ~~Florida's~~ unique ecosystems, such as the Florida Everglades, are facing ecological collapse due to the state's ~~Florida's~~ burgeoning population growth and other economic activities. To preserve these valuable ecosystems for future generations, essential parcels of land must be acquired to facilitate ecosystem restoration.

8. Access to public lands to support a broad range of outdoor recreational opportunities and the development of necessary infrastructure, if ~~where~~ compatible with the resource values of and management objectives for such lands, promotes an appreciation for the state's ~~Florida's~~ natural assets and improves the quality of life.

9. Acquisition of lands, in fee simple, less than fee ~~less-~~

~~than-fee~~ interest, or other techniques shall be based on a comprehensive science-based assessment of the state's ~~Florida's~~ natural resources which targets essential conservation lands by prioritizing all current and future acquisitions based on a uniform set of data and planned so as to protect the integrity and function of ecological systems and working landscapes, and provide multiple benefits, including preservation of fish and wildlife habitat, recreation space for urban and rural areas, and the restoration of natural water storage, flow, and recharge.

10. The state has embraced performance-based program budgeting as a tool to evaluate the achievements of publicly funded agencies, build in accountability, and reward those agencies which are able to consistently achieve quantifiable goals. While previous and existing state environmental programs have achieved varying degrees of success, few of these programs can be evaluated as to the extent of their achievements, primarily because performance measures, standards, outcomes, and goals were not established at the outset. Therefore, the Florida Forever program shall be developed and implemented in the context of measurable state goals and objectives.

11. The state must play a major role in the recovery and management of its imperiled species through the acquisition, restoration, enhancement, and management of ecosystems that can support the major life functions of such species. It is the intent of the Legislature to support local, state, and federal programs that result in net benefit to imperiled species habitat by providing public and private land owners meaningful incentives for acquiring, restoring, managing, and repopulating

habitats for imperiled species. It is the further intent of the Legislature that public lands, both existing and to be acquired, identified by the lead land managing agency, in consultation with the ~~Florida~~ Fish and Wildlife Conservation Commission for animals or the Department of Agriculture and Consumer Services for plants, as habitat or potentially restorable habitat for imperiled species, be restored, enhanced, managed, and repopulated as habitat for such species to advance the goals and objectives of imperiled species management for conservation, recreation, or both, consistent with the land management plan ~~purposes for which such lands are acquired~~ without restricting other uses identified in the management plan. It is also the intent of the Legislature that of the proceeds distributed pursuant to subsection (3), additional consideration be given to acquisitions that achieve a combination of conservation goals, including the restoration, enhancement, management, or repopulation of habitat for imperiled species. The ~~Acquisition and Restoration~~ council, in addition to the criteria in subsection (9), shall give weight to projects that include acquisition, restoration, management, or repopulation of habitat for imperiled species. The term "imperiled species" as used in this chapter and chapter 253, means plants and animals that are federally listed under the Endangered Species Act, or state-listed by the Fish and Wildlife Conservation Commission or the Department of Agriculture and Consumer Services.

~~a.~~ As part of the state's role, all state lands that have imperiled species habitat shall include as a consideration in management plan development the restoration, enhancement, management, and repopulation of such habitats. In addition, the

lead land managing agency of such state lands may use fees received from public or private entities for projects to offset adverse impacts to imperiled species or their habitat in order to restore, enhance, manage, repopulate, or acquire land and to implement land management plans developed under s. 253.034 or a land management prospectus developed and implemented under this chapter. Such fees shall be deposited into a foundation or fund created by each land management agency under s. 379.223, s. 589.012, or s. 259.032(9)(c), to be used solely to restore, manage, enhance, repopulate, or acquire imperiled species habitat.

~~b. Where habitat or potentially restorable habitat for imperiled species is located on state lands, the Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services shall be included on any advisory group required under chapter 253, and the short-term and long-term management goals required under chapter 253 must advance the goals and objectives of imperiled species management consistent with the purposes for which the land was acquired without restricting other uses identified in the management plan.~~

12. There is a need to change the focus and direction of the state's major land acquisition programs and to extend funding and bonding capabilities, so that future generations may enjoy the natural resources of this state.

(3) Less the costs of issuing and the costs of funding reserve accounts and other costs associated with bonds, the proceeds of cash payments or bonds issued pursuant to this section shall be deposited into the Florida Forever Trust Fund

created by s. 259.1051. The proceeds shall be distributed by the department of Environmental Protection in the following manner:

(i) Three and five-tenths percent to the Department of Agriculture and Consumer Services for the acquisition of agricultural lands, through perpetual conservation easements and other perpetual less than fee ~~less-than-fee~~ techniques, which will achieve the objectives of Florida Forever and s. 570.71. Rules concerning the application, acquisition, and priority ranking process for such easements shall be developed pursuant to s. 570.71(10) and as provided by this paragraph. The board shall ensure that such rules are consistent with the acquisition process provided for in s. 570.715 ~~259.041~~. ~~Provisions of~~ The rules developed pursuant to s. 570.71(10), shall also provide for the following:

1. An annual priority list shall be developed pursuant to s. 570.71(10), submitted to the ~~Acquisition and Restoration~~ council for review, and approved by the board pursuant to s. 259.04.

2. Terms of easements and acquisitions proposed pursuant to this paragraph shall be approved by the board and may ~~shall~~ not be delegated by the board to any other entity receiving funds under this section.

3. All acquisitions pursuant to this paragraph shall contain a clear statement that they are subject to legislative appropriation.

~~No~~ Funds provided under this paragraph may not ~~shall~~ be expended until final adoption of rules by the board pursuant to s. 570.71.

(l) For the purposes of paragraphs (e), (f), (g), and (h), the agencies that receive the funds shall develop their individual acquisition or restoration lists in accordance with specific criteria and numeric performance measures developed pursuant to s. 259.035(4). Proposed additions may be acquired if they are identified within the original project boundary, the management plan required pursuant to s. 253.034(5), or the management prospectus required pursuant to s. 259.032(7)(c) ~~259.032(7)(d)~~. Proposed additions not meeting the requirements of this paragraph shall be submitted to the ~~Acquisition and Restoration~~ council for approval. The council may only approve the proposed addition if it meets two or more of the following criteria: serves as a link or corridor to other publicly owned property; enhances the protection or management of the property; would add a desirable resource to the property; would create a more manageable boundary configuration; has a high resource value that otherwise would be unprotected; or can be acquired at less than fair market value.

(10) The ~~Acquisition and Restoration~~ council shall give increased priority to:

(a) ~~those~~ Projects for which matching funds are available.

(b) ~~and to~~ Project elements previously identified on an acquisition list pursuant to this section that can be acquired at 80 percent or less of appraised value.

(c) Projects that can be acquired in less than fee ownership, such as a permanent conservation easement.

(d) Projects that contribute to improving the quality and quantity of surface water and groundwater.

(e) Projects that contribute to improving the water quality

and flow of springs.

(f) ~~The council shall also give increased priority to those~~ Projects for which ~~where~~ the state's land conservation plans overlap with the military's need to protect lands, water, and habitat to ensure the sustainability of military missions including:

1.~~(a)~~ Protecting habitat on nonmilitary land for any species found on military land that is designated as threatened or endangered, or is a candidate for such designation under the Endangered Species Act or any Florida statute;

2.~~(b)~~ Protecting areas underlying low-level military air corridors or operating areas; and

3.~~(c)~~ Protecting areas identified as clear zones, accident potential zones, and air installation compatible use buffer zones delineated by our military partners, and for which federal or other funding is available to assist with the project.

(13) An affirmative vote of at least five members of the ~~Acquisition and Restoration~~ council shall be required in order to place a ~~proposed~~ project submitted pursuant to subsection (7) on the proposed project list developed pursuant to subsection (8). Any member of the council who by family or a business relationship has a connection with any project proposed to be ranked shall declare such interest before ~~prior to~~ voting for a project's inclusion on the list.

(15) The ~~Acquisition and Restoration~~ council shall submit to the board ~~of trustees~~, with its list of projects, a report that includes, but need ~~shall~~ not be limited to, the following information for each project listed:

(i) A management policy statement for the project and a

management prospectus pursuant to s. 259.032(7)(c) ~~259.032(7)(d)~~.

(19) The ~~Acquisition and Restoration~~ council shall recommend adoption of rules by the board ~~of trustees~~ necessary to implement ~~the provisions of~~ this section relating to~~:~~ solicitation, scoring, selecting, and ranking of Florida Forever project proposals; disposing of or leasing lands or water areas selected for funding through the Florida Forever program; and the process of reviewing and recommending for approval or rejection the land management plans associated with publicly owned properties. ~~Rules promulgated pursuant to this subsection shall be submitted to the President of the Senate and the Speaker of the House of Representatives, for review by the Legislature, no later than 30 days prior to the 2010 Regular Session and shall become effective only after legislative review. In its review, the Legislature may reject, modify, or take no action relative to such rules. The board of trustees shall conform such rules to changes made by the Legislature, or, if no action was taken by the Legislature, such rules shall become effective.~~

Section 22. Subsections (6) and (7) of section 259.1052, Florida Statutes, are amended to read:

259.1052 Babcock Crescent B Ranch Florida Forever acquisition; conditions for purchase.—

~~(6) In addition to distributions authorized under s. 259.105(3), the Department of Environmental Protection is authorized to distribute $310 million in revenues from the Florida Forever Trust Fund. This distribution shall represent payment in full for the portion of the Babcock Crescent B Ranch~~

~~to be acquired by the state under this section.~~

~~(7) As used in this section, the term "state's portion of the Babcock Crescent B Ranch" comprises those lands to be conveyed by special warranty deed to the Board of Trustees of the Internal Improvement Trust Fund under the provisions of the agreement for sale and purchase executed by the Board of Trustees of the Internal Improvement Trust Fund, the Fish and Wildlife Conservation Commission, the Department of Agriculture and Consumer Services, and the participating local government, as purchaser, and MSKP, III, a Florida corporation, as seller.~~

Section 23. Section 570.715, Florida Statutes, is created, and subsection (7) of section 259.041, Florida Statutes, is transferred, renumbered as subsection (5) of section 570.715, Florida Statutes, and amended, to read:

570.715 Conservation easement acquisition procedures.—

(1) For less than fee simple acquisitions pursuant to s. 570.71, the Department of Agriculture and Consumer Services shall comply with the following acquisition procedures:

(a) Before conveyance of title by the department, evidence of marketable title in the form of a commitment for title insurance or an abstract of title with a title opinion shall be obtained.

(b) Before approval by the board of trustees of an agreement to purchase less than fee simple title to land pursuant to s. 570.71, an appraisal of the parcel shall be required as follows:

1. Each parcel to be acquired shall have at least one appraisal. Two appraisals are required when the estimated value of the parcel exceeds $1 million. However, when both appraisals

exceed $1 million and differ significantly, a third appraisal may be obtained.

2. Appraisal fees and associated costs shall be paid by the department. All appraisals used for the acquisition of less than fee simple interest in lands pursuant to this section shall be prepared by a state-certified appraiser who meets the standards and criteria established by rule of the board of trustees. Each appraiser selected to appraise a particular parcel shall, before contracting with the department or a participant in a multiparty agreement, submit to the department or participant an affidavit substantiating that he or she has no vested or fiduciary interest in such parcel.

(c) A certified survey must be made that meets the minimum requirements for upland parcels established in the Standards of Practice for Land Surveying in Florida published by the department and that accurately portrays, to the greatest extent practicable, the condition of the parcel as it currently exists. The requirement for a certified survey may, in whole or in part, be waived by the board of trustees any time before acquisition of the less than fee simple interest. If an existing boundary map and description of a parcel are determined by the department to be sufficient for appraisal purposes, the department may temporarily waive the requirement for a survey until any time before conveyance of title to the parcel.

(d) On behalf of the board of trustees and before the appraisal of parcels approved for purchase under ss. 259.105(3)(i) and 570.71, the department may enter into option contracts to buy less than fee simple interest in such parcels. Any such option contract shall state that the final purchase

price is subject to approval by the board of trustees and that the final purchase price may not exceed the maximum offer authorized by law. Any such option contract presented to the board of trustees for final purchase price approval shall explicitly state that payment of the final purchase price is subject to an appropriation by the Legislature. The consideration for any such option contract may not exceed $1,000 or 0.01 percent of the estimate by the department of the value of the parcel, whichever amount is greater.

(e) A final offer shall be in the form of an option contract or agreement for purchase of the less than fee simple interest and shall be signed and attested to by the owner and the department. Before the department signs the agreement for purchase of the less than fee simple interest or exercises the option contract, the requirements of s. 286.23 shall be complied with.

(f) The procedures provided in s. 253.025(9)(a)-(d) and (10) shall be followed.

(2) If the public's interest is reasonably protected, the board of trustees may:

(a) Waive any requirement of this section.

(b) Waive any rules adopted pursuant to s. 570.71, notwithstanding chapter 120.

(c) Substitute any other reasonably prudent procedures, including federally mandated acquisition procedures, for the procedures in this section, if federal funds are available and will be used for the purchase of a less than fee simple interest in lands, title to which will vest in the board of trustees, and qualification for such federal funds requires compliance with

federally mandated acquisition procedures.

(3) The less than fee simple land acquisition procedures provided in this section are for voluntary, negotiated acquisitions.

(4) For purposes of this section, the term "negotiations" does not include preliminary contacts with the property owner to determine availability or eligibility of the property, existing appraisal data, existing abstracts, and surveys.

(5) ~~(7) Prior to approval by the board of trustees or, when applicable, the Department of Environmental Protection, of any agreement to purchase land pursuant to this chapter, chapter 260, or chapter 375, and prior to negotiations with the parcel owner to purchase any other land, title to which will vest in the board of trustees, an appraisal of the parcel shall be required as follows:~~

~~(a) The board of trustees shall adopt by rule the method for determining the value of parcels sought to be acquired by state agencies pursuant to this section.~~

~~(b) Each parcel to be acquired shall have at least one appraisal. Two appraisals are required when the estimated value of the parcel exceeds $1 million. However, when both appraisals exceed $1 million and differ significantly, a third appraisal may be obtained. When a parcel is estimated to be worth $100,000 or less and the director of the Division of State Lands finds that the cost of obtaining an outside appraisal is not justified, an appraisal prepared by the division may be used.~~

~~(c) Appraisal fees and associated costs shall be paid by the agency proposing the acquisition. The board of trustees shall approve qualified fee appraisal organizations. All~~

~~appraisals used for the acquisition of lands pursuant to this section shall be prepared by a member of an approved appraisal organization or by a state certified appraiser who meets the standards and criteria established in rule by the board of trustees. Each fee appraiser selected to appraise a particular parcel shall, prior to contracting with the agency or a participant in a multiparty agreement, submit to that agency or participant an affidavit substantiating that he or she has no vested or fiduciary interest in such parcel.~~

~~(d) The fee appraiser and the review appraiser for the agency shall not act in any way that may be construed as negotiating with the property owner.~~

~~(c) Generally,~~ Appraisal reports are confidential and exempt from ~~the provisions of~~ s. 119.07(1), for use by the department ~~agency~~ and the board of trustees, until an option contract is executed or, if an ~~no~~ option contract is not executed, until 2 weeks before a contract or agreement for purchase is considered for approval by the board of trustees. However, the department has the authority, at its discretion, to disclose appraisal reports to private landowners during negotiations for acquisitions using alternatives to fee simple techniques, if the department determines that disclosure of such reports will bring the proposed acquisition to closure. The department ~~Division of State Lands~~ may also disclose appraisal information to public agencies or nonprofit organizations that agree to maintain the confidentiality of the reports or information when joint acquisition of property is contemplated, or when a public agency or nonprofit organization enters into a written multiparty agreement with the department ~~division to~~

~~purchase and hold property for subsequent resale to the division. In addition, the division may use, as its own, appraisals obtained by a public agency or nonprofit organization, provided the appraiser is selected from the division's list of appraisers and the appraisal is reviewed and approved by the division~~. For ~~the~~ purposes of this subsection ~~chapter~~, the term "nonprofit organization" means an organization whose purposes include the preservation of natural resources, and which is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code. The department ~~agency~~ may release an appraisal report when the passage of time has rendered the conclusions of value in the report invalid or when the department ~~acquiring agency~~ has terminated negotiations.

~~(f) The Division of State Lands may use, as its own, appraisals obtained by a public agency or nonprofit organization, provided that the appraiser is selected from the division's list of appraisers and the appraisal is reviewed and approved by the division. For the purposes of this chapter, the term "nonprofit organization" means an organization whose purposes include the preservation of natural resources and which is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code.~~

~~Notwithstanding the provisions of this subsection, on behalf of the board and before the appraisal of parcels approved for purchase under this chapter, the Secretary of Environmental Protection or the director of the Division of State Lands may enter into option contracts to buy such parcels. Any such option contract shall state that the final purchase price is subject to~~

~~approval by the board or, when applicable, the secretary and that the final purchase price may not exceed the maximum offer allowed by law. Any such option contract presented to the board for final purchase price approval shall explicitly state that payment of the final purchase price is subject to an appropriation from the Legislature. The consideration for such an option may not exceed $1,000 or 0.01 percent of the estimate by the department of the value of the parcel, whichever amount is greater.~~

Section 24. Subsections (1), (3), and (7) of section 373.089, Florida Statutes, are amended, and subsection (8) is added to that section, to read:

373.089 Sale or exchange of lands, or interests or rights in lands.—The governing board of the district may sell lands, or interests or rights in lands, to which the district has acquired title or to which it may hereafter acquire title in the following manner:

(1) Any lands, or interests or rights in lands, determined by the governing board to be surplus may be sold by the district, at any time, for the highest price obtainable; however, in no case shall the selling price be less than the appraised value of the lands, or interests or rights in lands, as determined by a certified appraisal obtained within 360 ~~120~~ days before the effective date of a contract for sale.

(3) Before selling any surplus land, or interests or rights in land, it shall be the duty of the district to cause a notice of intention to sell to be published in a newspaper published in the county in which the land, or interests or rights in the land, is situated once each week for 3 successive weeks, ~~(~~three

insertions being sufficient.~~)~~, The first publication of the required notice must occur at least ~~which shall be not less than~~ 30 days, but not ~~nor~~ more than 360 ~~45~~ days, before ~~prior to~~ any sale and must include~~, which notice shall set forth~~ a description of lands, or interests or rights in lands, to be offered for sale.

(7) Notwithstanding other provisions of this section, the governing board shall first offer title to lands acquired in whole or in part with Florida Forever funds which are determined to be no longer needed for conservation purposes to the Board of Trustees of the Internal Improvement Trust Fund unless the disposition of those lands is for the following purposes:

(a) Linear facilities, including electric transmission and distribution facilities, telecommunication transmission and distribution facilities, pipeline transmission and distribution facilities, public transportation corridors, and related appurtenances.

(b) The disposition of the fee interest in the land where a conservation easement is retained by the district to fulfill the conservation objectives for which the land was acquired.

(c) An exchange of the land for other lands that meet or exceed the conservation objectives for which the original land was acquired in accordance with subsection (4).

(d) To be used by a governmental entity for a public purpose.

(e) The portion of an overall purchase deemed surplus at the time of the acquisition.

(8) If a parcel of land is no longer essential or necessary for conservation purposes and is valued at $25,000 or less as

determined by a certified appraisal obtained within 360 days before the effective date of a contract for the sale, the governing board may determine that the parcel of land is surplus. The notice of intention to sell must be published as required under subsection (3), one time only. The governing board shall send the notice of intention to sell the parcel to adjacent property owners by certified mail and publish the notice on its website.

(a) Fourteen days after publication of such notice, the district may sell the parcel to an adjacent property owner or, if there are two or more owners of adjacent property, accept sealed bids and sell the parcel to the highest bidder or reject all offers.

(b) Thirty days after publication of such notice, the district shall accept sealed bids and may sell the parcel to the highest bidder or reject all offers.

If ~~In the event~~ the Board of Trustees of the Internal Improvement Trust Fund declines to accept title to the lands offered under this section, the land may be disposed of by the district under the provisions of this section.

Section 25. Paragraph (d) of subsection (1) of section 73.015, Florida Statutes, is amended to read:

73.015 Presuit negotiation.—

(1) Effective July 1, 2000, before an eminent domain proceeding is brought under this chapter or chapter 74, the condemning authority must attempt to negotiate in good faith with the fee owner of the parcel to be acquired, must provide the fee owner with a written offer and, if requested, a copy of

the appraisal upon which the offer is based, and must attempt to reach an agreement regarding the amount of compensation to be paid for the parcel.

(d) Notwithstanding this subsection, with respect to lands acquired under s. 253.025 ~~259.041~~, the condemning authority is not required to give the fee owner the current appraisal before executing an option contract.

Section 26. Paragraph (b) of subsection (1) of section 125.355, Florida Statutes, is amended to read:

125.355 Proposed purchase of real property by county; confidentiality of records; procedure.—

(1)

(b) If the exemptions provided in this section are utilized, the governing body shall obtain at least one appraisal by an appraiser approved pursuant to s. 253.025 ~~253.025(6)(b)~~ for each purchase in an amount of not more than $500,000. For each purchase in an amount in excess of $500,000, the governing body shall obtain at least two appraisals by appraisers approved pursuant to s. 253.025 ~~253.025(6)(b)~~. If the agreed purchase price exceeds the average appraised price of the two appraisals, the governing body is required to approve the purchase by an extraordinary vote. The governing body may, by ordinary vote, exempt a purchase in an amount of $100,000 or less from the requirement for an appraisal.

Section 27. Paragraph (b) of subsection (1) of section 166.045, Florida Statutes, is amended to read:

166.045 Proposed purchase of real property by municipality; confidentiality of records; procedure.—

(1)

(b) If the exemptions provided in this section are utilized, the governing body shall obtain at least one appraisal by an appraiser approved pursuant to s. 253.025 ~~253.025(6)(b)~~ for each purchase in an amount of not more than $500,000. For each purchase in an amount in excess of $500,000, the governing body shall obtain at least two appraisals by appraisers approved pursuant to s. 253.025 ~~253.025(6)(b)~~. If the agreed purchase price exceeds the average appraised price of the two appraisals, the governing body is required to approve the purchase by an extraordinary vote. The governing body may, by ordinary vote, exempt a purchase in an amount of $100,000 or less from the requirement for an appraisal.

Section 28. Subsection (2) of section 215.82, Florida Statutes, is amended to read:

215.82 Validation; when required.—

(2) Any bonds issued pursuant to this act which are validated shall be validated in the manner provided by chapter 75. In actions to validate bonds to be issued in the name of the State Board of Education under s. 9(a) and (d), Art. XII of the State Constitution and bonds to be issued pursuant to chapter 259, the Land Conservation Program ~~Act of 1972~~, the complaint shall be filed in the circuit court of the county where the seat of state government is situated, the notice required to be published by s. 75.06 shall be published only in the county where the complaint is filed, and the complaint and order of the circuit court shall be served only on the state attorney of the circuit in which the action is pending. In any action to validate bonds issued pursuant to s. 1010.62 or issued pursuant to s. 9(a)(1), Art. XII of the State Constitution or issued

pursuant to s. 215.605 or s. 338.227, the complaint shall be filed in the circuit court of the county where the seat of state government is situated, the notice required to be published by s. 75.06 shall be published in a newspaper of general circulation in the county where the complaint is filed and in two other newspapers of general circulation in the state, and the complaint and order of the circuit court shall be served only on the state attorney of the circuit in which the action is pending; provided, however, that if publication of notice pursuant to this section would require publication in more newspapers than would publication pursuant to s. 75.06, such publication shall be made pursuant to s. 75.06.

Section 29. Section 215.965, Florida Statutes, is amended to read:

215.965 Disbursement of state moneys.—Except as provided in s. 17.076, s. 253.025(17) ~~253.025(14), s. 259.041(18)~~, s. 717.124(4)(b) and (c), s. 732.107(5), or s. 733.816(5), all moneys in the State Treasury shall be disbursed by state warrant, drawn by the Chief Financial Officer upon the State Treasury and payable to the ultimate beneficiary. This authorization shall include electronic disbursement.

Section 30. Subsection (8) of section 253.027, Florida Statutes, is amended to read:

253.027 Emergency archaeological property acquisition.—

(8) WAIVER OF APPRAISALS OR SURVEYS.—The Board of Trustees of the Internal Improvement Trust Fund may waive or limit any appraisal or survey requirements in s. 253.025 ~~259.041~~, if necessary to effectuate the purposes of this section. Fee simple title is not required to be conveyed if some lesser interest

will allow the preservation of the archaeological resource. Properties purchased pursuant to this section shall be considered archaeologically unique or significant properties and may be purchased under the provisions of s. 253.025(9) ~~253.025(7)~~.

Section 31. Section 253.7824, Florida Statutes, is amended to read:

253.7824 Sale of products; proceeds.—The Department of Environmental Protection may authorize the removal and sale of products from the land where environmentally appropriate, the proceeds from which shall be deposited into the appropriate trust fund in accordance with the same disposition provided under s. 253.0341 ~~253.034(6)(k), (l), or (m)~~ applicable to the sale of land.

Section 32. Paragraphs (b) and (c) of subsection (2) of section 260.015, Florida Statutes, are amended to read:

260.015 Acquisition of land.—

(2) For purposes of the Florida Greenways and Trails Program, the board may:

(b) Accept title to abandoned railroad rights-of-way which is conveyed by quitclaim deed through purchase, dedication, gift, grant, or settlement, notwithstanding s. 253.025 ~~259.041(1)~~.

(c) Enter into an agreement or, upon delegation, the department may enter into an agreement, with a nonprofit corporation, as defined in s. 253.025 ~~259.041(7)(e)~~, to assume responsibility for acquisition of lands pursuant to this section. The agreement may transfer responsibility for all matters which may be delegated or waived pursuant to s. 253.025

~~259.041(1)~~.

Section 33. Paragraph (b) of subsection (3) of section 260.016, Florida Statutes, is amended to read:

260.016 General powers of the department.—

(3) The department or its designee is authorized to negotiate with potentially affected private landowners as to the terms under which such landowners would consent to the public use of their lands as part of the greenways and trails system. The department shall be authorized to agree to incentives for a private landowner who consents to this public use of his or her lands for conservation or recreational purposes, including, but not limited to, the following:

(b) Agreement to exchange, subject to the approval of the board ~~of Trustees of the Internal Improvement Trust Fund~~ or other applicable unit of government, ownership or other rights of use of public lands for the ownership or other rights of use of privately owned lands. Any exchange of state-owned lands, title to which is vested in the board ~~of Trustees of the Internal Improvement Trust Fund~~, for privately owned lands shall be subject to the requirements of s. 253.025 ~~259.041~~.

Section 34. Subsections (6) and (7) of section 369.317, Florida Statutes, are amended to read:

369.317 Wekiva Parkway.—

(6) The Central Florida Expressway Authority is hereby granted the authority to act as a third-party acquisition agent, pursuant to s. 253.025 ~~259.041~~ on behalf of the Board of Trustees of the Internal Improvement Trust Fund or chapter 373 on behalf of the governing board of the St. Johns River Water Management District, for the acquisition of all necessary lands,

property and all interests in property identified herein, including fee simple or less than fee ~~less-than-fee~~ simple interests. The lands subject to this authority are identified in paragraph 10.a., State of Florida, Office of the Governor, Executive Order 03-112 of July 1, 2003, and in Recommendation 16 of the Wekiva Basin Area Task Force created by Executive Order 2002-259, such lands otherwise known as Neighborhood Lakes, a 1,587+/-acre parcel located in Orange and Lake Counties within Sections 27, 28, 33, and 34 of Township 19 South, Range 28 East, and Sections 3, 4, 5, and 9 of Township 20 South, Range 28 East; Seminole Woods/Swamp, a 5,353+/-acre parcel located in Lake County within Section 37, Township 19 South, Range 28 East; New Garden Coal; a 1,605+/-acre parcel in Lake County within Sections 23, 25, 26, 35, and 36, Township 19 South, Range 28 East; Pine Plantation, a 617+/-acre tract consisting of eight individual parcels within the Apopka City limits. The Department of Transportation, the Department of Environmental Protection, the St. Johns River Water Management District, and other land acquisition entities shall participate and cooperate in providing information and support to the third-party acquisition agent. The land acquisition process authorized by this paragraph shall begin no later than December 31, 2004. Acquisition of the properties identified as Neighborhood Lakes, Pine Plantation, and New Garden Coal, or approval as a mitigation bank shall be concluded no later than December 31, 2010. Department of Transportation and Central Florida Expressway Authority funds expended to purchase an interest in those lands identified in this subsection shall be eligible as environmental mitigation for road construction related impacts in the Wekiva Study Area.

If any of the lands identified in this subsection are used as environmental mitigation for road-construction-related impacts incurred by the Department of Transportation or Central Florida Expressway Authority, or for other impacts incurred by other entities, within the Wekiva Study Area or within the Wekiva parkway alignment corridor, and if the mitigation offsets these impacts, the St. Johns River Water Management District and the Department of Environmental Protection shall consider the activity regulated under part IV of chapter 373 to meet the cumulative impact requirements of s. 373.414(8)(a).

(a) Acquisition of the land described in this section is required to provide right-of-way for the Wekiva Parkway, a limited access roadway linking State Road 429 to Interstate 4, an essential component in meeting regional transportation needs to provide regional connectivity, improve safety, accommodate projected population and economic growth, and satisfy critical transportation requirements caused by increased traffic volume growth and travel demands.

(b) Acquisition of the lands described in this section is also required to protect the surface water and groundwater resources of Lake, Orange, and Seminole counties, otherwise known as the Wekiva Study Area, including recharge within the springshed that provides for the Wekiva River system. Protection of this area is crucial to the long term viability of the Wekiva River and springs and the central Florida region’s water supply. Acquisition of the lands described in this section is also necessary to alleviate pressure from growth and development affecting the surface and groundwater resources within the recharge area.

(c) Lands acquired pursuant to this section that are needed for transportation facilities for the Wekiva Parkway shall be determined not necessary for conservation purposes pursuant to ss. 253.0341 ~~253.034(6)~~ and 373.089(5) and shall be transferred to or retained by the Central Florida Expressway Authority or the Department of Transportation upon reimbursement of the full purchase price and acquisition costs.

(7) The Department of Transportation, the Department of Environmental Protection, the St. Johns River Water Management District, Central Florida Expressway Authority, and other land acquisition entities shall cooperate and establish funding responsibilities and partnerships by agreement to the extent funds are available to the various entities. Properties acquired with Florida Forever funds shall be in accordance with s. 253.025 ~~259.041~~ or chapter 373. The Central Florida Expressway Authority shall acquire land in accordance with this section ~~of law~~ to the extent funds are available from the various funding partners; however, the authority is~~, but shall~~ not ~~be~~ required or ~~nor~~ assumed to fund the land acquisition beyond the agreement and funding provided by the various land acquisition entities.

Section 35. Paragraph (a) of subsection (3) of section 373.139, Florida Statutes, is amended to read:

373.139 Acquisition of real property.—

(3) The initial 5-year work plan and any subsequent modifications or additions thereto shall be adopted by each water management district after a public hearing. Each water management district shall provide at least 14 days' advance notice of the hearing date and shall separately notify each county commission within which a proposed work plan project or

project modification or addition is located of the hearing date.

(a) Appraisal reports, offers, and counteroffers are confidential and exempt from ~~the provisions of~~ s. 119.07(1) until an option contract is executed or, if no option contract is executed, until 30 days before a contract or agreement for purchase is considered for approval by the governing board. However, each district may, at its discretion, disclose appraisal reports to private landowners during negotiations for acquisitions using alternatives to fee simple techniques, if the district determines that disclosure of such reports will bring the proposed acquisition to closure. If ~~In the event that~~ negotiation is terminated by the district, the appraisal report, offers, and counteroffers shall become available pursuant to s. 119.07(1). Notwithstanding ~~the provisions of~~ this section and s. 253.025 ~~259.041~~, a district and the Division of State Lands may share and disclose appraisal reports, appraisal information, offers, and counteroffers when joint acquisition of property is contemplated. A district and the Division of State Lands shall maintain the confidentiality of such appraisal reports, appraisal information, offers, and counteroffers in conformance with this section and s. 253.025 ~~259.041~~, except in those cases in which a district and the division have exercised discretion to disclose such information. A district may disclose appraisal information, offers, and counteroffers to a third party who has entered into a contractual agreement with the district to work with or on the behalf of or to assist the district in connection with land acquisitions. The third party shall maintain the confidentiality of such information in conformance with this section. In addition, a district may use, as its own, appraisals

obtained by a third party provided the appraiser is selected from the district's list of approved appraisers and the appraisal is reviewed and approved by the district.

Section 36. Subsection (8) of section 375.031, Florida Statutes, is amended to read:

375.031 Acquisition of land; procedures.—

(8) The department may, if it deems it desirable and in the best interest of the program, request the board of trustees to sell or otherwise dispose of any lands or water storage areas acquired under this act. The board of trustees, when so requested, shall offer the lands or water storage areas, on such terms as the department may determine, first to other state agencies and then, if still available, to the county or municipality in which the lands or water storage areas lie. If not acquired by another state agency or local governmental body for beneficial public purposes, the lands or water storage areas shall then be offered by the board of trustees at public sale, after first giving notice of such sale by publication in a newspaper published in the county or counties in which such lands or water storage areas lie not less than once a week for 3 consecutive weeks. All proceeds from the sale or disposition of any lands or water storage areas pursuant to this section shall be deposited into the appropriate trust fund pursuant to s. 253.0341 ~~253.034(6)(k), (l), or (m)~~.

Section 37. Subsection (2) of section 375.041, Florida Statutes, is amended to read:

375.041 Land Acquisition Trust Fund.—

(2) All moneys and revenue from the sale or other disposition of land, water areas, or related resources acquired

on or after July 1, 2015, for the purposes of s. 28, Art. X of the State Constitution shall be deposited into or credited to the Land Acquisition Trust Fund, except as otherwise provided pursuant to s. 253.0341 ~~253.034(6)(l)~~.

Section 38. Paragraph (a) of subsection (1) of section 380.05, Florida Statutes, is amended to read:

380.05 Areas of critical state concern.—

(1)(a) The state land planning agency may from time to time recommend to the Administration Commission specific areas of critical state concern. In its recommendation, the agency shall include recommendations with respect to the purchase of lands situated within the boundaries of the proposed area as environmentally endangered lands and outdoor recreation lands under the Land Conservation Program ~~Act of 1972~~. The agency also shall include any report or recommendation of a resource planning and management committee appointed pursuant to s. 380.045; the dangers that would result from uncontrolled or inadequate development of the area and the advantages that would be achieved from the development of the area in a coordinated manner; a detailed boundary description of the proposed area; specific principles for guiding development within the area; an inventory of lands owned by the state, federal, county, and municipal governments within the proposed area; and a list of the state agencies with programs that affect the purpose of the designation. The agency shall recommend actions which the local government and state and regional agencies must accomplish in order to implement the principles for guiding development. These actions may include, but need ~~shall~~ not be limited to, revisions of the local comprehensive plan and adoption of land development

regulations, density requirements, and special permitting requirements.

Section 39. Paragraph (b) of subsection (5) of section 380.055, Florida Statutes, is amended to read:

380.055 Big Cypress Area.—

(5) ACQUISITION OF BIG CYPRESS NATIONAL PRESERVE.—

(b) The Board of Trustees of the Internal Improvement Trust Fund shall set aside from the proceeds of the full faith and credit bonds authorized by the Land Conservation Program ~~Act of 1972~~, or from other funds authorized, appropriated, or allocated for the acquisition of environmentally endangered lands, or from both sources, $40 million for acquisition of the area proposed as the Federal Big Cypress National Preserve, Florida, or portions thereof.

Section 40. Paragraph (f) of subsection (4) of section 380.508, Florida Statutes, is amended to read:

380.508 Projects; development, review, and approval.—

(4) Projects or activities which the trust undertakes, coordinates, or funds in any manner shall comply with the following guidelines:

(f) The trust shall cooperate with local governments, state agencies, federal agencies, and nonprofit organizations in ensuring the reservation of lands for parks, recreation, fish and wildlife habitat, historical preservation, or scientific study. If any local government, state agency, federal agency, or nonprofit organization is unable, due to limited financial resources or other circumstances of a temporary nature, to acquire a site for the purposes described in this paragraph, the trust may acquire and hold the site for subsequent conveyance to

the appropriate governmental agency or nonprofit organization. The trust may provide such technical assistance as required to aid local governments, state and federal agencies, and nonprofit organizations in completing acquisition and related functions. The trust may not reserve lands acquired in accordance with this paragraph for more than 5 years from the time of acquisition. A local government, federal or state agency, or nonprofit organization may acquire the land at any time during this period for public purposes. The purchase price shall be based upon the trust's cost of acquisition, plus administrative and management costs in reserving the land. The payment of the purchase price shall be by money, trust-approved property of an equivalent value, or a combination of money and trust-approved property. If, after the 5-year period, the trust has not sold to a governmental agency or nonprofit organization land acquired for site reservation, the trust shall dispose of such land at fair market value or shall trade it for other land of comparable value which will serve to accomplish the purposes of this part. Any proceeds from the sale of such land received by the department shall be deposited into the appropriate trust fund pursuant to s. 253.0341 ~~253.034(6)(k), (l), or (m)~~.

Project costs may include costs of providing parks, open space, public access sites, scenic easements, and other areas and facilities serving the public where such features are part of a project plan approved according to this part. In undertaking or coordinating projects or activities authorized by this part, the trust shall, when appropriate, use and promote the use of creative land acquisition methods, including the acquisition of

less than fee interest through, among other methods, conservation easements, transfer of development rights, leases, and leaseback arrangements. The trust shall assist local governments in the use of sound alternative methods of financing for funding projects and activities authorized under this part. Any funds over and above eligible project costs, which remain after completion of a project approved according to this part, shall be transmitted to the state and deposited into the Florida Forever Trust Fund.

Section 41. Section 589.07, Florida Statutes, is amended to read:

589.07 Florida Forest Service may acquire lands for forest purposes.—The Florida Forest Service, on behalf of the state and subject to the restrictions mentioned in s. 589.08, may acquire lands, suitable for state forest purposes, by gift, donation, contribution, purchase, or otherwise and may enter into agreements with the Federal Government, or other agency, for acquiring by gift, purchase, or otherwise, such lands as are, in the judgment of the Florida Forest Service, suitable and desirable for state forests. The acquisition procedures for state lands provided in s. 253.025 ~~259.041~~ do not apply to acquisition of land by the Florida Forest Service.

Section 42. Paragraphs (a) and (b) of subsection (4) of section 944.10, Florida Statutes, are amended to read:

944.10 Department of Corrections to provide buildings; sale and purchase of land; contracts to provide services and inmate labor.—

(4)(a) Notwithstanding s. 253.025 or s. 287.057, whenever the department finds it to be necessary for timely site

acquisition, it may contract without the need for competitive selection with one or more appraisers whose names are contained on the list of approved appraisers maintained by the Division of State Lands of the Department of Environmental Protection in accordance with s. 253.025(8) ~~253.025(6)(b)~~. In those instances in which the department directly contracts for appraisal services, it must also contract with an approved appraiser who is not employed by the same appraisal firm for review services.

(b) Notwithstanding s. 253.025(8) ~~253.025(6)~~, the department may negotiate and enter into an option contract before an appraisal is obtained. The option contract must state that the final purchase price cannot exceed the maximum value allowed by law. The consideration for such an option contract may not exceed 10 percent of the estimate obtained by the department or 10 percent of the value of the parcel, whichever amount is greater.

Section 43. Subsections (6) and (7) of section 957.04, Florida Statutes, are amended to read:

957.04 Contract requirements.—

(6) Notwithstanding s. 253.025(9) ~~253.025(7)~~, the Board of Trustees of the Internal Improvement Trust Fund need not approve a lease-purchase agreement negotiated by the Department of Management Services if the Department of Management Services finds that there is a need to expedite the lease-purchase.

(7)(a) Notwithstanding s. 253.025 or s. 287.057, whenever the Department of Management Services finds it to be in the best interest of timely site acquisition, it may contract without the need for competitive selection with one or more appraisers whose names are contained on the list of approved appraisers

maintained by the Division of State Lands of the Department of Environmental Protection in accordance with s. 253.025(8) ~~253.025(6)(b)~~. In those instances when the Department of Management Services directly contracts for appraisal services, it shall also contract with an approved appraiser who is not employed by the same appraisal firm for review services.

(b) Notwithstanding s. 253.025(8) ~~253.025(6)~~, the Department of Management Services may negotiate and enter into lease-purchase agreements before an appraisal is obtained. Any such agreement must state that the final purchase price cannot exceed the maximum value allowed by law.

Section 44. Paragraphs (a) and (b) of subsection (12) of section 985.682, Florida Statutes, are amended to read:

985.682 Siting of facilities; criteria.—

(12)(a) Notwithstanding s. 253.025 or s. 287.057, when the department finds it necessary for timely site acquisition, it may contract, without using the competitive selection procedure, with an appraiser whose name is on the list of approved appraisers maintained by the Division of State Lands of the Department of Environmental Protection under s. 253.025(8) ~~253.025(6)(b)~~. When the department directly contracts for appraisal services, it must contract with an approved appraiser who is not employed by the same appraisal firm for review services.

(b) Notwithstanding s. 253.025(8) ~~253.025(6)~~, the department may negotiate and enter into an option contract before an appraisal is obtained. The option contract must state that the final purchase price may not exceed the maximum value allowed by law. The consideration for such an option contract

may not exceed 10 percent of the estimate obtained by the department or 10 percent of the value of the parcel, whichever amount is greater.

Section 45. Paragraph (b) of subsection (1) of section 1013.14, Florida Statutes, is amended to read:

1013.14 Proposed purchase of real property by a board; confidentiality of records; procedure.—

(1)

(b) Before ~~Prior to~~ acquisition of the property, the board shall obtain at least one appraisal by an appraiser approved pursuant to s. 253.025(8) ~~253.025(6)(b)~~ for each purchase in an amount greater than $100,000 and not more than $500,000. For each purchase in an amount in excess of $500,000, the board shall obtain at least two appraisals by appraisers approved pursuant to s. 253.025(8) ~~253.025(6)(b)~~. If the agreed to purchase price exceeds the average appraised value, the board is required to approve the purchase by an extraordinary vote.

Section 46. For the 2016-2017 fiscal year, the sums of $396,040 in recurring funds and $1,370,528 in nonrecurring funds from the General Revenue Fund are appropriated to the Department of Environmental Protection, and four full-time equivalent positions with associated salary rate of 182,968 are authorized, for the purpose of implementing the amendments made by this act to ss. 253.034 and 253.0341, Florida Statutes, and the provisions of s. 253.87, Florida Statutes, as created by this act.

Section 47. This act shall take effect July 1, 2016.

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	CS/SB 1290
INTRODUCER:	Appropriations Committee (Recommended by Appropriations Subcommittee on General Government) and Senator Simpson
SUBJECT:	State Lands
DATE:	March 3, 2016
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Istler	Rogers	EP	**Favorable**
2.	Howard	DeLoach	AGG	**Recommend: Fav/CS**
3.	Howard	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1290 consolidates the acquisition and surplus procedures currently provided in chapter 253, F.S., for nonconservation lands and chapter 259, F.S., for conservation lands. Additionally, the bill:

- Requires conservation lands to be managed for conservation and/or recreation, consistent with the land management plan, rather than for the purposes for which the lands were acquired.
- Authorizes the Department of Environmental Protection (DEP or department) to submit lands for which the managing or leasing entities are not meeting their short-term goals to the Acquisition and Restoration Council (ARC) for review.
- Requires the Board of Trustees of the Internal Improvement Trust Fund (board) to encourage the use of sovereignty submerged lands for minimal secondary non-water dependent uses related to water-dependent uses.
- Creates a process whereby a person who owns land contiguous to land titled to the board is authorized to submit a request to the division to exchange all or a portion of the state-owned land, with the state retaining a permeant conservation easement over all or a portion of the contiguous privately owned land.
- Removes the requirement that the board, before they are authorized to sell any land to which they hold title, must provide notice and afford an opportunity to a county in which the land is situated to receive such lands before the board is authorized to sell such land.

- Requires the department to add federally owned conservation lands, lands on which the federal government holds a conservation easement, and all lands on which the state holds a conservation easement to the Florida State-Owned Lands and Records Information System (FL-SOLARIS) database by July 1, 2018.
- Requires each local government to submit to the DEP a list of all conservation lands it owns or holds a permanent conservation easement on by July 1, 2018. Financially disadvantaged small communities have an additional year to submit the information.
- Directs the department to complete a study regarding the technical and economic feasibility of including privately owned conservation lands in a public lands inventory by July 1, 2018.
- Revises the noticing requirements that a water management district must adhere to when selling or exchanging lands and provides an expedited process for selling surplus lands that are valued at $25,000 or less.
- Requires increased priority to be given to proposed Florida Forever projects that:
  - Can be acquired in less than fee ownership;
  - Contributes to improving the quality and quantity of surface water or groundwater, or;
  - Contributes to improving the water quality and flow of springs.

The bill provides $396,040 in recurring funds and $1,370,528 in nonrecurring funds from the General Revenue Fund appropriated to the Department of Environmental Protection and four full-time equivalent positions with associated salary rate of 182,968 to implement specific provisions of the bill.

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

II. Present Situation:

State Lands

The Board of Trustees of the Internal Improvement Trust Fund (board) consists of the Governor, as the chair, the Chief Financial Officer, the Attorney General, and the Commissioner of Agriculture.[1] All lands held by the board are required to be held in trust for the use and benefit of the people of the state.[2] According to the Department of Environmental Protection (DEP or department), the board has title to approximately 13 million acres of land, which includes 3,146,040 acres of conservation lands, 123,210 acres of nonconservation lands, and approximately 9 million acres of sovereign submerged lands.[3]

Chapter 253, F.S., relating to state lands, was the original authorizing statute for land acquisition and management by the state that it applies to both nonconservation and conservation lands.[4] Over the years, the Legislature created various conservation land acquisition programs and provided additional statutory authorization and requirements for land acquisition. Land management was included in chapter 259, F.S., relating to land acquisitions for conservation or

[1] FLA. CONST. art. IV, s. 4.
[2] Section 253.001, F.S.
[3] Email from Andrew Ketchel, Director, Office of Legislative Affairs, Florida Department of Environmental Protection (Feb. 5, 2016) (on file with the Senate Environmental Preservation and Conservation Committee).
[4] DEP, *Senate Bill 1290 Agency Bill Analysis* (Rev. Jan. 4, 2016) (on file with the Senate Committee on Environmental Preservation and Conservation).

recreation.[5] Currently, both chapters 253 and 259, F.S., are required to be referenced for a complete understanding of the land acquisition, management, and surplus processes for state-owned lands.[6]

Acquisition of State Lands

When the state acquires land, the acquisition agency is required to follow the procedures in s. 253.025, F.S., and, additionally, when acquiring conservation lands, the procedures in s. 259.041, F.S. Before any state agency initiates land acquisition, except purchases of property for transportation facilities and corridors or property for borrow pits for road building purposes, the agency is required to coordinate with the Division of State Lands (division) within the DEP to determine the availability of existing, suitable state-owned lands in the area and the public purpose for which the acquisition is being proposed.[7] Only if no existing suitable state-owned land exists, then the state agency may proceed with the acquisition of the land.[8]

The acquisition statutes require state agencies to follow specific acquisition requirements relating to:

- Marketability of title.
- Appraisal maps and surveys.
- Appraisal reports.
- Maximum offers.
- Negotiations.
- Purchase instruments.
- Closing.
- Joint acquisitions.[9]

When a state agency is acquiring conservation lands, the board is authorized:

- By a majority vote of all its members, direct the department to exercise the power of eminent domain to acquire any properties on the acquisition list approved by the board if:
  - The state has made at least two bona fide offers to purchase the land through negotiation and, notwithstanding those offers, an impasse between the state and the landowner was reached; and
  - The land is of special importance to the state because of one or more of the following reasons:
    - It involves an endangered or natural resource and is in imminent danger of development.
    - It is of unique value to the state and the failure to acquire it will result in irreparable loss to the state.
    - The failure of the state to acquire it will seriously impair the state's ability to manage or protect other state-owned lands.10

[5] *Id*.
[6] *Id*.
[7] Section 253.025(2), F.S.
[8] *Id*.
[9] Sections 253.025 and 259.041, F.S.; Fla. Admin. Code Ch. 18-1.
[10] Section 259.041(14), F.S.

- By an affirmative vote of at least three of its members, direct the department to purchase lands on an immediate basis using up to 15 percent of the funds allocated to the department under the Florida Forever program for the acquisition of lands that:
  - Are listed or placed at auction by the Federal Government as part of the Resolution Trust Corporation sale of lands from failed savings and loan associations;
  - Are listed or placed at auction by the Federal Government as part of the Federal Deposit Insurance Corporation sale of lands from failed banks; or
  - Will be developed or otherwise lost to potential public ownership, or for which federal matching funds will be lost, by the time the land can be purchased under the program within which the land is listed for acquisition.[11]

Additionally, agreements to acquire real property for the purposes described in chapter 259, F.S., relating to land acquisitions for conservation or recreation, chapter 260, F.S., relating to the Florida Greenways and Trails Act, or chapter 375, F.S., relating to outdoor recreation and conservation lands, title to which will vest in the board, may not bind the state until the agreement is reviewed and approved by the department.[12] Additional approval by the board is required if:

- The purchase price agreed to by the seller exceeds the maximum value as authorized by law;
- The contract price agreed upon exceeds $1 million;
- The acquisition is the initial purchase in a Florida Forever project; or
- The purchase involves other conditions established by the board.[13]

If such approval by the board is required then the acquiring agency must provide a justification as to why it is in the public's interest to acquire the parcel or Florida Forever project.[14] Such review and approval of agreements for acquisitions for Florida Greenways and Trails Program properties may be waived by the department in any contract with nonprofit corporations that have agreed to assist the department with the program.[15]

If the contribution of the acquiring agency exceeds $100 million in any one fiscal year, the agreement is required to be submitted to and approved by the Legislative Budget Commission.[16]

Alternatives to fee simple acquisitions

In recognition of the increasing pressures on the natural areas of the state and on open space suitable for recreational use, the Legislature has encouraged the state's conservation and recreational land acquisition agencies to develop creative techniques to maximize the use of acquisition and management funds to augment their traditional, fee simple acquisition programs with the use of alternatives to fee simple acquisition techniques.[17] The Legislature has declared that the use of alternatives to fee simple acquisition techniques by public land acquisition agencies achieves the following public policy goals:

[11] Section 259.041(15), F.S.
[12] Section 259.041(3), F.S.
[13] *Id*.
[14] *Id*.
[15] *Id*.
[16] *Id*.
[17] Section 259.041(11)(a), F.S.

- Allow more lands to be brought under public protection for preservation, conservation, and recreational purposes with less expenditure of public funds.
- Retain, on local government tax rolls, some portion of or interest in lands which are under public protection.
- Reduce long-term management costs by allowing private property owners to continue acting as stewards of their land, where appropriate.[18]

The term "alternatives to fee simple acquisition" includes, but is not limited to: purchase of development rights; obtaining conservation easements; obtaining flowage easements; purchase of timber rights, mineral rights, or hunting rights; purchase of agricultural interests or silvicultural interests; fee simple acquisitions with reservations; creating life estates; or any other acquisition technique that achieves the public policy goals.[19]

When developing the acquisition plan, the Acquisition and Restoration Council (ARC) is authorized to give preference to those less than fee simple acquisitions that provide any public access.[20]

Management of State Lands

The Board of the Internal Improvement Trust Fund (board) is charged with the management, control, supervision, conservation, and protection of all lands owned by, or which may hereafter inure to, the state or any of its agencies, departments, boards or commissions.[21] The board is authorized to enter into leases or similar instruments for the use, benefit, and possession of public lands by agencies which may properly use and possess such lands for the benefit of the state.[22]

Nonconservation Lands

Each manager of nonconservation lands is required to submit to the division a land use plan at least every 10 years in a form and manner prescribed by rule by the board.[23] The division shall review each plan for compliance.[24] All land use plans, whether for single-use or multiple-use properties, must include an analysis of the property to determine if any significant natural or cultural resources are located on the property.[25] Such resources include archaeological and historic sites, state and federally listed plant and animal species, and imperiled natural communities and unique natural features.[26] If such resources occur on the property, the manager is required to consult with the division and other appropriate agencies to develop management strategies to protect such resources.[27]

[18] Section 259.041(11)(a), F.S.
[19] Section 259.041(11)(b), F.S.
[20] Section 259.041(11)(c), F.S.
[21] Section 253.03, F.S.
[22] Section 253.03(2), F.S.
[23] Section 253.034(5), F.S.
[24] *Id*.
[25] *Id*.
[26] *Id*.
[27] *Id*.

Land use plans must also provide for the control of invasive nonnative plants and conservation of soil and water resources, including a description of how the manager plans to control and prevent soil erosion and soil or water contamination.[28] Land use plans submitted by a manager must include reference to the appropriate statutory authority for such use or uses and conform to the appropriate policies and guidelines of the state land management plan.[29]

Conservation Lands

Article X, section 18 of the Florida Constitution requires that "the fee interest in real property held by an entity of the state and designated for natural resources conservation purposes as provided by general law shall be managed for the benefit of the citizens of this state…"[30] Section 253.034, F.S., specifies that state lands acquired pursuant to chapter 259, F.S., are required to be managed to ensure the conservation of the state's plant and animal species and to ensure the accessibility of state lands for the benefit and enjoyment of all people of the state, both present and future.[31] Additionally, all lands acquired and managed under chapter 259, F.S., are required to be managed in a manner that provides the greatest combination of benefits to the public and to the resources, for public outdoor recreation which is compatible with the conservation and protection of public lands, and for the purposes for which the lands were acquired.[32]

Each manager of conservation lands is required to submit a land management plan to the division at least every 10 years.[33] The land management plan must contain, at a minimum, all of the following elements:

- A physical description of the land.
- A quantitative data description of the land which includes an inventory of forest and other natural resources; exotic and invasive plants; hydrological features; infrastructure, including recreational facilities; and other significant land, cultural, or historical features.
- A detailed description of each short-term and long-term land management goal, the associated measurable objectives, and the related activities that are to be performed to meet the land management objectives.
- A schedule of land management activities which contains short-term and long-term land management goals and the related measurable objective and activities.
- A summary budget for the scheduled land management activities of the land management plan. For state lands containing or anticipated to contain imperiled species habitat, the summary budget shall include any fees anticipated from public or private entities for projects to offset adverse impacts to imperiled species or such habitat, which fees shall be used solely to restore, manage, enhance, repopulate, or acquire imperiled species habitat. [34] The summary budget is required to be prepared in such a manner that it facilitates computing an

[28] *Id*.
[29] *Id*.
[30] FLA. CONST. art. X, s. 18.
[31] Section 253.034(5)(a), F.S.
[32] Section 259.032(7), F.S.; s. 259.032(7)(b), F.S., provides that "such management may include, but not be limited to, the following public recreational uses: fishing, hunting, camping, bicycling, hiking, nature study, swimming, boating, canoeing, horseback riding, diving, model hobbyist activities, birding, sailing, jogging, and other related outdoor activities compatible with the purposes for which the lands were acquired."
[33] Section 253.034(5), F.S.
[34] Section 253.034(5)(c), F.S.

aggregate of land management costs for all state-managed lands using the following categories:
- Resource management;
- Administration;
- Support;
- Capital improvements;
- Recreation visitor services; and
- Law enforcement activities.[35]

Each land management plan is required to provide a desired outcome, describe both short-term and long-term management goals, and include measurable objectives to achieve those goals.[36] Short-term goals are required to be achievable within a two-year planning period, and long-term goals are required to be achievable within a 10-year planning period.[37] These short-term and long-term management goals are the basis for all subsequent land management activities.[38]

Short-term and long-term management goals must include measurable objectives for the following, as appropriate:
- Habitat restoration and improvement.
- Public access and recreational opportunities.
- Hydrological preservation and restoration.
- Sustainable forest management.
- Exotic and invasive species maintenance and control.
- Capital facilities and infrastructure.
- Cultural and historical resources.
- Imperiled species habitat maintenance, enhancement, restoration, or population restoration.[39]

Land management plans are required to be updated every 10 years on a rotating basis.[40] Each manager of conservation lands is required to update a land management plan whenever the manager proposes to add new facilities or make substantive land use or management changes that were not addressed in the approved plan, or within one year of the addition of significant new lands.[41]

Regional land management review teams are required to evaluate the extent to which the existing management plan provides sufficient protection to threatened or endangered species, unique or important natural or physical features, geological or hydrological functions, or archaeological features, and the extent to which the land is being managed for the purposes for which it was acquired and the degree to which actual management practices, including public access, are in compliance with the adopted management plan.[42]

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[35] Section 259.037(3), F.S.
[36] Section 253.034(5)(a), F.S.
[37] *Id*.
[38] *Id*.
[39] Section 253.034(5)(b), F.S.
[40] Section 253.034(5)(e), F.S.
[41] Section 253.034(5), F.S.
[42] Section 259.036(3), F.S.

If the land management review team determines that reviewed lands are not being managed for the purposes for which they were acquired or in compliance with the adopted land management plan, management policy statement, or management prospectus, or if the managing agency fails to address the review findings in the updated management plan, the department is required to provide the review findings to the board, and the managing agency must report to the board its reasons for managing the lands as it has.[43] The manager of the land is required to consider the findings and recommendations of the land management review team in finalizing the 10-year update of the land management plan.[44]

By July 1 of each year, each governmental agency and each private entity designated to manage lands is required to report to the department on the progress of funding, staffing, and resource management of every project for which the agency or entity is responsible.[45] The use or possession of any such lands that is not in accordance with an approved land management plan is subject to termination by the board.[46]

Sovereignty Submerged Lands

Article X, section 11 of the Florida Constitution authorizes the private use of portions of sovereign lands, but only when not contrary to the public interest.[47] The board is required to encourage the use of sovereignty submerged lands for water-dependent uses and public access.[48] The term "water-dependent activity" is defined as "an activity which can only be conducted on, in, over, or adjacent to water areas because the activity requires direct access to the water body or sovereignty submerged lands for transportation, recreation, energy production or transmission, or source of water, and where the use of the water or sovereignty submerged lands is an integral part of the activity."[49]

Activities on sovereignty submerged lands are limited to water-dependent activities, unless the board determines that it is in the public interest on a case-by-case basis to authorize an exception.[50] Public projects which are primarily intended to provide access to and use of the waterfront may be permitted to contain minor uses which are not water dependent if:

- Located in areas along seawalls or other non-natural shorelines;

[43] Section 253.036(5), F.S.
[44] Section 259.036(2), F.S.
[45] Section 259.032(8), F.S.
[46] Section 253.034(5)(h), F.S.
[47] Fla. Admin. Code R 18-21.003(51), defines the term "public interest" as a "demonstrable environmental, social, and economic benefits which would accrue to the public at large as a result of a proposed action, and which would clearly exceed all demonstrable environmental, social, and economic costs of the proposed action."
[48] Section 253.03(15), F.S.; Fla. Admin. Code R. 18-21.003(61), defines the term "sovereignty submerged lands" to mean "those lands including but not limited to, tidal lands, islands, sand bars, shallow banks, and lands waterward of the ordinary or mean high water line, beneath navigable fresh water or beneath tidally-influenced waters, to which the State of Florida acquired title on March 3. 1845, by virtue of statehood, and which have not been heretofore conveyed or alienated."
[49] Fla. Admin. Code R. 18-21.003(71); Fla. Admin. Code R. 18-21.003(2), defines the term "activity" as "any use of sovereignty lands which requires board approval for consent of use, lease, easement, sale, or transfer of interest in such sovereignty lands or materials. Activity includes, but is not limited to, the construction of docks, piers, boat ramps, board walks, mooring pilings, dredging of channels, filling, removal of logs, sand, silt, clay, gravel, or shell, and the removal or planting of vegetation on sovereignty lands."
[50] Fla. Admin. Code R. 18-21.004(1)(g).

- Located outside of aquatic preserves or Class II waters;[51] and
- The use is incidental to the basic purpose of the project, and constitutes only minor nearshore encroachments on sovereign lands.[52]

Disposition of State Lands

Surplus

The board determines which lands it holds title to may be surplused.[53] Since 2000, approximately 3,041 acres of conservation lands have been declared surplus and disposed, raising $14,438,157 in revenue.[54] Conservation lands may only be surplused if the board, by an affirmative vote of at least three members, determines that the lands are no longer needed for conservation purposes.[55] The board may dispose of all other lands if the board, by an affirmative vote of at least three members, determines whether the lands are no longer needed.[56]

Requests for surplusing lands may be made by any public or private entity or person.[57] All requests are required to be submitted to the lead managing agency for review and recommendation to the ARC.[58] Before any decision by the board to surplus lands, the ARC is required to review and make recommendations to the board concerning the request.[59] The ARC is required to determine whether the request is compatible with the resource values of and management objectives for such lands.[60]

County or local government requests for surplus lands are expedited throughout the surplusing process.[61] A decision to surplus state-owned nonconservation lands to a county or local government may be made by the board without a review of, or recommendation on, the request from the ARC or the division.[62] The board is required to consider such requests within 60 days of the board's receipt of the request.[63] A decision to surplus state-owned conservation lands is subject to review of, and recommendation on, the request by the ARC.[64] The board is required to consider such requests within 120 days of the board's receipt of the request.[65] Additionally, local governments may request that state lands be specifically declared surplus lands for the purpose

[51] Generally, Class II waters are coastal waters where shellfish harvesting occurs.
[52] *Id*.
[53] Section 253.034(6), F.S.
[54] DEP, *Senate Bill 1290 Agency Bill Analysis* (Rev. Jan. 4, 2016) (on file with the Senate Committee on Environmental Preservation and Conservation).
[55] FLA. CONST. art. X, s. 18.
[56] Section 253.034(6), F.S.
[57] Section 253.034(6)(j), F.S.
[58] *Id*.
[59] Section 253.034(6)(e), F.S.
[60] Section 253.034(6), F.S.
[61] Section 253.0341, F.S.
[62] Section 253.0341(1), F.S.
[63] *Id*.
[64] Section 253.0341(2), F.S.
[65] *Id*.

of providing alternative water supply and water resource development projects; public facilities such as schools, fire, and police facilities; and affordable housing.[66]

Before a building or a parcel of land is offered for sale to a local or federal unit of government or a private party, it must first be offered for lease to state agencies, state universities, and Florida College System institutions, with priority consideration given to state universities and Florida College System institutions.[67] The state university or college has 60 days after receipt of the offer to submit a plan for review and approval by the board regarding the intended use, including future use, of the parcel of land before approval of the lease. The board is required to compare the estimated value of the parcel to any submitted business plan to determine if the sale is in the best interest of the state.[68]

Additionally, the board may not sell any land to which it holds title unless and until it affords an opportunity to the county in which such land is situated.[69] The board is required to notify the applicable board of county commissioners that land is available in the county. The board of county commissioners has 45 days to submit a certified copy of a resolution providing the determination of whether or not it proposes to acquire the available land. If the board timely receives the resolution then the board is required to convey to the county the land at a price that is equal to its appraised market value, subject to terms and conditions as determined by the board. These notification requirements do not apply to any land exchanged by the board; the conveyance of lands located within the Everglades Agricultural Area; or lands managed pursuant to ss. 253.781-253.785, F.S., relating to state lands along the route of the former Cross Florida Barge Canal, the Cross Florida Greenways, or around Lake Rousseau.[70]

At least every 10 years, as a component of each land management plan or land use plan, each manager is required to evaluate and indicate to the board those lands that are not being used for the purpose for which they were originally leased.[71] For conservation lands, the ARC is required to review and recommend to the board whether such lands should be retained in public ownership or disposed of by the board.[72] For nonconservation lands, the division is required to review the lands and recommend to the board whether such lands should be retained in public ownership or disposed of by the board.[73] Lands that are owned by the board but which are not actively managed by any state agency or for which a land management plan has not been completed are required to be reviewed by the ARC for its recommendation as to whether such lands should be disposed.[74]

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[66] Section 253.0341(3), F.S.; s. 373.019(24), F.S., defines the term "water resource development" as "the formulation and implementation of regional water resource management strategies, including the collection and evaluation of surface water and groundwater data; structural and nonstructural programs to protect and manage water resources; the development of regional water resource implementation programs; the construction, operation, and maintenance of major public works facilities to provide for flood control, surface and underground water storage, and groundwater recharge augmentation; and related technical assistance to local governments and to government-owned and privately owned water utilities."
[67] Section 253.034(6), F.S.
[68] Section 253.034(13), F.S.
[69] Section 253.111, F.S.
[70] Section 253.111(6), F.S.
[71] Section 253.034(6)(c), F.S.
[72] *Id*.
[73] *Id*.
[74] Section 253.034(6)(d), F.S.

In reviewing lands owned by the board, the ARC is required to consider whether such lands would be more appropriately owned or managed by the county or other unit of local government in which the land is located and recommend to the board whether a sale, lease, or other conveyance to a local government would be in the best interest of the state and local government.[75] Such lands are required to be offered to the local government for a period of 45 days and the permitted uses for such lands include public schools; public libraries; fire or law enforcement substations; governmental, judicial, or recreational centers; and affordable housing.[76]

Exchange

Section 253.42, F.S., authorizes the board to exchange state lands owned by, vested in, or titled in the name of the board for other lands in the state owned by counties, local governments, individuals, or private or public corporations. The board is authorized to make and enter into contracts or agreements for the purposes of such exchanges and to fix the terms and conditions of any such exchange.[77] In the case of a land exchange involving the disposition of conservation lands, the board is required to determine by an affirmative vote of at least three members that the exchange will result in a net positive conservation benefit.[78] The board is required to select and agree upon the state lands to be exchanged and the lands to be conveyed to the state.[79]

Water Management Districts Sale or Exchange of Lands

Sections 373.056 and 373.089, F.S., establish the manner in which water management districts may dispose of lands, interests, or rights in lands. Before lands, interests, or rights in lands are disposed, the governing board of a water management district must determine that the parcel of land is no longer needed. Surplus lands may be offered for public bid and sold pursuant to s. 373.089, F.S., conveyed by a district to another governmental entity pursuant to s. 373.056, F.S., or used in potential real estate exchange transactions.

The governing board of a water management district may sell surplus lands at any time.[80] The disposal of surplus lands requires a majority vote of the governing board. The disposal of surplus lands that were acquired for conservation purposes requires a determination that the lands are no longer needed for conservation purposes and a two-thirds vote of the governing board.

Before selling surplus lands, a district must publish a notice of intention to sell, which includes a description of the lands to be offered for sale, in a newspaper circulated in the county in which

[75] Section 253.034(6)(f), F.S.
[76] Section 253.034(6)(f), F.S.
[77] Section 253.42, F.S.
[78] Section 253.034(6), F.S.; Fla. Admin. Code R. 18-2.017(38), defines the term "net positive benefit" to mean "any effective action or transaction which promotes the overall purposes for which the land was acquired. It is compensation over and above the required payment of market value for or replacement of the affected parcel to offset and request use or activity which would preclude or affect, in whole or in part, current or future uses of natural resource land that are managed primarily for the conservation and protection of natural, historical, or recreational resources. Net positive benefit shall not be solely monetary compensation, but shall include mitigation and other consideration related to environmental, historical, or recreational benefits, as applicable, to the affected management unit."
[79] Section 253.42(3), F.S.
[80] Section 373.089, F.S.

the land is located once each week for three consecutive weeks. The first publication being not less than 30 days nor more than 45 days before any sale. Surplus lands must be sold for the highest price obtainable, which may not be less than the appraised value of the lands as determined by a certified appraisal obtained within 120 days before the sale.

Florida State-Owned Lands and Records Information System (FL-SOLARIS)

In 2010, the Legislature directed the DEP to create, administer, operate, and maintain a comprehensive system and automated inventory of all state lands and real property leased, owned, rented, occupied, or maintained by a state agency, judicial branch, or water management district.[81] In order to meet the requirement, the department in coordination with the Department of Management Services developed FL-SOLARIS to record and maintain inventory of real estate properties that are "owned, leased, or rented, or otherwise occupied" by any state government entity. The database includes all state-owned lands in which the state has a fee interest, including conservation easements acquired through a formal acquisition process for conservation.[82]

Florida Forever Program

The Florida Forever program was created in 1999 as the successor program to the Preservation 2000 program. The stated goals of the Florida Forever program are to acquire lands and water areas to preserve natural resources and protect water supply, provide opportunities for agricultural activities on working lands, provide outdoor recreational opportunities, preserve the Everglades, prioritize land acquisition process based on science-based assessments of the natural resources, and enhance imperiled species management.[83]

The Acquisition and Restoration Council (ARC) is responsible for evaluating, selecting, and ranking state land acquisition projects under the Florida Forever program.[84] The ARC is a 10-member group composed of:

- Four members appointed by the Governor, three from a scientific discipline related to land, water, or environmental science, and one with at least five years of experience in managing lands for both active and passive types of recreation;
- Four members as follows:
  - The secretary of the Department of Environmental Protection;
  - The director of the Florida Forest Service of the Department of Agriculture and Consumer Services;
  - The executive director of the Fish and Wildlife Conservation Commission;
  - The director of the Division of Historical Resources within the Department of State;
- One member appointed by the Fish and Wildlife Conservation Commission; and
- One member appointed by the Commissioner of Agriculture.[85]

[81] Section 216.0153, F.S.
[82] DEP, *FL-SOLARIS, Background Information*, http://www.dep.state.fl.us/lands/fl_solaris_background.htm (last visited Feb. 5, 2016).
[83] Section 259.105, F.S.
[84] *Id*.
[85] Section 259.035, F.S.

Projects or acquisitions funded through Florida Forever are evaluated and reviewed by the ARC, which determines if a proposed project meets at least two of the following goals:

- Enhances the coordination and completion of land acquisition projects.
- Increase the protection of Florida's biodiversity at the species, natural community, and landscape levels.
- Protects, restores, and maintains the quality and natural functions of land, water, and wetland systems of the state.
- Ensures that sufficient quantities of water are available to meet the current and future needs of natural systems and the citizens of the state.
- Increases natural resource-based public recreational and educational opportunities.
- Preserves significant archaeological or historic sites.
- Increases the amount of forestland available for sustainable management of natural resources.
- Increases the amount of open space available in urban areas.[86]

The goals are evaluated in accordance with specific criteria and numeric performance measures developed by rule.[87] This criteria is used to competitively evaluate, select, and rank projects eligible for Florida Forever funds. The ARC is required to give weight to the following criteria:

- The project meets multiple goals.
- The project is part of an ongoing governmental effort to restore, protect, or develop land areas or water resources.
- The project enhances or facilitates management of properties already under public ownership.
- The project has significant archaeological or historic value.
- The project has funding sources that are identified and assured through at least the first two years of the project.
- The project contributes to the solution of water resource problems on a regional basis.
- The project has a significant portion of its land area in imminent danger of development, in imminent danger of losing its significant natural attributes or recreational open space, or in imminent danger of subdivision which would result in multiple ownership and make acquisition of the project costly or less likely to be accomplished.
- The project implements an element from a plan developed by an ecosystem management team.
- The project is one of the components of the Everglades restoration effort.
- The project may be purchased at 80 percent of appraised value.
- The project may be acquired, in whole or in part, using alternatives to fee simple, including but not limited to, tax incentives, mitigation funds, or other revenues; the purchase of development rights, hunting rights, agricultural or silvicultural rights, or mineral rights; or obtaining conservation easements or flowage easements.

[86] Section 259.105(4), F.S.

[87] Section 259.035(4)(a), F.S.; ch. 2015-229, s. 21, Laws. of Fla., requires the ARC to develop rules, by December 1, 2016, defining specific criteria and numeric performance measures needed for lands that are acquired under the Florida Forever program or with funds deposited into the Land Acquisition Trust Fund pursuant to s. 28(a), Art. X of the State Constitution. These rules are required to be reviewed and adopted by the board, then submitted to the Legislature for consideration by February 1, 2017. The Legislature is authorized to reject, modify, or take no action relative to the proposed rules. If no action is taken, the rules shall be implemented.

- The project is a joint acquisition, either among public agencies, nonprofit organizations, or private entities, or by a public-private partnership.[88]

Each year the division prepares an annual work plan prioritizing projects on the Florida Forever list by category: a critical lands category; a partnerships or regional incentives category; a substantially complete category; a climate-change category; and a less-than-fee category.[89] After at least one public hearing, the ARC may adopt the work plan. A copy of the work plan is required to be provided to the board by October 1 of each year.[90]

Lands acquired for conservation and recreation purposes are to be used as state-designated parks, recreation areas, preserves, reserves, historic or archaeological sites, geologic or botanical sites, recreational trails, forests, wilderness areas, wildlife management areas, urban open space, or other state-designated recreation or conservation lands; or they shall qualify for such state designation and use if they are to be managed by other governmental agencies or non-state entities.[91] Additionally, conservation lands acquired pursuant to the Florida Forever program or other state-funded conservation land purchase programs are authorized, upon a finding by the board, for use as water resource development projects, water supply development projects, stormwater management projects, linear facilities, and sustainable agriculture and forestry. Such additional uses are authorized if:

- The proposed use is consistent with the management plan for such lands;
- The proposed use is compatible with the natural ecosystem and resource values of such lands;
- The proposed use is appropriately located on such lands and where due consideration is given to the use of other available lands;
- The using entity reasonably compensates the titleholder for such use based upon an appropriate measure of value; and
- The proposed use is consistent with the public interest.[92]

III. Effect of Proposed Changes:

Acquisition Procedures

The bill amends s. 253.025, F.S., relating to the acquisition of state lands for purposes other than preservation, conservation, and recreation. The bill repeals s. 259.041, F.S., relating to the acquisition of state-owned lands for preservation, conservation, and recreation purposes, to consolidate the acquisition procedures for all state lands, whether or not they were acquired for conservation, preservation, or recreation purposes.

The following provisions applied only to conservation lands under s. 259.041, F.S., but were moved to s. 253.025, F.S., and will apply to all state lands under the bill:

[88] Section 259.105(9), F.S.
[89] Section 259.105(17), F.S.
[90] *Id*.
[91] Section 259.032(3), F.S.
[92] Section 253.034(10), F.S.

- The authority to waive the acquisition requirements under statute or rule, except under specified circumstances, and substitute other reasonably prudent procedures if the public's interest is reasonably protected.
- The requirement that if the purchase price agreed to by the seller exceeds the value as established pursuant to the rules of the board or if the contract price agreed to by the seller and the acquiring agency exceeds $1 million, the agreement must be submitted to and approved by the Board of Trustees of the Internal Improvement Trust Fund (board). If the board's approval is required, the acquiring agency must provide justification as to why it is in the public's interest to acquire the parcel.
- The authority to obtain a third appraisal if the first two appraisals exceed $1 million and differ significantly.
- The requirement that the agency proposing the acquisition must pay associated costs in addition to appraisal fees. Currently, acquiring agencies are not expressly required to pay associated costs when acquiring nonconservation lands.
- The authority to release an appraisal report for nonconservation lands when the acquiring agency has terminated negotiations.
- The prohibition against the maximum value of a parcel to be purchased by the board, as determined by the highest approved appraisal or pursuant to the rules of the board, increasing or decreasing as a result of a change in zoning or permitted land uses, or changes in market forces or prices that occur within one year after the date the Department of Environmental Protection (DEP or department) or the board approves the contract to purchase the parcel.
- The authority of the secretary of the department or the director of the Division of State Lands (division) to waive the appraisal requirements and to enter into an option agreement to buy a parcel of land before appraisal of the parcel of land.
- The authority to contract for additional real estate acquisition services including, surveying, mapping, environmental audits, title work, and legal and other professional assistance for reviewing acquisition agreements and other documents and to perform acquisition closings.

The following provisions were moved from s. 259.041, F.S., to s. 253.025, F.S., with no effect:

- The rulemaking authority of the board relating to the acquisition of state-owned lands for preservation, conservation, and recreation purposes.
- The eminent domain authority to acquire any conservation parcel identified on the Florida Forever acquisition list established by the Acquisition Restoration Council (ARC) and approved by the board.
- The authority of the board, by an affirmative vote of at least three members, to direct the DEP to purchase lands on an immediate basis using up to 15 percent of the funds allocated to the department under the Florida Forever program for the acquisition of certain lands.
- The provision providing that title to lands that are to be jointly held by the board and a water management district when acquired by a water management district are deemed to meet the standards necessary for ownership by the board.

Additionally, the bill makes the following changes:

- Authorizes the division to use an appraisal prepared by the division to estimate the value of a parcel that is estimated to be worth $100,000 or less, if the director of the division finds that the cost of an outside appraisal is not justified and provided the public's interest is reasonably protected.

- Removes the board's ability to designate a qualified fee appraiser organization.
- Changes a reference to the Division of Business and Professional Regulation to the Department of Agriculture and Consumer Services as land surveyors are regulated by the latter rather than the former.
- Revises the definition of the term "nonprofit organization," relating to organizations that may provide an appraisal to the division, to include nonprofit organizations whose purpose includes the preservation of natural resources for the purposes of the acquisition of conservation lands, rather than nonprofit organizations whose purpose is the preservation of natural resources.
- Authorizes, rather than requires, the department to use outside counsel to review any agreements or documents or to perform acquisition closings unless department staff can conduct the same activity in 15 days or less.

The bill amends s. 253.031, F.S., to remove the requirement that the board keep records and papers at the U.S. Land Office in Gainesville, Florida. All documents are now held in Tallahassee as required by law.[93]

Alternatives to Fee Simple Acquisition

The bill creates s. 253.0251, F.S., to relocate subsection 259.041(11), F.S., relating to alternatives to fee simple acquisitions. The bill adds the Department of Agriculture and Consumer Services (DACS) to the list of entities that are required to implement the use of alternatives to fee simple acquisitions and to educate private landowners about such alternatives and that may enter into joint acquisition agreements for alternatives to fee simple acquisitions. Additionally, the bill deletes s. 259.101(7), F.S., the language of which closely mirrors s. 259.041(11), F.S., but applied to acquisitions under the Preservation 2000 program.

The bill creates s. 570.715, F.S., to require DACS to follow certain acquisition procedures when acquiring conservation easements or less-than-fee interests through the Rural and Family Lands Protection Program pursuant to s. 570.71, F.S. The procedures closely mirror the acquisition procedures required under s. 253.025, F.S. The bill transfers and redesignates the public records exemption for appraisals from s. 259.041(7)(e), F.S., to s. 570.715(5), F.S.

Management Requirements

The bill amends s. 253.03, F.S., to update a reference to a repealed rule that grandfathered-in certain structures to use sovereignty submerged lands. The bill requires the board to encourage the use of sovereignty submerged lands for minimal secondary non-water dependent uses that are related to water-dependent uses.

The bill amends s. 253.034, F.S., to authorize the department, if the managing or leasing entity is not meeting the short-term goals as provided in the applicable land management plan, to submit conservation lands to ARC to review whether the short-term goals should be modified, consider whether the lands should be offered to another entity for management or leasing, or recommend to the board whether to surplus the lands. The bill authorizes the department, if the managing or

[93] DEP, *Senate Bill 1290 Agency Bill Analysis* (Rev. Jan. 4, 2016) (on file with the Senate Committee on Environmental Preservation and Conservation).

leasing entity is not meeting the short-term goals as provided in the applicable land use plan, to submit nonconservation lands to the board to consider whether to require the managing or leasing entity to release its interest in the land and to consider whether to surplus the lands. The planning period for short-term goals in a land management plan is two years and the planning period for short-term goals in a land use plan is five years.

The bill amends s. 253.034(5), F.S., to:

- Require that each updated land management plan identify any conservation lands under the plan, in part or in whole, which are no longer needed for conservation purposes and could be disposed of in fee simple or with the state retaining a permanent conservation easement.
- Require that all state nonconservation lands be managed to provide the greatest benefit to the state and that any use or possession of nonconservation lands which is not in accordance with an approved land use plan is subject to termination by the board.
- Authorize nonconservation lands to be grouped by similar land use types under one land use plan.
- Require each land use plan to contain, at a minimum, all of the following elements:
  - A physical description of the land to include any significant natural or cultural resources as well as management strategies developed by the land manager to protect such resources, as opposed to an analysis of the property to determine if any significant natural or cultural resources are located on the property as required under current law;
  - A desired development outcome;
  - A schedule for achieving the desired development outcome;
  - A description of both short-term (achievable within a five-year planning period) and long-term (achievable within a 10-year planning period) development goals;
  - A management and control plan for invasive nonnative plants;
  - A management and control plan for soil erosion and soil and water contamination, as opposed to providing for the conservation of soil and water resources as required under current law; and
  - Measureable objectives to achieve the goals identified in the land use plan.
- Remove the specification that natural or cultural resources includes archaeological and historic sites, state and federally listed plant and animal species, and imperiled natural communities and unique natural features.
- Provide clarification by adding references to state conservation lands or nonconservation lands where appropriate.
- Remove duplicative language relating to the authority of the secretary of the department, the Commissioner of Agriculture, or the Executive Director of the Fish and Wildlife Conservation Commission to submit a land management plan to the board, if the ARC fails to make a recommendation for the plan.

The bill amends s. 253.7821, F.S., to assign the Cross Florida Greenways State Recreation and Conservation Area to the department, rather than the Office of Greenways Management.

The bill amends s. 259.032, F.S., relating to conservation and recreation lands to:

- Remove the requirement that outdoor activities related to recreation which are authorized be compatible with the purposes for which the lands were acquired.

- Remove the requirement that conservation lands be managed for the purposes for which the lands were acquired.
- Require the board to evaluate and amend the management policy statement for a project to ensure that the policy statement is compatible with conservation and/or recreation rather than consistent with the purposes for which the lands are acquired.
- Remove obsolete language relating to the land management plan for the Babcock Crescent B Ranch, as the land management plan has been created.
- Revise the requirements for individual management plans by:
  - Removing the requirement that the priority schedules for conducting management activities be based on the purposes for which the lands were acquired; and
  - Requiring the determination of the public uses and public access to be compatible with conservation and/or recreation rather than consistent with the purposes for which the lands were acquired.
- Revise the legislative intent that conservation lands be managed and maintained in a manner that is compatible with conservation and/or recreation consistent with the land management plan rather than for the purposes for which the lands were acquired and the requirement that public access and use be consistent with acquisition purposes.
- Conform cross-references.

The bill amends s. 259.035, F.S., to clarify that the ARC provides assistance to the board in reviewing the recommendations and plans for state-owned conservation lands. The ARC does not provide the board with assistance relating to plans for state-owned nonconservation lands.

The bill amends s. 259.036, F.S., relating to the requirements of management review teams to:
- Require the review teams to determine whether conservation, preservation, and recreation lands titled in the name of the board are managed for purposes that are compatible with conservation, preservation, or recreation in accordance with the applicable land management plan, rather than for the purposes for which they were acquired.
- Revise the composition of regional land management review teams to provide a preference for private land managers from the local community and to authorize a member or staff of the jurisdictional water management district to be on the team instead of a member or staff of the local soil and water conservation district board of supervisors.
- Change references from the division to the department.

The bill amends s. 259.037, F.S., to provide an acronym for the Land Management Uniform Accounting Council (LMUAC) and remove the director of the Office of Greenways and Trails from the council.

Under s. 259.047, F.S., a state or acquiring entity is required to make reasonable efforts to keep lands in agricultural production which were in agricultural production at the time of acquisition, where consistent with the purposes for which the property was acquired. The bill amends the language to state if consistent with the purposes of conservation or recreation.

The bill amends s. 259.101, F.S., to revise the language related to the incidental public or private use that is determined by the board or the owning water management district to be compatible with conservation, preservation, or recreation purposes rather than compatible with the purposes

for which such lands were acquired. The bill removes the language relating to alternatives to fee simple acquisition under this section. This language closely mirrors the authorization for alternatives to fee simple acquisitions under the Florida Forever program, which was moved to a new section. The bill conforms cross-references.

Disposition Procedures

The bill amends s. 253.0341, F.S., to include the provisions from s. 253.034(6) and (13), F.S., to provide one section of law that encompasses the surplus requirements for state lands. The bill:

- Removes authorization for local governments to submit surplusing requests directly to the board.
- Removes authorization for the board to decide to surplus nonconservation lands without a review of, or a recommendation on, the request from the ARC or the division.
- Requires all requests to surplus conservation lands to be submitted to the lead managing agency for review and recommendation to the ARC, and all requests to surplus nonconservation lands to be submitted to the division for review and recommendation to the board.
- Under current law, surplusing requests for nonconservation lands by a county or local government were required to be considered by the board within 60 days of the board's receipt of the request. Surplus requests by a county or local government to surplus conservation lands were required to be considered by the board within 120 days of the board's receipt of the request. The bill applies the 60-day review requirement to all requests, not just from a county or local government, and to requests to surplus conservation lands.
- Removes the requirement that a facility or parcel before such facility or parcel is offered for lease or sale be first offered for lease to a state university or Florida College System institution. The requirement is retained for state agencies but is restricted to only apply when a facility or parcel is offered for lease and clarifies that the requirement only applies to nonconservation lands. Additionally, the bill revises the deadline for state agencies to request to lease such facility or parcel from 60 days after the offer for lease to 45 days after. The bill also changes the term from "building" to "facility" to include all possible structures on the parcel.
- Removes language that requires ARC to consider whether lands owned by the board are more appropriately owned or managed by the local government in which the land is located if in the best interests of the state and the local government.
- Clarifies the requirement that the ARC review and make recommendations on requests for surplus lands only applies to conservation lands.
- Removes language relating to the conveyance of title to property on which the Graham Building is located to Miami-Dade County. The conveyance has been executed.
- Removes the authorization for local governments to request that state lands be specifically declared surplus for the purpose of providing alternative water supply and water resource development projects, public facilities, and affordable housing.
- Removes examples of permittable uses of land surplused under certain circumstances to a state, county, or local government.

The bill amends s. 253.111, F.S., to remove the requirement that the board, before it is authorized to sell any land to which it holds title, must provide notice and afford an opportunity

to a county in which the land is situated to receive such lands before the board is authorized to sell such land.

The bill amends s. 253.42, F.S., relating to the exchange of lands, to remove the requirement that any nonconservation lands that were acquired by the state through gift, donation, or any other conveyance for which no consideration was paid must first be offered at no cost to a county or local government so long as the use proposed by the county or local government is for a public purpose. The bill creates a new process that authorizes a person who owns land contiguous to state-owned lands to submit a request to the division to exchange all or a portion of the privately owned land for all or a portion of the state-owned land. Under such exchange, the state would retain a permanent conservation easement over all or a portion of the exchanged state-owned land and a permanent conservation easement over all or a portion of the exchanged privately owned land. The bill requires the division, if the division elects to proceed with a request, to submit the request to the ARC for review, in which case the ARC is required to provide recommendations to the division. The division is required to review the request and the ARC's recommendations and may provide recommendations to the board. The bill authorizes the board to approve the request if:

- At least 30 percent of the perimeter of the privately owned land is bordered by state-owned land and the exchange does not create an inholding.
- The approval does not result in a violation of the terms of a preexisting lease or agreement by the board, the Department of Environmental Protection, the Department of Agriculture and Consumer Services, or the Fish and Wildlife Conservation Commission.
- For state-owned land purchased for conservation purposes, the board makes a determination that the exchange of land under this subsection will result in a net positive conservation benefit.
- The approval does not conflict with any existing flowage easement.
- The request is approved by three or more members of the board of trustees.

The bill specifies that state-owned sovereign submerged land is not authorized for this type of exchange and that special consideration is required to be given to requests that maintain public access for any recreational purpose allowed on the state-owned land at the time the request is submitted to the board. The bill provides that a person who maintains public access on such lands is entitled to a limitation on liability. The bill requires that any land subject to a permanent conservation easement granted under this process is subject to inspection by the department to ensure compliance with the terms of the permanent conservation easement.

The bill amends s. 253.782, F.S., to remove the directive requiring the department to retain ownership of and maintain all lands or interests in land owned by the board, including all fee and less-than-fee interests in lands previously owned by the canal authority in Lake Rousseau and the Cross Florida Barge Canal right-of-way from Lake Rousseau at U.S. Highway 41 west to and including the Withlacoochee River.

The bill amends s. 373.089, F.S., and:

- Extends the timeframe in which a certified appraisal must be obtained for determining the minimum price at which the land may be sold by a water management district (WMD) from 120 days to 360 days before the effective date of a contract for the sale; and

- Revises the period from which the first publication of the required notice must occur to not more than 360 days before any sale, rather than 45 days; and provide an expedited process for the sale of surplus lands titled to a WMD and valued at $25,000 or less.

Under the expedited process, instead of requiring a WMD to publish a notice of intention to sell in a newspaper circulated in the county in which a parcel of land valued at $25,000 or less is situated for three consecutive weeks, the bill requires a governing board to publish the notice of intention to sell one time only. Additionally, the governing board is required to send notice to adjacent property owners by certified mail and publish the notice on its website. Fourteen days after publication of such notice, the bill authorizes a water management district to sell such a parcel to an adjacent property owner or accept sealed bids if there are two or more owners of adjacent property and sell the parcel to the highest bidder. Thirty days after publication of such notice, the bill authorizes a water management district to accept sealed bids and sell such a parcel to the highest bidder.

Florida State-Owned Lands and Records Information System (FL-SOLARIS)

The bill creates s. 253.87, F.S., to require the DEP to expand the scope of the FL-SOLARIS database as follows:

- By July 1, 2018, that the database include all federally owned conservation lands in the state, all lands on which the Federal Government retains a permanent conservation easement in the state, and all lands on which the state retains a permanent conservation easement.
- By July 1, 2018, and at least every five years thereafter, that counties and municipalities identify all conservation lands that it owns in fee simple and all lands on which it retains a permanent conservation easement and submit, in a manner determined by the department, a list of such lands to the department. If a municipality qualifies as a financially disadvantaged small community, it has until July 1, 2019, to complete this requirement.[94]
- Directs the DEP to add the lands on a list submitted by a county or municipality to the database within six months after receiving the list.
- Directs the DEP to update the database at least every five years.
- Authorizes the department to conduct a study on the technical and economic feasibility of including the following lands in the database or a similar public lands inventory:
    - All lands on which local comprehensive plans, land use restrictions, zoning ordinances, or land development regulations prohibit the land from being developed or limit the amount of development to one unit per 40 or more acres;
    - All publicly and privately owned lands for which development rights have been transferred;
    - All privately owned lands under a permanent conservation easement;
    - All lands owned by a nonprofit or nongovernmental organization for conservation purposes; and
    - All lands that are part of a mitigation bank.

[94] Section 403.1838, F.S., defines the term "financially disadvantaged small community as "a municipality that has a population of 10,000 or fewer, according to the latest decennial census and a per capita annual income less than the state per capita annual income as determined by the United States Department of Commerce."

- Requires the DEP to submit a report regarding the study on the technical and economic feasibility of including such lands in the database to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2018.

Florida Forever Program

The bill amends s. 259.01, F.S., to revise the short title for chapter 259, F.S., from the "Land Conservation Act of 1972" to the "Land Conservation Program."

The bill repeals s. 259.02, F.S., relating to the bonding authority for state capital projects for environmentally endangered lands up to $200 million and outdoor recreation lands up to $40 million. The bond issuance has been satisfied.[95]

The bill amends s. 259.105, F.S., to:

- Provide increased priority under Florida Forever for:
  Projects that can be acquired in less than fee ownership such as permanent conservation easements;
  - Projects that contribute to improving quality and quantity of surface water and groundwater; or
  - Projects that contribute to improving the water quality and flow of springs.
- Remove the requirement that where habitat or potentially restorable habitat for imperiled species is located on state lands, the short-term and long-term management goals included in the land management plan must advance the goals and objectives of imperiled species management consistent with the purposes for which the land was acquired without restricting the other uses identified in the management plan. This language was moved to s. 259.032(8)(c), F.S., but the requirement that the goals and objectives of imperiled species management plan be consistent with the purposes for which the land was acquired was removed.
- Requires that the rules adopted by the Department of Agriculture and Consumer Services concerning the application, acquisition, and project ranking process for conservation easements be consistent with the acquisition process provided for in s. 570.715, F.S, rather than s. 259.041, F.S.
- Clarify that an affirmative vote of at least five members of the ARC is required to place a proposed project on the priority list.
- Remove legislative ratification requirements for rules that have been ratified and taken effect.
- Conform cross-references.

The bill amends s. 259.1052, F.S., to delete distribution requirements under Florida Forever relating to the Babcock Crescent B Ranch. This language is obsolete as the acquisition project is completed.

The bill amends ss. 73.015, 125.355, 166.045, 215.82, 215.965, 253.027, 253.7824, 260.015, 260.016, 369.317, 373.139, 375.031, 375.041, 380.05, 380.055, 380.508, 589.07, 944.10, 957.04, 985.682, and 1013.14, F.S., to conform cross-references.

[95] DEP, *Senate Bill 1290 Agency Bill Analysis* (Rev. Jan. 4, 2016) (on file with the Senate Committee on Environmental Preservation and Conservation).

The bill appropriates the sums of $396,040 in recurring funds and $1,370,528 in nonrecurring funds from the General Revenue Fund to the department and authorizes four full-time equivalent positions with associated salary rate of 182,968 to implement the amendments in this bill to ss. 253.034, F.S., along with s. 253.87, F.S.

The bill is effective July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill requires each county and municipality to submit to the DEP a list of all conservation lands owned in fee simple by the entity and lands on which the entity holds a permanent conservation easement. The bill may require counties and municipalities to take actions requiring the expenditure of funds. As a result, the county and municipality mandates provision of Article VII, section 18, of the Florida Constitution may apply. A law having an insignificant fiscal impact is exempt from the requirements of Article VII, section 18, of the Florida Constitution. The cost to counties and municipalities to identify and submit the list to the department is indeterminate at this time. If the cost will have an insignificant fiscal impact the exemption may apply.

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:

Disposition of State Lands

CS/SB 1290 will have a significant fiscal impact on Department of Environmental Protection (DEP or department) related to the review of whether land managers have met their short-term and long-term goals for nonconservation lands and whether such lands should be offered for surplus. The DEP estimates the need for two additional full-time employees and a total cost of $280,784. These costs include a study to determine the

costs for updating the Integrated Land Management System and the Land Information Tracking System which is needed to implement the requirements of the bill. These costs are estimated to be between $100,000 and $150,000 (see chart on next page).[96]

Disposition of State Lands				
Category/Description	FTE	Recurring	Nonrecurring	Total Costs
Salaries and Benefits	2.0	$110,000	-	$110,000
Expenses		$12,332	$7,764	$20,096
Contracted Services System Upgrades (range from $100,000 to $150,000)			$150,000	$150,000
Transfer to DMS-HR Services-Statewide Contract		$688	-	$688
Total	**2.0**	**$123,020**	**$157,764**	**$280,784**

Florida State-Owned Lands and Records Information System (FL-SOLARIS)

The bill has a significant impact on the department by requiring that all federally owned conservation lands, lands on which the federal government holds a conservation easement, and all lands on which the state holds a conservation easement be included in the FL-SOLARIS. The additional costs total $1,635,784 and include:[97]

- For the federal conservation lands, federal conservation easements, and state conservation easements:
  - One full-time employee to produce the initial data, establish federal contacts to acquire data, and to maintain the system and data;
  - A recurring task order with the Florida Natural Areas Inventory to use its conservation managed land data; and
  - A new FL-SOLARIS Conservation Lands Module for the federal and state data to be designed, tested, and implemented before the data can be loaded.
- For the county and municipality conservation lands and easements:
  - Completion of a new FL-SOLARIS Conservation Lands Module; and
  - One full-time employee to act as liaison to counties and municipalities to produce the initial data, assure compliance, quality control, and maintain the county and municipal conservation data in FL-SOLARIS.

[96] DEP, Senate Bill 1290 Agency Bill Analysis (Rev. Jan. 4, 2016) (on file with the Senate Committee on Environmental Preservation and Conservation).

[97] Id.

The bill also requires the DEP to conduct a study and submit a report on the technical and economic feasibility of including lands within various criteria in FL-SOLARIS. The department estimates that this cost will be $500,000.[98]

FL-SOLARIS				
Category/Description	FTE	Recurring	Nonrecurring	Total Costs
Salaries and Benefits	2.0	$145,000	-	$145,000
Expenses		$12,332	$7,764	$20,096
Contracted Services/System Development and Maintenance*		$95,000	$855,000	$950,000
Contracted Services/ FNAI Data		$20,000	-	$20,000
Contacted Services Feasibility Study			$500,000	$500,000
Transfer to DMS-HR Services-Statewide Contract		$688	-	$688
Total	**2.0**	**$273,020**	**$1,362,764**	**$1,635,784**

The total costs for the additional duties and responsibilities related to the disposition of state lands and changes and expansion of the FL-SOLARIS are four full-time equivalent positions and $1,916,568.

The bill appropriates $396,040 in recurring funds and $1,370,528 in nonrecurring funds from the General Revenue Fund to the Department of Environmental Protection and four full-time equivalent positions with associated salary rate of 182,968 to implement specific provisions of the bill.

The DEP can absorb rulemaking costs using existing resources.

The bill may have an indeterminate negative fiscal impact on counties and municipalities by requiring them to submit to the department a list of all conservation lands owned by the entity and lands on which the entity holds permanent conservation easement.

VI. Technical Deficiencies:

None.

[98] *Id*.

VII. Related Issues:

The bill moves language relating to alternatives to fee simple acquisitions from s. 259.041, F.S., to the newly created s. 253.0251, F.S. The requirement that each applicant within a project application must provide a statement as to why they are seeking full fee simple, rather than using an alternative to fee simple, was moved and revised under the bill to apply to all applications for alternatives to fee simple. With the revision, the language no longer makes sense, see lines 830-834. This provision should be reinstated to the original language and moved to s. 259.105, F.S., relating to the Florida Forever project application requirements.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 253.025, 253.03, 253.031, 253.034, 253.0341, 253.111, 253.42, 253.782, 253.7821, 259.01, 259.032, 259.035, 259.036, 259.037, 259.041, 259.047, 259.101, 259.105, 259.1052, 373.089, 73.015, 125.355, 166.045, 215.82, 215.965, 253.027, 253.7824, 260.015, 260.016, 369.317, 373.139, 375.031, 375.041, 380.05, 380.055, 380.508, 589.07, 944.10, 957.04, 985.682, and 1013.14.

This bill creates the following sections of the Florida Statutes: 253.0251, 253.87, and 570.715.

This bill repeals section 259.02 of the Florida Statutes.

IX. Additional Information:

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

CS by Appropriations on March 3, 2016:
The committee substitute:

- Requires the Department of Agriculture and Consumer Services to implement initiatives for using alternatives to fee simple acquisitions; to educate private landowners about such alternatives; and to follow specified acquisition procedures when using such alternatives.
- Authorizes the Department of Environmental Protection to review whether the short-term goals stated in a land management plan should be modified when a leasing or managing entity is not meeting such goals.
- Clarifies that reviews of land management plans must include identification for surplusing purposes of any conservation lands that are no longer needed for conservation purposes, rather than identify conservation lands to surplus.
- Authorizes state nonconservation lands to be grouped by similar land use type under one land use plan.
- Removes language requiring the Division to conduct additional 10-year reviews of state-owned lands.
- Removes the priority provided to state universities and Florida College institutions to lease a facility or parcel of land that is being offered for lease or sale. State agencies retain this priority, but it is limited to when a facility or parcel is being offered for lease.

- Requires that ARC provide recommendations on each request to exchange interests in private land for adjacent public lands as authorized under the bill.
- Removes the requirement that the board, before they are authorized to sell any land to which they hold title, must provide notice and afford an opportunity to a county in which the land is situated to receive such lands before the board is authorized to sell such land.
- Removes the revision to the definition of the term "water resource development project."
- Makes revisions throughout the bill to require that conservation lands be managed for conservation and/or recreation, consistent with the land management plan.
- Revises the noticing requirements for a water management district when selling or exchanging lands and provides an expedited process for selling surplus lands that are valued at $25,000 or less.
- Adds an appropriation, positions, and salary rate.

B. Amendments:

None.

By Senator Simpson

18-00774-16 20161290__

A bill to be entitled

An act relating to state lands; amending s. 253.025, F.S.; authorizing the Board of Trustees of the Internal Improvement Trust Fund to waive certain requirements and rules and substitute procedures relating to the acquisition of state lands under certain conditions; providing that title to certain acquired lands are vested in the board; providing for the administration of such lands; authorizing the board to adopt specified rules; revising requirements for the appraisal of lands proposed for acquisition; requiring an agency proposing an acquisition to pay the associated costs; deleting provisions directing the board to approve qualified fee appraisal organizations; requiring fee appraisers to submit certain affidavits to an agency before contracting with a participant in a multiparty agreement; prohibiting fee appraisers from negotiating with property owners; providing for the Minimum Technical Standards for Land Surveying in Florida to be published by the Department of Agriculture and Consumer Services rather than the Department of Business and Professional Regulation; authorizing the disclosure of confidential appraisal reports under certain conditions; providing for public agencies and nonprofit organizations to enter into written agreements with the Department of Environmental Protection rather than the Division of State Lands to purchase and hold property for subsequent resale to the board rather than the division; revising the definition of the term "nonprofit organization"; directing the board to adopt by rule the method for

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determining the value of parcels sought to be acquired by state agencies; providing requirements for such acquisitions; expanding the scope of real estate acquisition services for which the board and state agencies may contract; authorizing the Department of Environmental Protection to use outside counsel to review any agreements or documents or to perform acquisition closings under certain conditions; requiring state agencies to furnish the Department of Environmental Protection rather than the Division of State Lands with specified acquisition documents; providing that the purchase price of certain parcels is not subject to an increase or decrease as a result of certain circumstances; authorizing the board of trustees to direct the Department of Environmental Protection to exercise eminent domain for the acquisition of certain conservation parcels under certain circumstances; authorizing the Department of Environmental Protection to exercise condemnation authority directly or by contracting with the Department of Transportation or a water management district to provide such service; authorizing the board to direct the Department of Environmental Protection to purchase lands on an immediate basis using specified funds; authorizing the board of trustees to waive or modify all procedures required for such land acquisition; providing that title to certain lands held jointly by the board and a water management district meet the standards necessary for

ownership by the board; defining the term "projects" for purposes of land acquisition; creating s. 253.0251, F.S.; providing for the use of alternatives to fee simple acquisition by public land acquisition agencies; amending s. 253.03, F.S.; deleting provisions directing the board to adopt by rule an annual administrative fee for certain leases and similar instruments; revising the criteria by which specified structures have the right to continue submerged land leases; directing the board to adopt by rule an annual administrative fee for certain leases and instruments; authorizing nonwater-dependent uses for submerged lands; amending s. 253.031, F.S.; providing for the Department of Environmental Protection to maintain documents concerning all state lands; deleting an obsolete provision; amending s. 253.034, F.S.; authorizing the department to submit certain state-owned lands to the board for consideration; requiring that all nonconservation land use plans are managed to provide the greatest benefit to the state; deleting provisions requiring an analysis of natural or cultural resources as part of a nonconservation land use plan; specifying that certain management and short-term and long-term goals for the conservation of plant and animal species apply to conservation lands; providing conditions under which the Secretary of Environmental Protection, Commissioner of Agriculture, or executive director of the Fish and Wildlife Conservation Commission or their

designees are required to submit land management plans to the board; requiring that updated land management plans identify conservation lands that are no longer needed for conservation purposes; deleting provisions directing the board to make certain determinations regarding the surplus and disposition of state lands; deleting provisions requiring that buildings and parcels of land be offered for lease to state agencies, state universities, and Florida College System institutions before being offered for lease or sale to a local or federal unit of government or a private party; amending s. 253.0341, F.S.; deleting provisions requiring that county or local government requests for the state to surplus conservation or nonconservation lands be expedited; directing the board to make certain determinations regarding the surplus and disposition of state lands; providing that lands acquired before a certain date using specified proceeds are deemed to have been acquired for conservation purposes; providing that certain lands used by the Department of Corrections, the Department of Management Services, and the Department of Transportation may not be designated as lands acquired for conservation purposes; requiring updated land management plans to identify conservation lands that are no longer needed and could be disposed of; requiring the Division of State Lands to review state-owned conservation lands and determine if such lands are no longer needed and could be disposed of and to

submit a list of such lands to the Acquisition and Restoration Council; requiring the council to provide certain recommendations to the board regarding conservation lands; requiring the division to review certain nonconservation lands and make recommendations to the board as to whether such lands should be retained in public ownership or disposed of; deleting an obsolete provision; requiring that buildings and parcels of land be offered for lease to state agencies, state universities, and Florida College System institutions before being offered for lease or sale to a local or federal unit of government or a private party; providing for the valuation and disposition of surplus lands; providing for the deposit of proceeds from the sale of such lands; authorizing the board to adopt rules; amending s. 253.111, F.S.; revising provisions requiring the board to afford an opportunity to local governments to purchase certain lands; amending s. 253.42, F.S.; authorizing individuals or entities to submit requests to the Division of State Lands to exchange state-owned land for privately held land; requiring the state to retain permanent conservation easements over the state-owned land and all or a portion of the privately held land; requiring the division to review requests and provide recommendations to the Acquisition and Restoration Council; providing applicability; directing the board to consider a request if certain conditions are met; providing special consideration

for certain requests; providing that such lands are subject to inspection; amending s. 253.782, F.S.; deleting a provision directing the Department of Environmental Protection to retain ownership of and maintain lands or interests in land owned by the board; amending s. 253.7821, F.S.; assigning the Cross Florida Greenways State Recreation and Conservation Area to the Department of Environmental Protection rather than the Office of Greenways Management within the Office of the Secretary; creating s. 253.87, F.S.; directing the Department of Environmental Protection to include certain county, municipal, state, and federal lands in the Florida State-Owned Lands and Records Information System (FL-SOLARIS) database and to update the database at specified intervals; requiring counties, municipalities, and financially disadvantaged small communities to submit a list of certain lands to the department by a specified date and at specified intervals; directing the department to conduct a study and submit a report to the Governor and the Legislature on the technical and economic feasibility of including certain lands in the database or a similar public lands inventory; amending s. 259.01, F.S.; renaming the "Land Conservation Act of 1972" as the "Land Conservation Program"; repealing s. 259.02, F.S., relating to issuance of state bonds for certain land projects; amending s. 259.03, F.S.; revising the definition of the term "water resource development project" to include construction of

treatment, transmission, and distribution facilities; amending s. 259.032, F.S.; conforming cross-references; revising provisions relating to the management of conservation and recreation lands to conform with changes made by the act; revising duties of the Acquisition and Restoration Council; amending s. 259.035, F.S.; requiring recipients of funds from the Land Acquisition Trust Fund to annually report certain performance measures to the Department of Environmental Protection rather than the Division of State Lands; amending s. 259.036, F.S.; revising the composition of the regional land management review team; providing for the Department of Environmental Protection rather than the Division of State Lands to act as the review team coordinator; revising requirements for conservation and recreation land management reviews and plans; amending s. 259.037, F.S.; removing the director of the Office of Greenways and Trails from the Land Management Uniform Accounting Council; repealing s. 259.041, F.S., relating to the acquisition of state-owned lands for preservation, conservation, and recreation purposes; amending s. 259.047, F.S.; revising provisions relating to the acquisition of land on which an agricultural lease exists to conform with changes made by the act; amending s. 259.101, F.S.; conforming cross-references; revising provisions relating to alternate use of lands acquired under the Florida Preservation 2000 Act to conform with changes made by the act;

deleting provisions for alternatives to fee simple acquisition of such lands to conform with changes made by the act; amending s. 259.105, F.S.; deleting provisions requiring the advancement of certain goals and objectives of imperiled species management on state lands to conform with changes made by the act; conforming cross-references; revising provisions directing the Acquisition and Restoration Council to give increased priority to certain projects when developing proposed rules relating to Florida Forever funding and additions to the Conservation and Recreation Lands list; deleting provisions requiring that such rules be submitted to the Legislature for review; amending s. 259.1052, F.S.; deleting provisions authorizing the Department of Environmental Protection to distribute revenues from the Florida Forever Trust Fund for the acquisition of a portion of Babcock Crescent B Ranch; amending ss. 73.015, 125.355, 166.045, 215.82, 215.965, 253.027, 253.7824, 260.015, 260.016, 369.317, 373.139, 375.031, 375.041, 380.05, 380.055, 380.508, 589.07, 944.10, 957.04, 985.682, and 1013.14, F.S.; conforming cross-references; providing an effective date.

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

Section 1. Section 253.025, Florida Statutes, is amended to read:

253.025 Acquisition of state lands ~~for purposes other than~~

~~preservation, conservation, and recreation~~.—

(1)(a) ~~Neither~~ The Board of Trustees of the Internal Improvement Trust Fund or ~~nor~~ its duly authorized agent may not ~~shall~~ commit the state, through any instrument of negotiated contract or agreement for purchase, to the purchase of lands with or without appurtenances unless ~~the provisions of~~ this section has ~~have~~ been fully complied with.

(b) Except for the requirements of subsections (4), (11), and (22), if the public's interest is reasonably protected, the board of trustees may:

1. Waive any requirements of this section.

2. Waive any rules adopted pursuant to this section, notwithstanding chapter 120.

3. Substitute other reasonably prudent procedures.

(c) ~~However,~~ The board of trustees may also substitute federally mandated acquisition procedures for the provisions of this section if ~~when~~ federal funds are available and will be used ~~utilized~~ for the purchase of lands, title to which will vest in the board of trustees, and qualification for such federal funds requires compliance with federally mandated acquisition procedures.

(d) Notwithstanding ~~any provisions in~~ this section ~~to the contrary~~, if lands are being acquired by the board of trustees for the anticipated sale, conveyance, or transfer to the Federal Government pursuant to a joint state and federal acquisition project, the board of trustees may use appraisals obtained by the Federal Government in the acquisition of such lands. The board of trustees may waive any provision of this section when land is being conveyed from a state agency to the board.

(e) The title to lands acquired pursuant to this section shall vest in the board of trustees pursuant to s. 253.03(1) unless otherwise provided by law, and all such titled lands shall be administered pursuant to s. 253.03.

(2) Before ~~Prior to~~ any state agency initiates ~~initiating~~ any land acquisition, except for ~~as pertains to~~ the purchase of property for transportation facilities and transportation corridors and property for borrow pits for road building purposes, the agency shall coordinate with the Division of State Lands to determine the availability of existing, suitable state-owned lands in the area and the public purpose for which the acquisition is being proposed. If the state agency determines that no suitable state-owned lands exist, the state agency may proceed to acquire such lands by employing all available statutory authority for acquisition.

(3) The board of trustees is authorized to adopt rules to implement this section, including rules governing the terms and conditions of land purchases. The rules shall address, with specificity, but need not be limited to:

(a) The procedures to be followed in the acquisition process, including selection of appraisers, surveyors, title agents, and closing agents, and the content of appraisal reports.

(b) The determination of the value of parcels which the state has an interest in acquiring.

(c) Special requirements when multiple landowners are involved in an acquisition.

(d) Requirements for obtaining written option agreements so that the interests of the state are fully protected.

(4) An agreement to acquire real property for the purposes described in this chapter, chapter 260, or chapter 375, title to which will vest in the board of trustees, may not bind the state before the agreement is reviewed and approved by the Department of Environmental Protection as complying with this section and any rules adopted pursuant to this section. If any of the following conditions exist, the agreement shall be submitted to and approved by the board of trustees:

(a) The purchase price agreed to by the seller exceeds the value as established pursuant to the rules of the board of trustees;

(b) The contract price agreed to by the seller and the acquiring agency exceeds $1 million;

(c) The acquisition is the initial purchase in a Florida Forever project; or

(d) Other conditions that the board of trustees may adopt by rule. Such conditions may include, but are not limited to, Florida Forever projects when title to the property being acquired is considered nonmarketable or is encumbered in such a way as to significantly affect its management.

If approval of the board of trustees is required pursuant to this subsection, the acquiring agency must provide a justification as to why it is in the public's interest to acquire the parcel or Florida Forever project. Approval of the board of trustees is also required for Florida Forever projects the department recommends acquiring pursuant to subsections (11) and (22). Review and approval of agreements for acquisitions for Florida Greenways and Trails Program properties pursuant to

chapter 260 may be waived by the department in any contract with nonprofit corporations that have agreed to assist the department with this program. If the contribution of the acquiring agency exceeds $100 million in any one fiscal year, the agreement shall be submitted to and approved by the Legislative Budget Commission.

(5) ~~(3)~~ Land acquisition procedures provided for in this section are for voluntary, negotiated acquisitions.

(6) ~~(4)~~ For the purposes of this section, the term "negotiations" does not include preliminary contacts with the property owner to determine the availability of the property, existing appraisal data, existing abstracts, and surveys.

(7) ~~(5)~~ Evidence of marketable title shall be provided by the landowner before ~~prior to~~ the conveyance of title, as provided in the final agreement for purchase. Such evidence of marketability shall be in the form of title insurance or an abstract of title with a title opinion. The board of trustees may waive the requirement that the landowner provide evidence of marketable title, and, in such case, the acquiring agency shall provide evidence of marketable title. The board of trustees or its designee may waive the requirement of evidence of marketability for acquisitions of property assessed by the county property appraiser at $10,000 or less, if ~~where~~ the Division of State Lands finds, based upon such review of the title records as is reasonable under the circumstances, that there is no apparent impediment to marketability, or to management of the property by the state.

(8) ~~(6)~~ Before approval by the board of trustees, or, when applicable, the Department of Environmental Protection, of any

agreement to purchase land pursuant to this chapter, chapter 259, chapter 260, or chapter 375, and before ~~Prior to~~ negotiations with the parcel owner to purchase any other land ~~pursuant to this section~~, title to which will vest in the board of trustees, an appraisal of the parcel shall be required as follows:

(a) The board of trustees shall adopt by rule the method for determining the value of parcels sought to be acquired by state agencies pursuant to this section.

(b) ~~(a)~~ Each parcel to be acquired shall have at least one appraisal. Two appraisals are required when the estimated value of the parcel exceeds $1 million. However, if both appraisals exceed $1 million and differ significantly, a third appraisal may be obtained. If ~~When~~ a parcel is estimated to be worth $100,000 or less and the director of the Division of State Lands finds that the cost of an outside appraisal is not justified, a comparable sales analysis, an appraisal prepared by the division, or other reasonably prudent procedures may be used by the division to estimate the value of the parcel, provided the public's interest is reasonably protected. The state is not required to appraise the value of lands and appurtenances that are being donated to the state.

(c) ~~(b)~~ Appraisal fees and associated costs shall be paid by the agency proposing the acquisition. ~~The board of trustees shall approve qualified fee appraisal organizations.~~ All appraisals used for the acquisition of lands pursuant to this section shall be prepared by a ~~member of an approved appraisal organization or by a~~ state-certified appraiser. The board of trustees shall adopt rules for selecting individuals to perform

appraisals pursuant to this section. Each fee appraiser selected to appraise a particular parcel shall, before ~~prior to~~ contracting with the agency or a participant in a multiparty agreement, submit to the ~~that~~ agency an affidavit substantiating that he or she has no vested or fiduciary interest in such parcel.

(d) The fee appraiser and the review appraiser for the agency may not act in any manner that may be construed as negotiating with the owner of a parcel proposed for acquisition.

(e) ~~(c)~~ The board of trustees shall adopt by rule the minimum criteria, techniques, and methods to be used in the preparation of appraisal reports. Such rules shall incorporate, to the extent practicable, generally accepted appraisal standards. Any appraisal issued for acquisition of lands pursuant to this section must comply with the rules adopted by the board of trustees. A certified survey must be made which meets the minimum requirements for upland parcels established in the Minimum Technical Standards for Land Surveying in Florida published by the Department of Agriculture and Consumer Services ~~Business and Professional Regulation~~ and which accurately portrays, to the greatest extent practicable, the condition of the parcel as it currently exists. The requirement for a certified survey may, in part or in whole, be waived by the board of trustees any time before ~~prior to~~ submitting the agreement for purchase to the Division of State Lands. When an existing boundary map and description of a parcel are determined by the division to be sufficient for appraisal purposes, the division director may temporarily waive the requirement for a survey until any time before ~~prior to~~ conveyance of title to the

parcel. ~~The fee appraiser and the review appraiser for the agency shall not act in any way that may be construed as negotiating with the property owner.~~

(f)~~(d)~~ Appraisal reports are confidential and exempt from ~~the provisions of~~ s. 119.07(1), for use by the agency and the board of trustees, until an option contract is executed or, if no option contract is executed, until 2 weeks before a contract or agreement for purchase is considered for approval by the board of trustees. The Department of Environmental Protection may disclose appraisal reports to private landowners during negotiations for acquisitions using alternatives to fee simple techniques, if the department determines that disclosure of such reports will bring the proposed acquisition to closure. However, the private landowner must agree to maintain the confidentiality of the reports or information. ~~However,~~ The department ~~Division of State Lands~~ may also disclose appraisal information to public agencies or nonprofit organizations that agree to maintain the confidentiality of the reports or information when joint acquisition of property is contemplated, or when a public agency or nonprofit organization enters into a written agreement with the department ~~division~~ to purchase and hold property for subsequent resale to the board of trustees ~~division~~. In addition, the department ~~division~~ may use, as its own, appraisals obtained by a public agency or nonprofit organization, if ~~provided~~ the appraiser is selected from the department's ~~division's~~ list of appraisers and the appraisal is reviewed and approved by the department ~~division~~. For ~~the~~ purposes of this paragraph, the term "nonprofit organization" means an organization that ~~whose purpose is the preservation of~~

~~natural resources, and which~~ is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code and, for purposes of the acquisition of conservation lands, an organization whose purpose must include the preservation of natural resources. The agency may release an appraisal report when the passage of time has rendered the conclusions of value in the report invalid or when the acquiring agency has terminated negotiations.

(g)~~(c)~~ Before ~~Prior to~~ acceptance of an appraisal, the agency shall submit a copy of such report to the division ~~of State Lands~~. The division shall review such report for compliance with the rules of the board ~~of trustees~~. Any questions of applicability of laws affecting an appraisal shall be addressed by the legal office of the agency.

(h)~~(f)~~ The appraisal report shall be accompanied by the sales history of the parcel for at least the previous ~~prior~~ 5 years. Such sales history shall include all parties and considerations with the amount of consideration verified, if possible. If a sales history would not be useful, or it is ~~its~~ cost prohibitive compared to the value of a parcel, the sales history may be waived by the board of trustees. The board of trustees shall adopt a rule specifying guidelines for waiver of a sales history.

(i)~~(g)~~ The board of trustees may consider an appraisal acquired by a seller, or any part thereof, in negotiating to purchase a parcel, but such appraisal may not be used in lieu of an appraisal required by this subsection or to determine the maximum offer allowed by law.

(j)1. The board of trustees shall adopt by rule the method

for determining the value of parcels sought to be acquired by state agencies pursuant to this section. An offer by a state agency may not exceed the value for that parcel as determined pursuant to the highest approved appraisal or the value determined pursuant to the rules of the board of trustees, whichever value is less.

2. For a joint acquisition by a state agency and a local government or other entity apart from the state, the joint purchase price may not exceed 150 percent of the value for a parcel as determined in accordance with the limits in subparagraph 1. The state agency share of a joint purchase offer may not exceed what the agency may offer singly pursuant to subparagraph 1.

3. This paragraph does not apply to the acquisition of historically unique or significant property as determined by the Division of Historical Resources of the Department of State.

Notwithstanding this subsection, on behalf of the board of trustees and before the appraisal of parcels approved for purchase under this chapter or chapter 259, the Secretary of Environmental Protection or the director of the Division of State Lands may enter into option contracts to buy such parcels. Any such option contract shall state that the final purchase price is subject to approval by the board of trustees or, if applicable, the Secretary of Environmental Protection, and that the final purchase price may not exceed the maximum offer allowed by law. Any such option contract presented to the board of trustees for final purchase price approval shall explicitly state that payment of the final purchase price is subject to an

appropriation from the Legislature. The consideration for such an option may not exceed $1,000 or 0.01 percent of the estimate by the department of the value of the parcel, whichever amount is greater.

(9) ~~(7)~~ (a) When the owner is represented by an agent or broker, negotiations may not be initiated or continued until a written statement verifying such agent's or broker's legal or fiduciary relationship with the owner is on file with the agency.

(b) The board of trustees or any state agency may contract for real estate acquisition services, including, but not limited to, contracts for real estate commission fees, surveying, mapping, environmental audits, title work, and legal and other professional assistance to review acquisition agreements and other documents and to perform acquisition closings. However, the Department of Environmental Protection may use outside counsel to review any agreements or documents or to perform acquisition closings unless department staff can conduct the same activity in 15 days or less.

(c) Upon the initiation of negotiations, the state agency shall inform the owner in writing that all agreements for purchase are subject to approval by the board of trustees.

(d) All offers or counteroffers shall be documented in writing and shall be confidential and exempt from ~~the provisions of~~ s. 119.07(1) until an option contract is executed, or if no option contract is executed, until 2 weeks before a contract or agreement for purchase is considered for approval by the board of trustees. The agency shall maintain complete and accurate records of all offers and counteroffers for all projects.

~~(c)1. The board of trustees shall adopt by rule the method for determining the value of parcels sought to be acquired by state agencies pursuant to this section. No offer by a state agency, except an offer by an agency acquiring lands pursuant to s. 259.041, may exceed the value for that parcel as determined pursuant to the highest approved appraisal or the value determined pursuant to the rules of the board of trustees, whichever value is less.~~

~~2. In the case of a joint acquisition by a state agency and a local government or other entity apart from the state, the joint purchase price may not exceed 150 percent of the value for a parcel as determined in accordance with the limits prescribed in subparagraph 1. The state agency share of a joint purchase offer may not exceed what the agency may offer singly as prescribed by subparagraph 1.~~

~~3. The provisions of this paragraph do not apply to the acquisition of historically unique or significant property as determined by the Division of Historical Resources of the Department of State.~~

(e)~~(f)~~ When making an offer to a landowner, a state agency shall consider the desirability of a single cash payment in relation to the maximum offer allowed by law.

(f)~~(g)~~ The state shall have the authority to reimburse the owner for the cost of the survey when deemed appropriate. The reimbursement is ~~shall~~ not ~~be~~ considered a part of the purchase price.

(g)~~(h)~~ A final offer shall be in the form of an option contract or agreement for purchase and shall be signed and attested to by the owner and the representative of the agency.

Before the agency executes the option contract or agreement for purchase, the contract or agreement shall be reviewed for form and legality by legal staff of the agency. Before the agency signs the agreement for purchase or exercises the option contract, the provisions of s. 286.23 shall be complied with. Within 10 days after the signing of the agreement for purchase, the state agency shall furnish the Department of Environmental Protection ~~Division of State Lands~~ with the original of the agreement for purchase along with copies of the disclosure notice, evidence of marketability, the accepted appraisal report, the fee appraiser's affidavit, a statement that the inventory of existing state-owned lands was examined and contained no available suitable land in the area, and a statement outlining the public purpose for which the acquisition is being made and the statutory authority therefor.

(h)~~(i)~~ Within 45 days after ~~of~~ receipt by the Department of Environmental Protection ~~Division of State Lands~~ of the agreement for purchase and the required documentation, the board of trustees or, if ~~when~~ the purchase price does not exceed $100,000, its designee shall ~~either~~ reject or approve the agreement. An approved agreement for purchase is binding on both parties. Any agreement which has been disapproved shall be returned to the agency, along with a statement as to the deficiencies of the agreement or the supporting documentation. An agreement for purchase which has been disapproved by the board of trustees may be resubmitted when such deficiencies have been corrected.

(10)~~(8)~~(a) A ~~No~~ dedication, gift, grant, or bequest of lands and appurtenances may not be accepted by the board of

trustees until the receiving state agency supplies sufficient evidence of marketability of title. The board of trustees may not accept by dedication, gift, grant, or bequest any lands and appurtenances that are determined as being owned by the state ~~either~~ in fee or by virtue of the state's sovereignty or which are so encumbered so as to preclude the use of such lands and appurtenances for any reasonable public purpose. The board of trustees may accept a dedication, gift, grant, or bequest of lands and appurtenances without formal evidence of marketability, or when the title is nonmarketable, if the board or its designee determines that such lands and appurtenances have value and are reasonably manageable by the state, and that their acceptance would serve the public interest. The state is not required to appraise the value of such donated lands and appurtenances as a condition of receipt.

(b) A ~~No~~ deed filed in the public records to donate lands to the board of trustees does not ~~of the Internal Improvement Trust Fund shall be construed to~~ transfer title to or vest title in the board of trustees unless ~~there shall also be filed in the public records,~~ a document indicating that the board of trustees has agreed to accept the transfer of title to such donated lands is also filed in the public records.

(c) Notwithstanding any other provision of law, the maximum value of a parcel to be purchased by the board of trustees as determined by the highest approved appraisal or as determined pursuant to the rules of the board of trustees may not be increased or decreased as a result of a change in zoning or permitted land uses, or changes in market forces or prices that occur within 1 year after the date the Department of

Environmental Protection or the board of trustees approves a contract to purchase the parcel.

(11) Notwithstanding this section, the board of trustees, by an affirmative vote of at least three members, voting at a regularly scheduled and advertised meeting, may direct the Department of Environmental Protection to exercise the power of eminent domain pursuant to chapters 73 and 74 to acquire any conservation parcel identified on the acquisition list established by the Acquisition and Restoration Council and approved by the board of trustees pursuant to chapter 259. However, the board of trustees may only make such a vote under the following circumstances:

(a) The state has made at least two bona fide offers to purchase the land through negotiation and, notwithstanding those offers, an impasse between the state and the landowner was reached.

(b) The land is of special importance to the state because of one or more of the following reasons:

1. It involves an endangered or natural resource and is in imminent danger of development.

2. It is of unique value to the state and the failure to acquire it will result in irreparable loss to the state.

3. The failure of the state to acquire it will seriously impair the state's ability to manage or protect other state-owned lands.

Pursuant to this subsection, the department may exercise condemnation authority directly or by contracting with the Department of Transportation or a water management district to

provide that service. If the Department of Transportation or a water management district enters into such a contract with the department, the Department of Transportation or a water management district may use statutorily approved methods and procedures ordinarily used by the agency for condemnation purposes.

(12) ~~(9)~~ Any conveyance to the board of trustees of fee title shall be made by no less than a special warranty deed, unless the conveyance is from the Federal Government, the county government, or another state agency or, in the event of a gift or donation by quitclaim deed, if the board of trustees, or its designee, determines that the acceptance of such quitclaim deed is in the best interest of the public. A quitclaim deed may also be accepted to aid in clearing title or boundary questions. ~~The title to lands acquired pursuant to this section shall vest in the board of trustees as provided in s. 253.03(1). All such lands, title to which is vested in the board pursuant to this section, shall be administered pursuant to the provisions of s. 253.03.~~

(13) ~~(10)~~ The board of trustees may purchase tax certificates or tax deeds issued in accordance with chapter 197 relating to property eligible for purchase under this section.

(14) ~~(11)~~ The Auditor General shall conduct audits of acquisitions and divestitures which, according to his or her preliminary assessments of board-approved acquisitions and divestitures, he or she deems necessary. These preliminary assessments shall be initiated not later than 60 days after ~~following~~ the board of trustees' final approval ~~by the board~~ of land acquisitions under this section. If an audit is conducted,

the Auditor General shall submit an audit report to the board of trustees, the President of the Senate, the Speaker of the House of Representatives, and their designees.

(15) ~~(12)~~ The board of trustees and all affected agencies shall adopt and may modify or repeal such rules and regulations as are necessary to carry out ~~the purposes of~~ this section, including rules governing the terms and conditions of land purchases. Such rules shall address the procedures to be followed, when multiple landowners are involved in an acquisition, in obtaining written option agreements so that the interests of the state are fully protected.

(16) ~~(13)~~ (a) The board of trustees ~~of the Internal Improvement Trust Fund~~ may deed property to the Department of Agriculture and Consumer Services, so that the Department of Agriculture and Consumer Services is ~~department shall be~~ able to sell, convey, transfer, exchange, trade, or purchase land on which a forestry facility resides for money or other more suitable property on which to relocate the facility. Any sale or purchase of property by the Department of Agriculture and Consumer Services shall follow the requirements of subsections (7)-(10) and (12) ~~(5)-(9)~~. Any sale shall be at fair market value, and any trade shall ensure that the state is getting at least an equal value for the property. Except as provided in subsections (7)-(10) and (12) ~~(5)-(9)~~, the Department of Agriculture and Consumer Services is excluded from following the provisions of this chapter and chapters 259 and 375. This exclusion does ~~shall~~ not apply to lands acquired for conservation purposes in accordance with s. 253.0341(1) or (2) ~~253.034(6)(a) or (b)~~.

(b) In the case of a sale by the Department of Agriculture and Consumer Services of a forestry facility, the proceeds of the sale shall be deposited ~~go~~ into the Department of Agriculture and Consumer Services Incidental Trust Fund. The Legislature may, at the request of the Department of Agriculture and Consumer Services ~~department~~, appropriate such money within the trust fund to the Department of Agriculture and Consumer Services ~~department~~ for purchase of land and construction of a facility to replace the disposed facility. All proceeds other than land from any sale, conveyance, exchange, trade, or transfer conducted pursuant to ~~as provided for in~~ this subsection shall be deposited into ~~placed within~~ the Department of Agriculture and Consumer Services ~~department's~~ Incidental Trust Fund.

(c) Additional funds may be added from time to time by the Legislature to further the relocation and construction of forestry facilities. If ~~In the instance where~~ an equal trade of land occurs, money from the trust fund may be appropriated for building construction even though no money was received from the trade.

(17)~~(14)~~ Any agency that acquires land on behalf of the board of trustees is authorized to request disbursement of payments for real estate closings in accordance with a written authorization from an ultimate beneficiary to allow a third party authorized by law to receive such payment provided the Chief Financial Officer determines that such disbursement is consistent with good business practices and can be completed in a manner minimizing costs and risks to the state.

(18)~~(15)~~ Pursuant to s. 944.10, the Department of

Corrections is responsible for obtaining appraisals and entering into option agreements and agreements for the purchase of state correctional facility sites. An option agreement or agreement for purchase is not binding upon the state until it is approved by the board of trustees ~~of the Internal Improvement Trust Fund~~. The provisions of paragraphs (8)(c), (e), and (f) and (9)(b), (c), and (d) ~~(6)(b), (c), and (d) and (7)(b), (c), and (d)~~ apply to all appraisals, offers, and counteroffers of the Department of Corrections for state correctional facility sites.

(19)~~(16)~~ Many parcels of land acquired pursuant to this section may contain cattle-dipping vats as defined in s. 376.301. The state is encouraged to continue with the acquisition of such lands, including any ~~the~~ cattle-dipping vats ~~vat~~.

(20)~~(17)~~ Pursuant to s. 985.682, the Department of Juvenile Justice is responsible for obtaining appraisals and entering into option agreements and agreements for the purchase of state juvenile justice facility sites. An option agreement or agreement for purchase is not binding upon the state until it is approved by the board of trustees ~~of the Internal Improvement Trust Fund~~. The provisions of paragraphs (8)(c), (e), and (f) and (9)(b), (c), and (d) ~~(6)(b), (c), and (d) and (7)(b), (c), and (d)~~ apply to all appraisals, offers, and counteroffers of the Department of Juvenile Justice for state juvenile justice facility sites.

(21)~~(18)~~ The board of trustees may acquire, pursuant to s. 288.980(2)(b), nonconservation lands from the annual list submitted by the Department of Economic Opportunity for the purpose of buffering a military installation against

encroachment.

(22) The board of trustees, by an affirmative vote of at least three members, may direct the department to purchase lands on an immediate basis using up to 15 percent of the funds allocated to the department pursuant to s. 259.105 for the acquisition of lands that:

(a) Are listed or placed at auction by the Federal Government as part of the Resolution Trust Corporation sale of lands from failed savings and loan associations;

(b) Are listed or placed at auction by the Federal Government as part of the Federal Deposit Insurance Corporation sale of lands from failed banks; or

(c) Will be developed or otherwise lost to potential public ownership, or for which federal matching funds will be lost, by the time the land can be purchased under the program within which the land is listed for acquisition.

For such acquisitions, the board of trustees may waive or modify all procedures required for land acquisition pursuant to this chapter and all competitive bid procedures required pursuant to chapters 255 and 287. Lands acquired pursuant to this subsection must, at the time of purchase, be on one of the acquisition lists established pursuant to chapter 259, or be essential for water resource development, protection, or restoration, or a significant portion of the lands must contain natural communities or plant or animal species that are listed by the Florida Natural Areas Inventory as critically imperiled, imperiled, or rare, or as excellent quality occurrences of natural communities.

(23) Title to lands to be held jointly by the board of trustees and a water management district and acquired pursuant to s. 373.139 may be deemed to meet the standards necessary for ownership by the board of trustees, notwithstanding this section or related rules.

(24) For purposes of this section, the term "projects" means those Florida Forever projects selected pursuant to chapter 259.

Section 2. Section 253.0251, Florida Statutes, is created to read:

253.0251 Alternatives to fee simple acquisition.—

(1) The Legislature finds that:

(a) With the increasing pressures on the natural areas of this state and on open space suitable for recreational use, the state must develop creative techniques to maximize the use of acquisition and management funds.

(b) The state's conservation and recreational land acquisition agencies should be encouraged to augment their traditional, fee simple acquisition programs with the use of alternatives to fee simple acquisition techniques. In addition, the Legislature finds that generations of private landowners have been good stewards of their land, protecting or restoring native habitats and ecosystems to the benefit of the natural resources of this state, its heritage, and its citizens. The Legislature also finds that using alternatives to fee simple acquisition by public land acquisition agencies will achieve the following public policy goals:

1. Allow more lands to be brought under public protection for preservation, conservation, and recreational purposes with

less expenditure of public funds.

2. Retain, on local government tax rolls, some portion of or interest in lands which are under public protection.

3. Reduce long-term management costs by allowing private property owners to continue acting as stewards of their land, when appropriate.

Therefore, it is the intent of the Legislature that public land acquisition agencies develop programs to pursue alternatives to fee simple acquisition and to educate private landowners about such alternatives and the benefits of such alternatives. It is also the intent of the Legislature that a portion of the shares of Florida Forever bond proceeds be used to purchase eligible properties using alternatives to fee simple acquisition.

(2) All applications for alternatives to fee simple acquisition projects shall identify, within their acquisition plans, projects that require a full fee simple interest to achieve the public policy goals, together with the reasons full title is determined to be necessary. The state agencies and the water management districts may use alternatives to fee simple acquisition to bring the remaining projects in their acquisition plans under public protection. For purposes of this section, the phrase "alternatives to fee simple acquisition" includes, but is not limited to, purchase of development rights; obtaining conservation easements; obtaining flowage easements; purchase of timber rights, mineral rights, or hunting rights; purchase of agricultural interests or silvicultural interests; fee simple acquisitions with reservations; creating life estates; or any other acquisition technique that achieves the public policy

goals listed in subsection (1). It is presumed that a private landowner retains the full range of uses for all the rights or interests in the landowner's land which are not specifically acquired by the public agency. The lands upon which hunting rights are specifically acquired pursuant to this section shall be available for hunting in accordance with the management plan or hunting regulations adopted by the Fish and Wildlife Conservation Commission, unless the hunting rights are purchased specifically to protect activities on adjacent lands.

(3) When developing the acquisition plan pursuant to s. 259.105, the Acquisition and Restoration Council may give preference to those less than fee simple acquisitions that provide any public access. However, the Legislature recognizes that public access is not always appropriate for certain less than fee simple acquisitions. Therefore, any proposed less than fee simple acquisition may not be rejected simply because public access would be limited.

(4) The Department of Environmental Protection and each water management district shall implement initiatives to use alternatives to fee simple acquisition and to educate private landowners about such alternatives. The department and the water management districts may enter into joint acquisition agreements to jointly fund the purchase of lands using alternatives to fee simple techniques.

(5) The Legislature finds that the lack of direct sales comparison information has served as an impediment to successful implementation of alternatives to fee simple acquisition. It is the intent of the Legislature that, in the absence of direct comparable sales information, appraisals of alternatives to fee

simple acquisitions be based on the difference between the full fee simple valuation and the value of the interests remaining with the seller after acquisition.

(6) The public agency that has been assigned management responsibility shall inspect and monitor any less than fee simple interest according to the terms of the purchase agreement relating to such interest.

Section 3. Subsection (2), paragraph (c) of subsection (7), and subsections (11) and (15) of section 253.03, Florida Statutes, are amended to read:

253.03 Board of trustees to administer state lands; lands enumerated.—

(2) It is the intent of the Legislature that the board of trustees ~~of the Internal Improvement Trust Fund~~ continue to receive proceeds from the sale or disposition of the products of lands and the sale of lands of which the use and possession are not subsequently transferred by appropriate lease or similar instrument from the board of trustees to the proper using agency. Such using agency shall be entitled to the proceeds from the sale of products on, under, growing out of, or connected with lands which such using agency holds under lease or similar instrument from the board of trustees. The board of trustees ~~of the Internal Improvement Trust Fund~~ is directed and authorized to enter into leases or similar instruments for the use, benefit, and possession of public lands by agencies which may properly use and possess them for the benefit of the state. ~~The board of trustees shall adopt by rule an annual administrative fee for all existing and future leases or similar instruments, to be charged agencies that are leasing land from it. This~~

~~annual administrative fee assessed for all leases or similar instruments is to compensate the board for costs incurred in the administration and management of such leases or similar instruments.~~

(7)

(c) Structures which are listed in or are eligible for the National Register of Historic Places or the State Inventory of Historic Places which are over the waters of the state ~~of Florida~~ and which have a submerged land lease, or have been grandfathered-in to use sovereignty submerged lands until January 1, 1998, pursuant to former rule 18-21.00405, Florida Administrative Code, as it existed in rule on March 15, 1990, shall have the right to continue such submerged land leases, regardless of the fact that the present landholder is not an adjacent riparian landowner, so long as the lessee maintains the structure in a good state of repair consistent with the guidelines for listing. If the structure is damaged or destroyed, the lessee may ~~shall be allowed to~~ reconstruct, so long as the reconstruction is consistent with the integrity of the listed structure and does not increase the footprint of the structure. If a listed structure ~~so listed~~ falls into disrepair and the lessee is not willing to repair and maintain it consistent with its listing, the state may cancel the submerged lease and ~~either~~ repair and maintain the property or require that the structure be removed from sovereignty submerged lands.

(11) The board of trustees ~~of the Internal Improvement Trust Fund~~ may adopt rules to provide for the assessment and collection of reasonable fees, commensurate with the actual cost to the board, for disclaimers, easements, exchanges, gifts,

leases, releases, or sales of any interest in lands or any applications therefor and for reproduction of documents. All revenues received from the application fees charged by a water management district to process applications that include a request to use state lands are to be retained by the water management district. The board of trustees shall adopt by rule an annual administrative fee for all existing and future leases or similar instruments to be charged to agencies that are leasing land from the board of trustees. This annual administrative fee assessed for all leases or similar instruments is to compensate the board of trustees for costs incurred in the administration and management of such leases or similar instruments.

(15) The board of trustees ~~of the Internal Improvement Trust Fund~~ shall encourage the use of sovereign submerged lands for public access and water-dependent uses which may include related minimal secondary nonwater-dependent uses ~~and public access~~.

Section 4. Subsections (8) and (9) of section 253.031, Florida Statutes, are renumbered as subsections (7) and (8), respectively, and present subsections (2) and (7) of that section are amended, to read:

253.031 Land office; custody of documents concerning land; moneys; plats.—

(2) The board ~~of trustees of the Internal Improvement Trust Fund~~ shall have custody of, and the department shall maintain, all the records, surveys, plats, maps, field notes, and patents and all other evidence touching the title and description of the public domain.

~~(7) The board shall receive all of the tract books, plats, and such records and papers heretofore kept in the United States Land Office at Gainesville, Alachua County, as may be surrendered by the Secretary of the Interior; and the board shall carefully and safely keep and preserve all of said tract books, plats, records, and papers as part of the public records of its office, and at any time allow any duly accredited authority of the United States, full and free access to any and all of such tract books, plats, records, and papers, and shall furnish any duly accredited authority of the United States with copies of any such records without charge.~~

Section 5. Section 253.034, Florida Statutes, is amended to read:

253.034 State-owned lands; uses.—

(1) All lands acquired pursuant to chapter 259 shall be managed to serve the public interest by protecting and conserving land, air, water, and the state's natural resources, which contribute to the public health, welfare, and economy of the state. These lands shall be managed to provide for areas of natural resource based recreation, and to ensure the survival of plant and animal species and the conservation of finite and renewable natural resources. The state's lands and natural resources shall be managed using a stewardship ethic that assures these resources will be available for the benefit and enjoyment of all people of the state, both present and future. It is the intent of the Legislature that, where feasible and consistent with the goals of protection and conservation of natural resources associated with lands held in the public trust by the Board of Trustees of the Internal Improvement Trust Fund,

public land not designated for single-use purposes pursuant to paragraph (2)(b) be managed for multiple-use purposes. All multiple-use land management strategies shall address public access and enjoyment, resource conservation and protection, ecosystem maintenance and protection, and protection of threatened and endangered species, and the degree to which public-private partnerships or endowments may allow the entity with management responsibility to enhance its ability to manage these lands. The Acquisition and Restoration Council ~~created in s. 259.035~~ shall recommend rules to the board of trustees, and the board of trustees shall adopt rules necessary to carry out the purposes of this section.

(2) As used in this section, the term ~~following phrases have the following meanings~~:

(a) "Multiple use" means the harmonious and coordinated management of timber, recreation, conservation of fish and wildlife, forage, archaeological and historic sites, habitat and other biological resources, or water resources so that they are used ~~utilized~~ in the combination that will best serve the people of the state, making the most judicious use of the land for some or all of these resources and giving consideration to the relative values of the various resources. Where necessary and appropriate for all state-owned lands that are larger than 1,000 acres in project size and are managed for multiple uses, buffers may be formed around any areas that require special protection or have special management needs. Such buffers may ~~shall~~ not exceed more than one-half of the total acreage. Multiple uses within a buffer area may be restricted to provide the necessary buffering effect desired. Multiple use in this context includes

both uses of land or resources by more than one management entity, which may include private sector land managers. In any case, lands identified as multiple-use lands in the land management plan shall be managed to enhance and conserve the lands and resources for the enjoyment of the people of the state.

(b) "Single use" means management for one particular purpose to the exclusion of all other purposes, except that the using entity shall have the option of including in its management program compatible secondary purposes which will not detract from or interfere with the primary management purpose. Such single uses may include, but are not necessarily restricted to, the use of agricultural lands for production of food and livestock, the use of improved sites and grounds for institutional purposes, and the use of lands for parks, preserves, wildlife management, archaeological or historic sites, or wilderness areas where the maintenance of essentially natural conditions is important. All submerged lands shall be considered single-use lands and shall be managed primarily for the maintenance of essentially natural conditions, the propagation of fish and wildlife, and public recreation, including hunting and fishing where deemed appropriate by the managing entity.

(c) "Conservation lands" means lands that are currently managed for conservation, outdoor resource-based recreation, or archaeological or historic preservation, except those lands that were acquired solely to facilitate the acquisition of other conservation lands. Lands acquired for uses other than conservation, outdoor resource-based recreation, or

archaeological or historic preservation may ~~shall~~ not be designated conservation lands except as otherwise authorized under this section. These lands shall include, but not be limited to, the following: correction and detention facilities, military installations and facilities, state office buildings, maintenance yards, state university or Florida College System institution campuses, agricultural field stations or offices, tower sites, law enforcement and license facilities, laboratories, hospitals, clinics, and other sites that do not possess ~~no~~ significant natural or historical resources. However, lands acquired solely to facilitate the acquisition of other conservation lands, and for which the land management plan has not yet been completed or updated, may be evaluated by the Board of Trustees of the Internal Improvement Trust Fund on a case-by-case basis to determine if they will be designated conservation lands.

(d) "Public access," as used in this chapter and chapter 259, means access by the general public to state lands and water, including vessel access made possible by boat ramps, docks, and associated support facilities, where compatible with conservation and recreation objectives.

Lands acquired by the state as a gift, through donation, or by any other conveyance for which no consideration was paid, and which are not managed for conservation, outdoor resource-based recreation, or archaeological or historic preservation under a land management plan approved by the board of trustees are not conservation lands.

(3) Recognizing that recreational trails purchased with

rails-to-trails funds pursuant to former s. 259.101(3)(g), Florida Statutes 2014, or s. 259.105(3)(h) have had historic transportation uses and that their linear character may extend many miles, the Legislature intends that if the necessity arises to serve public needs, after balancing the need to protect trail users from collisions with automobiles and a preference for the use of overpasses and underpasses to the greatest extent feasible and practical, transportation uses shall be allowed to cross recreational trails purchased pursuant to former s. 259.101(3)(g), Florida Statutes 2014, or s. 259.105(3)(h). When these crossings are needed, the location and design should consider and mitigate the impact on humans and environmental resources, and the value of the land shall be paid based on fair market value.

(4) A ~~No~~ management agreement, lease, or other instrument authorizing the use of lands owned by the board of trustees may not ~~of the Internal Improvement Trust Fund shall~~ be executed for a period greater than is necessary to provide for the reasonable use of the land for the existing or planned life cycle or amortization of the improvements, except that an easement in perpetuity may be granted by the board of trustees ~~of the Internal Improvement Trust Fund~~ if the improvement is a transportation facility. If an entity managing or leasing state-owned lands from the board of trustees does not meet the short-term goals under paragraph (5)(b) for conservation lands or under paragraph (5)(i) for nonconservation lands, the Department of Environmental Protection may submit the lands to the board of trustees to consider whether to require the managing or leasing entity to release its interest in the lands and to consider

whether to surplus the lands. If the state-owned land is determined to be surplus, the board of trustees may require an entity to release its interest in the lands. An entity managing or leasing state-owned lands from the board of trustees may not sublease such lands without prior review by the Division of State Lands and, for conservation lands, by the Acquisition and Restoration Council ~~created in s. 259.035~~. All management agreements, leases, or other instruments authorizing the use of lands owned by the board of trustees shall be reviewed for approval by the board of trustees or its designee. The council is not required to review subleases of parcels which are less than 160 acres in size.

(5) Each manager of conservation lands shall submit to the Division of State Lands a land management plan at least every 10 years in a form and manner adopted ~~prescribed~~ by rule of ~~by~~ the board of trustees and in accordance with ~~the provisions of~~ s. 259.032. Each manager of conservation lands shall also update a land management plan whenever the manager proposes to add new facilities or make substantive land use or management changes that were not addressed in the approved plan, or within 1 year after ~~of~~ the addition of significant new lands. Each manager of nonconservation lands shall submit to the Division of State Lands a land use plan at least every 10 years in a form and manner adopted ~~prescribed~~ by rule of ~~by~~ the board of trustees. The division shall review each plan for compliance with the requirements of this subsection and the requirements of the rules adopted ~~established~~ by the board of trustees pursuant to this section. All nonconservation land use plans, whether for single-use or multiple-use properties, shall be managed to

provide the greatest benefit to the state ~~include an analysis of the property to determine if any significant natural or cultural resources are located on the property. Such resources include archaeological and historic sites, state and federally listed plant and animal species, and imperiled natural communities and unique natural features. If such resources occur on the property, the manager shall consult with the Division of State Lands and other appropriate agencies to develop management strategies to protect such resources. Land use plans shall also provide for the control of invasive nonnative plants and conservation of soil and water resources, including a description of how the manager plans to control and prevent soil erosion and soil or water contamination. Land use plans submitted by a manager shall include reference to appropriate statutory authority for such use or uses and shall conform to the appropriate policies and guidelines of the state land management plan~~. Plans for managed areas larger than 1,000 acres shall contain an analysis of the multiple-use potential of the property~~,~~ which includes ~~analysis shall include~~ the potential of the property to generate revenues to enhance the management of the property. In addition ~~Additionally~~, the plan shall contain an analysis of the potential use of private land managers to facilitate the restoration or management of these lands. If ~~In those cases where~~ a newly acquired property has a valid conservation plan that was developed by a soil and conservation district, such plan shall be used to guide management of the property until a formal land use plan is completed.

(a) State conservation lands shall be managed to ensure the conservation of the state's plant and animal species and to

ensure the accessibility of state lands for the benefit and enjoyment of all people of the state, both present and future. Each land management plan for state conservation lands shall provide a desired outcome, describe both short-term and long-term management goals, and include measurable objectives to achieve those goals. Short-term goals shall be achievable within a 2-year planning period, and long-term goals shall be achievable within a 10-year planning period. These short-term and long-term management goals shall be the basis for all subsequent land management activities.

(b) Short-term and long-term management goals for state conservation lands shall include measurable objectives for the following, as appropriate:

1. Habitat restoration and improvement.

2. Public access and recreational opportunities.

3. Hydrological preservation and restoration.

4. Sustainable forest management.

5. Exotic and invasive species maintenance and control.

6. Capital facilities and infrastructure.

7. Cultural and historical resources.

8. Imperiled species habitat maintenance, enhancement, restoration, or population restoration.

(c) The land management plan shall, at a minimum, contain the following elements:

1. A physical description of the land.

2. A quantitative data description of the land which includes an inventory of forest and other natural resources; exotic and invasive plants; hydrological features; infrastructure, including recreational facilities; and other

significant land, cultural, or historical features. The inventory shall reflect the number of acres for each resource and feature, when appropriate. The inventory shall be of such detail that objective measures and benchmarks can be established for each tract of land and monitored during the lifetime of the plan. All quantitative data collected shall be aggregated, standardized, collected, and presented in an electronic format to allow for uniform management reporting and analysis. The information collected by the Department of Environmental Protection pursuant to s. 253.0325(2) shall be available to the land manager and his or her assignee.

3. A detailed description of each short-term and long-term land management goal, the associated measurable objectives, and the related activities that are to be performed to meet the land management objectives. Each land management objective must be addressed by the land management plan, and if ~~where~~ practicable, a ~~no~~ land management objective may not ~~shall~~ be performed to the detriment of the other land management objectives.

4. A schedule of land management activities which contains short-term and long-term land management goals and the related measurable objective and activities. The schedule shall include for each activity a timeline for completion, quantitative measures, and detailed expense and manpower budgets. The schedule shall provide a management tool that facilitates development of performance measures.

5. A summary budget for the scheduled land management activities of the land management plan. For state lands containing or anticipated to contain imperiled species habitat, the summary budget shall include any fees anticipated from

public or private entities for projects to offset adverse impacts to imperiled species or such habitat, which fees shall be used solely to restore, manage, enhance, repopulate, or acquire imperiled species habitat. The summary budget shall be prepared in such manner that it facilitates computing an aggregate of land management costs for all state-managed lands using the categories described in s. 259.037(3).

(d) Upon completion, the land management plan must ~~will~~ be transmitted to the Acquisition and Restoration Council for review. The ~~Acquisition and Restoration~~ council shall have 90 days after receipt of the plan to review the plan and submit its recommendations to the board of trustees. During the review period, the land management plan may be revised if agreed to by the primary land manager and the ~~Acquisition and Restoration~~ council taking into consideration public input. ~~If the Acquisition and Restoration Council fails to make a recommendation for a land management plan, the secretary of the Department of Environmental Protection, Commissioner of Agriculture, or Executive Director of the Fish and Wildlife Conservation Commission or their designees shall submit the land management plan to the board of trustees.~~ The land management plan becomes effective upon approval by the board of trustees.

(e) Land management plans are to be updated every 10 years on a rotating basis. Each updated land management plan must identify conservation lands under the plan, in part or in whole, that are no longer needed for conservation purposes and could be disposed of in fee simple or with the state retaining a permanent conservation easement.

(f) In developing land management plans, at least one

public hearing shall be held in any one affected county.

(g) The Division of State Lands shall make available to the public an electronic copy of each land management plan for parcels that exceed 160 acres in size. The division ~~of State Lands~~ shall review each plan for compliance with the requirements of this subsection, the requirements of chapter 259, and the requirements of the rules adopted ~~established~~ by the board of trustees pursuant to this section. The Acquisition and Restoration Council shall also consider the propriety of the recommendations of the managing entity with regard to the future use of the property, the protection of fragile or nonrenewable resources, the potential for alternative or multiple uses not recognized by the managing entity, and the possibility of disposal of the property by the board of trustees. After its review, the council shall submit the plan, along with its recommendations and comments, to the board of trustees. The council shall specifically recommend to the board of trustees whether to approve the plan as submitted, approve the plan with modifications, or reject the plan. If the ~~Acquisition and Restoration~~ council fails to make a recommendation for a land management plan, the Secretary ~~of the Department~~ of Environmental Protection, Commissioner of Agriculture, or executive director of the Fish and Wildlife Conservation Commission or their designees shall submit the land management plan to the board of trustees.

(h) The board of trustees ~~of the Internal Improvement Trust Fund~~ shall consider the land management plan submitted by each entity and the recommendations of the Acquisition and Restoration Council and the Division of State Lands and shall

approve the plan with or without modification or reject such plan. The use or possession of any such lands that is not in accordance with an approved land management plan is subject to termination by the board of trustees.

(i)1. State nonconservation lands shall be managed to provide the greatest benefit to the state. Each land use plan shall, at a minimum, contain the following elements:

a. A physical description of the land to include any significant natural or cultural resources as well as management strategies developed by the land manager to protect such resources.

b. A desired development outcome.

c. A schedule for achieving the desired development outcome.

d. A description of both short-term and long-term development goals.

e. A management and control plan for invasive nonnative plants.

f. A management and control plan for soil erosion and soil and water contamination.

g. Measureable objectives to achieve the goals identified in the land use plan.

2. Short-term goals shall be achievable within a 5-year planning period and long-term goals shall be achievable within a 10-year planning period.

3. The use or possession of any such lands that is not in accordance with an approved land use plan is subject to termination by the board of trustees.

4. Land use plans submitted by a manager shall include

reference to appropriate statutory authority for such use or uses and shall conform to the appropriate policies and guidelines of the state land management plan.

~~(6) The Board of Trustees of the Internal Improvement Trust Fund shall determine which lands, the title to which is vested in the board, may be surplused. For conservation lands, the board shall determine whether the lands are no longer needed for conservation purposes and may dispose of them by an affirmative vote of at least three members. In the case of a land exchange involving the disposition of conservation lands, the board must determine by an affirmative vote of at least three members that the exchange will result in a net positive conservation benefit. For all other lands, the board shall determine whether the lands are no longer needed and may dispose of them by an affirmative vote of at least three members.~~

~~(a) For the purposes of this subsection, all lands acquired by the state before July 1, 1999, using proceeds from Preservation 2000 bonds, the former Conservation and Recreation Lands Trust Fund, the former Water Management Lands Trust Fund, Environmentally Endangered Lands Program, and the Save Our Coast Program and titled to the board which are identified as core parcels or within original project boundaries are deemed to have been acquired for conservation purposes.~~

~~(b) For any lands purchased by the state on or after July 1, 1999, before acquisition, the board must determine which parcels must be designated as having been acquired for conservation purposes. Lands acquired for use by the Department of Corrections, the Department of Management Services for use as state offices, the Department of Transportation, except those~~

~~specifically managed for conservation or recreation purposes, or the State University System or the Florida College System may not be designated as having been purchased for conservation purposes.~~

~~(c) At least every 10 years, as a component of each land management plan or land use plan and in a form and manner prescribed by rule by the board, each manager shall evaluate and indicate to the board those lands that are not being used for the purpose for which they were originally leased. For conservation lands, the council shall review and recommend to the board whether such lands should be retained in public ownership or disposed of by the board. For nonconservation lands, the division shall review such lands and recommend to the board whether such lands should be retained in public ownership or disposed of by the board.~~

~~(d) Lands owned by the board which are not actively managed by any state agency or for which a land management plan has not been completed pursuant to subsection (5) must be reviewed by the council or its successor for its recommendation as to whether such lands should be disposed of by the board.~~

~~(e) Before any decision by the board to surplus lands, the Acquisition and Restoration Council shall review and make recommendations to the board concerning the request for surplusing. The council shall determine whether the request for surplusing is compatible with the resource values of and management objectives for such lands.~~

~~(f) In reviewing lands owned by the board, the council shall consider whether such lands would be more appropriately owned or managed by the county or other unit of local government~~

~~in which the land is located. The council shall recommend to the board whether a sale, lease, or other conveyance to a local government would be in the best interests of the state and local government. The provisions of this paragraph in no way limit the provisions of ss. 253.111 and 253.115. Such lands shall be offered to the state, county, or local government for a period of 45 days. Permittable uses for such surplus lands may include public schools; public libraries; fire or law enforcement substations; governmental, judicial, or recreational centers; and affordable housing meeting the criteria of s. 420.0004(3). County or local government requests for surplus lands shall be expedited throughout the surplusing process. If the county or local government does not elect to purchase such lands in accordance with s. 253.111, any surplusing determination involving other governmental agencies shall be made when the board decides the best public use of the lands. Surplus properties in which governmental agencies have expressed no interest must then be available for sale on the private market.~~

~~(g) The sale price of lands determined to be surplus pursuant to this subsection and s. 253.82 shall be determined by the division, which shall consider an appraisal of the property, or, if the estimated value of the land is $500,000 or less, a comparable sales analysis or a broker's opinion of value. The division may require a second appraisal. The individual or entity that requests to purchase the surplus parcel shall pay all costs associated with determining the property's value, if any.~~

~~1. A written valuation of land determined to be surplus pursuant to this subsection and s. 253.82, and related documents~~

~~used to form the valuation or which pertain to the valuation, are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.~~

~~a. The exemption expires 2 weeks before the contract or agreement regarding the purchase, exchange, or disposal of the surplus land is first considered for approval by the board.~~

~~b. Before expiration of the exemption, the division may disclose confidential and exempt appraisals, valuations, or valuation information regarding surplus land:~~

~~(I) During negotiations for the sale or exchange of the land.~~

~~(II) During the marketing effort or bidding process associated with the sale, disposal, or exchange of the land to facilitate closure of such effort or process.~~

~~(III) When the passage of time has made the conclusions of value invalid.~~

~~(IV) When negotiations or marketing efforts concerning the land are concluded.~~

~~2. A unit of government that acquires title to lands hereunder for less than appraised value may not sell or transfer title to all or any portion of the lands to any private owner for 10 years. Any unit of government seeking to transfer or sell lands pursuant to this paragraph must first allow the board of trustees to reacquire such lands for the price at which the board sold such lands.~~

~~(h) Parcels with a market value over $500,000 must be initially offered for sale by competitive bid. The division may use agents, as authorized by s. 253.431, for this process. Any parcels unsuccessfully offered for sale by competitive bid, and~~

~~parcels with a market value of $500,000 or less, may be sold by any reasonable means, including procuring real estate services, open or exclusive listings, competitive bid, auction, negotiated direct sales, or other appropriate services, to facilitate the sale.~~

~~(i) After reviewing the recommendations of the council, the board shall determine whether lands identified for surplus are to be held for other public purposes or are no longer needed. The board may require an agency to release its interest in such lands. A state agency, county, or local government that has requested the use of a property that was to be declared as surplus must secure the property under lease within 90 days after being notified that it may use such property.~~

~~(j) Requests for surplusing may be made by any public or private entity or person. All requests shall be submitted to the lead managing agency for review and recommendation to the council or its successor. Lead managing agencies have 90 days to review such requests and make recommendations. Any surplusing requests that have not been acted upon within the 90-day time period shall be immediately scheduled for hearing at the next regularly scheduled meeting of the council or its successor. Requests for surplusing pursuant to this paragraph are not required to be offered to local or state governments as provided in paragraph (f).~~

~~(k) Proceeds from the sale of surplus conservation lands purchased before July 1, 2015, shall be deposited into the Florida Forever Trust Fund.~~

~~(l) Proceeds from the sale of surplus conservation lands purchased on or after July 1, 2015, shall be deposited into the~~

~~Land Acquisition Trust Fund, except when such lands were purchased with funds other than those from the Land Acquisition Trust Fund or a land acquisition trust fund created to implement s. 28, Art. X of the State Constitution, the proceeds shall be deposited into the fund from which the lands were purchased.~~

~~(m) Funds received from the sale of surplus nonconservation lands or lands that were acquired by gift, by donation, or for no consideration shall be deposited into the Internal Improvement Trust Fund.~~

~~(n) Notwithstanding this subsection, such disposition of land may not be made if it would have the effect of causing all or any portion of the interest on any revenue bonds issued to lose the exclusion from gross income for federal income tax purposes.~~

~~(o) The sale of filled, formerly submerged land that does not exceed 5 acres in area is not subject to review by the council or its successor.~~

~~(p) The board may adopt rules to administer this section which may include procedures for administering surplus land requests and criteria for when the division may approve requests to surplus nonconservation lands on behalf of the board.~~

(6)~~(7)~~ This section does ~~shall~~ not ~~be construed so as to~~ affect:

(a) Other provisions of this chapter relating to oil, gas, or mineral resources.

(b) The exclusive use of state-owned land subject to a lease by the board of trustees ~~of the Internal Improvement Trust Fund~~ of state-owned land for private uses and purposes.

(c) Sovereignty lands not leased for private uses and

purposes.

(7)~~(8)~~(a) The Legislature recognizes the value of the state's conservation lands as water recharge areas and air filters.

(b) If state-owned lands are subject to annexation procedures, the Division of State Lands must notify the county legislative delegation of the county in which the land is located.

(8)~~(9)~~ Land management plans required to be submitted by the Department of Corrections, the Department of Juvenile Justice, the Department of Children and Families, or the Department of Education are not subject to ~~the provisions for~~ review by the Acquisition and Restoration Council ~~or its successor described in subsection (5)~~. Management plans filed by these agencies shall be made available to the public for a period of 90 days at the administrative offices of the parcel or project affected by the management plan and at the Tallahassee offices of each agency. Any plans not objected to during the public comment period shall be deemed approved. Any plans for which an objection is filed shall be submitted to the board of trustees ~~of the Internal Improvement Trust Fund~~ for consideration. The board of trustees ~~of the Internal Improvement Trust Fund~~ shall approve the plan with or without modification, or reject the plan. The use or possession of any such lands which is not in accordance with an approved land management plan is subject to termination by the board of trustees.

(9)~~(10)~~ The following additional uses of conservation lands acquired pursuant to the Florida Forever program and other state-funded conservation land purchase programs shall be

authorized, upon a finding by the board of trustees, if they meet the criteria specified in paragraphs (a)-(e): water resource development projects, water supply development projects, stormwater management projects, linear facilities, and sustainable agriculture and forestry. Such additional uses are authorized if ~~where~~:

(a) The use is not inconsistent with the management plan for such lands;

(b) The use is compatible with the natural ecosystem and resource values of such lands;

(c) The ~~proposed~~ use is appropriately located on such lands and if ~~where~~ due consideration is given to the use of other available lands;

(d) The using entity reasonably compensates the titleholder for such use based upon an appropriate measure of value; and

(e) The use is consistent with the public interest.

A decision by the board of trustees pursuant to this section shall be given a presumption of correctness. Moneys received from the use of state lands pursuant to this section shall be returned to the lead managing entity in accordance with s. 259.032(9)(c).

(10)~~(11)~~ Lands listed as projects for acquisition may be managed for conservation pursuant to s. 259.032, on an interim basis by a private party in anticipation of a state purchase in accordance with a contractual arrangement between the acquiring agency and the private party that may include management service contracts, leases, cost-share arrangements or resource conservation agreements. Lands designated as eligible under this

subsection shall be managed to maintain or enhance the resources the state is seeking to protect by acquiring the land. Funding for these contractual arrangements may originate from the documentary stamp tax revenue deposited into the Land Acquisition Trust Fund. No more than $6.2 million may be expended from the Land Acquisition Trust Fund for this purpose.

(11)~~(12)~~ Any lands available to governmental employees, including water management district employees, for hunting or other recreational purposes shall also be made available to the general public for such purposes.

~~(13) Before a building or parcel of land is offered for lease or sale to a local or federal unit of government or a private party, it shall first be offered for lease to state agencies, state universities, and Florida College System institutions, with priority consideration given to state universities and Florida College System institutions. Within 60 days after the offer for lease of a surplus building or parcel, a state university or Florida College System institution that requests the lease must submit a plan for review and approval by the Board of Trustees of the Internal Improvement Trust Fund regarding the intended use, including future use, of the building or parcel of land before approval of a lease. Within 60 days after the offer for lease of a surplus building or parcel, a state agency that requests the lease of such facility or parcel must submit a plan for review and approval by the board of trustees regarding the intended use. The state agency plan must, at a minimum, include the proposed use of the facility or parcel, the estimated cost of renovation, a capital improvement plan for the building, evidence that the building or parcel~~

~~meets an existing need that cannot otherwise be met, and other criteria developed by rule by the board of trustees. The board or its designee shall compare the estimated value of the building or parcel to any submitted business plan to determine if the lease or sale is in the best interest of the state. The board of trustees shall adopt rules pursuant to chapter 120 for the implementation of this section.~~

Section 6. Section 253.0341, Florida Statutes, is amended to read:

253.0341 Surplus of state-owned lands ~~to counties or local governments. Counties and local governments may submit surplusing requests for state-owned lands directly to the board of trustees. County or local government requests for the state to surplus conservation or nonconservation lands, whether for purchase or exchange, shall be expedited throughout the surplusing process. Property jointly acquired by the state and other entities shall not be surplused without the consent of all joint owners.~~

(1) The board of trustees shall determine which lands, the title to which is vested in the board, may be surplused. For all conservation lands, the Acquisition and Restoration Council shall make a recommendation to the board of trustees, and the board of trustees shall determine whether the lands are no longer needed for conservation purposes. If the board of trustees determines the lands are no longer needed for conservation purposes, it may dispose of such lands by an affirmative vote of at least three members. In the case of a land exchange involving the disposition of conservation lands, the board of trustees must determine by an affirmative vote of

at least three members that the exchange will result in a net positive conservation benefit. For all nonconservation lands, the board of trustees shall determine whether the lands are no longer needed. If the board of trustees determines the lands are no longer needed, it may dispose of such lands by an affirmative vote of at least three members. Local government requests for the state to surplus conservation or nonconservation lands, whether for purchase or exchange, shall be expedited throughout the surplusing process. Property jointly acquired by the state and other entities may not be surplused without the consent of all joint owners ~~The decision to surplus state-owned nonconservation lands may be made by the board without a review of, or a recommendation on, the request from the Acquisition and Restoration Council or the Division of State Lands. Such requests for nonconservation lands shall be considered by the board within 60 days of the board's receipt of the request~~.

(2) For purposes of this section, all lands acquired by the state before July 1, 1999, using proceeds from Preservation 2000 bonds, the former Conservation and Recreation Lands Trust Fund, the former Water Management Lands Trust Fund, Environmentally Endangered Lands Program, and the Save Our Coast Program and titled to the board of trustees which are identified as core parcels or within original project boundaries are deemed to have been acquired for conservation purposes ~~County or local government requests for the surplusing of state-owned conservation lands are subject to review of, and recommendation on, the request to the board by the Acquisition and Restoration Council. Requests to surplus conservation lands shall be considered by the board within 120 days of the board's receipt~~

~~of the request~~.

(3) For any lands purchased by the state on or after July 1, 1999, before acquisition, the board of trustees must determine which parcels must be designated as having been acquired for conservation purposes. Lands acquired for use by the Department of Corrections; the Department of Management Services for use as state offices; the Department of Transportation, except those lands specifically managed for conservation or recreation purposes; the State University System; or the Florida College System may not be designated as having been acquired for conservation purposes ~~A local government may request that state lands be specifically declared surplus lands for the purpose of providing alternative water supply and water resource development projects as defined in s. 373.019, public facilities such as schools, fire and police facilities, and affordable housing. The request shall comply with the requirements of subsection (1) if the lands are nonconservation lands or subsection (2) if the lands are conservation lands. Surplus lands that are conveyed to a local government for affordable housing shall be disposed of by the local government under the provisions of s. 125.379 or s. 166.0451~~.

(4)(a) At least every 10 years, as a component of each land management plan or land use plan and in a form and manner adopted by rule of the board of trustees, each manager shall evaluate and indicate to the board of trustees those lands that are not being used for the purpose for which they were originally leased. For conservation lands, the Acquisition and Restoration Council shall review and recommend to the board of

trustees whether such lands should be retained in public ownership or disposed of by the board of trustees. For nonconservation lands, the Division of State Lands shall review and recommend to the board of trustees whether such lands should be retained in public ownership or disposed of by the board of trustees ~~Notwithstanding the requirements of this section and the requirements of s. 253.034 which provides a surplus process for the disposal of state lands, the board shall convey to Miami-Dade County title to the property on which the Graham Building, which houses the offices of the Miami-Dade State Attorney, is located. By January 1, 2008, the board shall convey fee simple title to the property to Miami-Dade County for a consideration of one dollar. The deed conveying title to Miami-Dade County must contain restrictions that limit the use of the property for the purpose of providing workforce housing as defined in s. 420.5095, and to house the offices of the Miami-Dade State Attorney. Employees of the Miami-Dade State Attorney and the Miami-Dade Public Defender who apply for and meet the income qualifications for workforce housing shall receive preference over other qualified applicants~~.

(b) At least every 10 years, the Division of State Lands shall review all state-owned conservation lands titled to the board of trustees to determine whether any such lands are no longer needed for conservation purposes and could be disposed of in fee simple or with the state retaining a permanent conservation easement. After such review, the division shall submit a list of such lands, including additional conservation lands identified in an updated land management plan pursuant to s. 253.034(5), to the Acquisition and Restoration Council.

Within 9 months after receiving the list, the council shall provide recommendations to the board of trustees as to whether any such lands are no longer needed for conservation purposes and could be disposed of in fee simple or with the state retaining a permanent conservation easement. After reviewing such list and considering such recommendations, if the board of trustees determines by an affirmative vote of at least three members that any such lands are no longer needed for conservation purposes, the board of trustees shall dispose of the lands in fee simple or with the state retaining a permanent conservation easement.

(c) At least every 10 years, the Division of State Lands shall review all encumbered and unencumbered nonconservation lands titled to the board of trustees and recommend to the board of trustees whether any such lands should be retained in public ownership or disposed of by the board of trustees. The board of trustees may dispose of nonconservation lands under this paragraph by a majority vote of the members.

(5) Conservation lands owned by the board of trustees which are not actively managed by any state agency or for which a land management plan has not been completed pursuant to s. 253.034(5) must be reviewed by the Acquisition and Restoration Council for its recommendation as to whether such lands should be disposed of by the board of trustees.

(6) Before any decision by the board of trustees to surplus conservation lands, the Acquisition and Restoration Council shall review and make recommendations to the board of trustees concerning the request for surplusing. The council shall determine whether the request for surplusing is compatible with

the resource values of and management objectives for such lands.

(7) In reviewing conservation lands owned by the board of trustees, the Acquisition and Restoration Council shall consider whether such lands would be more appropriately owned or managed by the county or other unit of local government in which the land is located. The council shall recommend to the board of trustees whether a sale, lease, or other conveyance to a local government would be in the best interests of the state and local government. This subsection does not limit the provisions of ss. 253.111 and 253.115. If the county or local government does not elect to purchase such lands in accordance with s. 253.111, any surplusing determination involving other governmental agencies shall be made when the board of trustees decides the best public use of the lands. Surplus properties in which governmental agencies have not expressed interest must then be available for sale on the private market.

(8) Before a facility or parcel of nonconservation land is offered for lease or sale to a local or federal unit of government or a private party, it shall first be offered for lease to state agencies, state universities, and Florida College System institutions, with priority consideration given to state universities and Florida College System institutions. Within 45 days after the offer for lease of a surplus building or parcel, a state agency, state university, or Florida College System institution that requests the lease must submit a plan to the board of trustees that includes a description of the proposed use, including future use, of the building or parcel of land. The board of trustees must review and approve the plan before approving the lease. The state agency plan must, at a minimum,

include the proposed use of the facility or parcel, the estimated cost of renovation, a capital improvement plan for the building, evidence that the building or parcel meets an existing need that cannot otherwise be met, and other criteria adopted by rule of the board of trustees. The board of trustees or its designee shall compare the estimated value of the facility or parcel to any submitted business plan to determine if the lease or sale is in the best interest of the state. The board of trustees shall adopt rules pursuant to chapter 120 to implement this section. A state agency or local government that has requested the use of a property that was to be declared as surplus must secure the property with a fully executed lease within 90 days after being notified that it may use such property or the request is voidable.

(9) The sale price of lands determined to be surplus pursuant to this section and s. 253.82 shall be determined by the Division of State Lands, which shall consider an appraisal of the property or, if the estimated value of the land is $500,000 or less, a comparable sales analysis or a broker's opinion of value. The division may require a second appraisal. The individual or entity that requests to purchase the surplus parcel shall pay all costs associated with determining the property's value, if any.

(a) A written valuation of land determined to be surplus pursuant to this section and s. 253.82, and related documents used to form the valuation or which pertain to the valuation, are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

1. The exemption expires 2 weeks before the contract or

agreement regarding the purchase, exchange, or disposal of the surplus land is first considered for approval by the board of trustees.

2. Before expiration of the exemption, the Division of State Lands may disclose confidential and exempt appraisals, valuations, or valuation information regarding surplus land:

a. During negotiations for the sale or exchange of the land;

b. During the marketing effort or bidding process associated with the sale, disposal, or exchange of the land to facilitate closure of such effort or process;

c. When the passage of time has made the conclusions of value invalid; or

d. When negotiations or marketing efforts concerning the land are concluded.

(b) A unit of government that acquires title to lands pursuant to this section for less than appraised value may not sell or transfer title to all or any portion of the lands to any private owner for 10 years. A unit of government seeking to transfer or sell lands pursuant to this paragraph must first allow the board of trustees to reacquire such lands for the price at which the board of trustees sold such lands.

(10) Parcels with a market value over $500,000 must be initially offered for sale by competitive bid. Any parcels unsuccessfully offered for sale by competitive bid, and parcels with a market value of $500,000 or less, may be sold by any reasonable means, including procuring real estate services, open or exclusive listings, competitive bid, auction, negotiated direct sales, or other appropriate services, to facilitate the

sale.

(11) After reviewing the recommendations of the Acquisition and Restoration Council, the board of trustees shall determine whether conservation lands identified for surplus should be held for other public purposes or are no longer needed. The board of trustees may require an agency to release its interest in such lands. A state entity, state agency, local government, or state university or Florida College System institution that has requested the use of a property that was to be declared as surplus must secure the property under a fully executed lease within 90 days after being notified that it may use such property or the request is voidable.

(12) Requests to surplus lands may be made by any public or private entity or person and shall be determined by the board of trustees. All requests to surplus conservation lands shall be submitted to the lead managing agency for review and recommendation to the Acquisition and Restoration Council, and all requests to surplus nonconservation lands shall be submitted to the Division of State Lands for review and recommendation to the board of trustees. The lead managing agencies shall review such requests and make recommendations to the council within 90 days after receipt of the requests. Any requests to surplus conservation lands that are not acted upon within the 90-day period shall be immediately scheduled for hearing at the next regularly scheduled meeting of the council. Requests to surplus lands shall be considered by the board of trustees within 60 days after receipt of the requests from the council or division. Requests to surplus lands pursuant to this subsection are not required to be offered to local or state governments as provided

in subsection (7) or subsection (8).

(13) Proceeds from the sale of surplus conservation lands purchased before July 1, 2015, shall be deposited into the Florida Forever Trust Fund.

(14) Proceeds from the sale of surplus conservation lands purchased on or after July 1, 2015, shall be deposited into the Land Acquisition Trust Fund, except when such lands were purchased with funds other than those from the Land Acquisition Trust Fund or a land acquisition trust fund created to implement s. 28, Art. X of the State Constitution, the proceeds shall be deposited into the fund from which the lands were purchased.

(15) Funds received from the sale of surplus nonconservation lands or lands that were acquired by gift, by donation, or for no consideration shall be deposited into the Internal Improvement Trust Fund.

(16) Notwithstanding this section, such disposition of land may not be made if it would have the effect of causing all or any portion of the interest on any revenue bonds issued to lose the exclusion from gross income for federal income tax purposes.

(17) The sale of filled, formerly submerged land that does not exceed 5 acres in area is not subject to review by the Acquisition and Restoration Council.

(18) The board of trustees may adopt rules to administer this section, including procedures for administering surplus land requests and criteria for when the Division of State Lands may approve requests to surplus nonconservation lands on behalf of the board of trustees.

(19) Surplus lands that are conveyed to a local government for affordable housing shall be disposed of by the local

government under s. 125.379 or s. 166.0451.

Section 7. Section 253.111, Florida Statutes, is amended to read:

253.111 Notice to county and municipality ~~board of county commissioners~~ before sale.—The Board of Trustees of the Internal Improvement Trust Fund ~~of the state~~ may not sell any land to which it holds ~~they hold~~ title unless and until it affords ~~they afford~~ an opportunity to the county and municipality in which such land is situated to receive such land on the following terms and conditions:

(1) If a request ~~an application~~ is filed with the Division of State Lands ~~board~~ requesting that the board of trustees ~~they~~ sell certain land to which it holds ~~they hold~~ title and the board of trustees decides to sell such land or if the board of trustees, without such request ~~application~~, decides to sell such land, the board of trustees shall, before consideration of any private offers, notify the governing body ~~board of county commissioners~~ of the county and municipality in which such land is situated that such land is available to such county and municipality. Such notification shall be given by registered or express mail, return receipt requested, any commercial delivery service requiring a signed receipt, or electronic notification with return receipt.

(2) The governing bodies ~~board of county commissioners~~ of the county and municipality in which such land is situated shall each~~, within 40 days after receipt of such notification from the board,~~ determine by resolution whether ~~or not~~ it proposes to acquire such land.

(3) If the board of trustees receives, within 45 days after

notice is given to the governing bodies of the county and municipality ~~board of county commissioners~~ pursuant to subsection (1), the certified copy of the resolution provided for in subsection (2), the board of trustees shall ~~forthwith~~ convey to the county or municipality such land at a price that is equal to its ~~appraised~~ market value based on, at the discretion of the Division of State Lands, an appraisal, a comparable sales analysis, or a broker's opinion of value ~~established by generally accepted professional standards for real estate appraisal~~ and subject to such other terms and conditions as the board of trustees determines. If a parcel is located within a municipality, priority consideration shall be given to the municipality over the county.

(4) ~~Nothing in~~ This section does not restrict ~~restricts~~ any right otherwise granted to the board of trustees by this chapter to convey land to which it holds ~~they hold~~ title to the state or any department, office, authority, board, bureau, commission, institution, court, tribunal, agency, or other instrumentality of or under the state. For purposes of this section, the term ~~word~~ "land" ~~as used in this act~~ means all lands vested in the Board of Trustees of the Internal Improvement Trust Fund.

(5) If any riparian owner exists with respect to any land to be sold by the board of trustees, such riparian owner shall have a right to secure such land, which right is prior in interest to the right in the county and municipality created by this section, provided that such riparian owner shall be required to pay for such land upon such prices, terms, and conditions as determined by the board of trustees. Such riparian owner may waive this prior right, in which case this section

shall apply.

(6) This section does not apply to:

(a) Any land exchange approved by the board of trustees;

(b) The conveyance of any lands located within the Everglades Agricultural Area; or

(c) Lands managed pursuant to ss. 253.781-253.785.

Section 8. Section 253.42, Florida Statutes, is amended to read:

253.42 Board of trustees may exchange lands. ~~The provisions of~~ This section applies ~~apply~~ to all lands owned by, vested in, or titled in the name of the board of trustees whether the lands were acquired by the state as a purchase, or through gift, donation, or any other conveyance for which no consideration was paid.

(1) The board of trustees may exchange any lands owned by, vested in, or titled in its ~~the~~ name ~~of the board~~ for other lands in the state owned by counties, local governments, individuals, or private or public corporations, and may fix the terms and conditions of any such exchange. Any nonconservation lands that were acquired by the state through gift, donation, or any other conveyance for which no consideration was paid must first be offered at no cost to a county or local government unless otherwise provided in a deed restriction of record or other legal impediment, and so long as the use proposed by the county or local government is for a public purpose. For conservation lands acquired by the state through gift, donation, or any other conveyance for which no consideration was paid, the state may request land of equal conservation value from the county or local government but no other consideration.

(2) In exchanging state-owned lands not acquired by the state through gift, donation, or any other conveyance for which no consideration was paid, with counties or local governments, the board of trustees shall require an exchange of equal value. Equal value is defined as the conservation benefit of the lands being offered for exchange by a county or local government being equal or greater in conservation benefit than the state-owned lands. Such exchanges may include cash transactions if based on an appropriate measure of value of the state-owned land, but must also include the determination of a net-positive conservation benefit by the Acquisition and Restoration Council, irrespective of appraised value.

(3) The board of trustees shall select and agree upon the state lands to be exchanged and the lands to be conveyed to the state and shall pay or receive any sum of money the board of trustees deems ~~deemed~~ necessary ~~by the board~~ for the purpose of equalizing the value of the exchanged property. The board of trustees is authorized to make and enter into contracts or agreements for such purpose or purposes.

(4)(a) A person who owns land contiguous to state-owned land titled to the board of trustees may submit a request to the Division of State Lands to exchange all or a portion of the privately owned land for all or a portion of the state-owned land, whereby the state retains a permanent conservation easement over all or a portion of the exchanged state-owned land and a permanent conservation easement over all or a portion of the exchanged privately owned land. State-owned land exchanged pursuant to this subsection shall be contiguous to the privately owned land upon which the state retains a permanent conservation

easement. The division may submit such request to the Acquisition and Restoration Council for review. If the division submits a request to the council, the council shall provide recommendations to the division. After receiving the council's recommendations, the division shall review the request and the council's recommendations and may provide recommendations to the board of trustees. This subsection does not apply to state-owned sovereign submerged land.

(b) After receiving a request and the division's recommendations, the board of trustees shall consider such request and recommendations and may approve the request if:

1. At least 30 percent of the perimeter of the privately owned land is bordered by state-owned land and the exchange does not create an inholding.

2. The approval does not result in a violation of the terms of a preexisting lease or agreement by the board of trustees, the Department of Environmental Protection, the Department of Agriculture and Consumer Services, or the Fish and Wildlife Conservation Commission.

3. For state-owned land purchased for conservation purposes, the board of trustees makes a determination that the exchange of land under this subsection will result in a positive conservation benefit.

4. The approval does not conflict with any existing flowage easement.

5. The request is approved by three or more members of the board of trustees.

(c) Special consideration shall be given to a request that maintains public access for any recreational purpose allowed on

the state-owned land at the time the request is submitted to the board of trustees. A person who maintains public access pursuant to this paragraph is entitled to the limitation on liability provided in s. 375.251.

(d) Land subject to a permanent conservation easement granted pursuant to this subsection is subject to inspection by the Department of Environmental Protection to ensure compliance with the terms of the permanent conservation easement.

Section 9. Subsection (2) of section 253.782, Florida Statutes, is amended to read:

253.782 Retention of state-owned lands in and around Lake Rousseau and the Cross Florida Barge Canal right-of-way from Lake Rousseau west to the Withlacoochee River.—

(2) The Department of Environmental Protection is authorized ~~and directed~~ to retain ownership of and maintain all lands or interests in land owned by the Board of Trustees of the Internal Improvement Trust Fund, including all fee and less-than-fee interests in lands previously owned by the canal authority in Lake Rousseau and the Cross Florida Barge Canal right-of-way from Lake Rousseau at U.S. Highway 41 west to and including the Withlacoochee River.

Section 10. Section 253.7821, Florida Statutes, is amended to read:

253.7821 Cross Florida Greenways State Recreation and Conservation Area assigned to the Department of Environmental Protection ~~Office of the Executive Director~~.—The Cross Florida Greenways State Recreation and Conservation Area is ~~hereby~~ established and ~~is initially~~ assigned to the department ~~Office of Greenways Management within the Office of the Secretary~~. The

department ~~office~~ shall manage the greenways pursuant to the department's existing statutory authority until administrative rules are adopted by the department. However, the provisions of this act shall control in any conflict between this act and any other authority of the department.

Section 11. Section 253.87, Florida Statutes, is created to read:

253.87 Inventory of state, federal, and local government conservation lands by the Department of Environmental Protection.—

(1) By July 1, 2018, the department shall include in the Florida State-Owned Lands and Records Information System (FL-SOLARIS) database all federally owned conservation lands, all lands on which the Federal Government retains a permanent conservation easement, and all lands on which the state retains a permanent conservation easement. The department shall update the database at least every 5 years.

(2) By July 1, 2018, for counties and municipalities, and by July 1, 2019, for financially disadvantaged small communities, as defined in s. 403.1838, and at least every 5 years thereafter, respectively, each county, municipality, and financially disadvantaged small community shall identify all conservation lands that it owns in fee simple and all lands on which it retains a permanent conservation easement and submit, in a manner determined by the department, a list of such lands to the department. Within 6 months after receiving such list, the department shall add such lands to the FL-SOLARIS database.

(3) By January 1, 2018, the department shall conduct a study and submit a report to the Governor, the President of the

Senate, and the Speaker of the House of Representatives on the technical and economic feasibility of including the following lands in the FL-SOLARIS database or a similar public lands inventory:

(a) All lands on which local comprehensive plans, land use restrictions, zoning ordinances, or land development regulations prohibit the land from being developed or limit the amount of development to one unit per 40 or more acres.

(b) All publicly and privately owned lands for which development rights have been transferred.

(c) All privately owned lands under a permanent conservation easement.

(d) All lands owned by a nonprofit or nongovernmental organization for conservation purposes.

(e) All lands that are part of a mitigation bank.

Section 12. Section 259.01, Florida Statutes, is amended to read:

259.01 Short title.—This chapter shall be known and may be cited as the "Land Conservation Program ~~Act of 1972~~."

Section 13. Section 259.02, Florida Statutes, is repealed.

Section 14. Section 259.03, Florida Statutes, is amended to read:

259.03 Definitions.—As ~~The following terms and phrases when~~ used in this chapter, the term ~~shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning~~:

(1) "Council" means the Acquisition and Restoration ~~that~~ Council established pursuant to s. 259.035.

(2) "Board" means the Governor and Cabinet, sitting as the

Board of Trustees of the Internal Improvement Trust Fund.

(3) "Capital improvement" or "capital project expenditure" means those activities relating to the acquisition, restoration, public access, and recreational uses of such lands, water areas, and related resources deemed necessary to accomplish the purposes of this chapter. Eligible activities include, but are not limited to: the initial removal of invasive plants; the construction, improvement, enlargement or extension of facilities' signs, firelanes, access roads, and trails; or any other activities that serve to restore, conserve, protect, or provide public access, recreational opportunities, or necessary services for land or water areas. Such activities shall be identified before ~~prior to~~ the acquisition of a parcel or the approval of a project. The continued expenditures necessary for a capital improvement approved under this subsection are ~~shall~~ not ~~be~~ eligible for funding provided in this chapter.

(4) "Department" means the Department of Environmental Protection.

(5) "Division" means the Division of Bond Finance of the State Board of Administration.

(6) "Water resource development project" means a project eligible for funding pursuant to s. 259.105 that increases the amount of water available to meet the needs of natural systems and the citizens of the state by enhancing or restoring aquifer recharge, facilitating the capture and storage of excess flows in surface waters, or promoting reuse. The implementation of eligible projects under s. 259.105 includes land acquisition, land and water body restoration, aquifer storage and recovery facilities, surface water reservoirs, and other capital

improvements. ~~The term does not include construction of treatment, transmission, or distribution facilities.~~

Section 15. Subsections (6), (7), and (8) and paragraphs (a) and (d) of section (9) of section 259.032, Florida Statutes, are amended to read:

259.032 Conservation and recreation lands.—

(6) Conservation and recreation lands are subject to the selection procedures of s. 259.035 and related rules and shall be acquired in accordance with acquisition procedures for state lands provided for in s. 253.025 ~~259.041~~, except as otherwise provided by the Legislature. An inholding or an addition to conservation and recreation lands is not subject to the selection procedures of s. 259.035 if the estimated value of such inholding or addition does not exceed $500,000. When at least 90 percent of the acreage of a project has been purchased for conservation and recreation purposes, the project may be removed from the list and the remaining acreage may continue to be purchased. Funds appropriated to acquire conservation and recreation lands may be used for title work, appraisal fees, environmental audits, and survey costs related to acquisition expenses for lands to be acquired, donated, or exchanged which qualify under the categories of this section, at the discretion of the board. When the Legislature has authorized the department ~~of Environmental Protection~~ to condemn a specific parcel of land and such parcel has already been approved for acquisition, the land may be acquired in accordance with ~~the provisions of~~ chapter 73 or chapter 74, and the funds appropriated to acquire conservation and recreation lands may be used to pay the condemnation award and all costs, including reasonable attorney

fees, associated with condemnation.

(7) All lands managed under this chapter and s. 253.034 shall be:

(a) Managed in a manner that will provide the greatest combination of benefits to the public and to the resources.

(b) Managed for public outdoor recreation which is compatible with the conservation and protection of public lands. Such management may include, but not be limited to, the following public recreational uses: fishing, hunting, camping, bicycling, hiking, nature study, swimming, boating, canoeing, horseback riding, diving, model hobbyist activities, birding, sailing, jogging, and other related outdoor activities ~~compatible with the purposes for which the lands were acquired~~.

~~(c) Managed for the purposes for which the lands were acquired, consistent with paragraph (9)(a).~~

(c)~~(d)~~ Concurrent with its adoption of the annual list of acquisition projects pursuant to s. 259.035, the board ~~of trustees~~ shall adopt a management prospectus for each project. The management prospectus shall delineate:

1. The management goals for the property;

2. The conditions that will affect the intensity of management;

3. An estimate of the revenue-generating potential of the property, if appropriate;

4. A timetable for implementing the various stages of management and for providing access to the public, if applicable;

5. A description of potential multiple-use activities as described in this section and s. 253.034;

6. Provisions for protecting existing infrastructure and for ensuring the security of the project upon acquisition;

7. The anticipated costs of management and projected sources of revenue, including legislative appropriations, to fund management needs; and

8. Recommendations as to how many employees will be needed to manage the property, and recommendations as to whether local governments, volunteer groups, the former landowner, or other interested parties can be involved in the management.

(d)~~(c)~~ Concurrent with the approval of the acquisition contract pursuant to s. 253.025(4)(c) ~~259.041(3)(c)~~ for any interest in lands except those lands ~~being~~ acquired pursuant to ~~under the provisions of~~ s. 259.1052, the board ~~of trustees~~ shall designate an agency or agencies to manage such lands. The board shall evaluate and amend, as appropriate, the management policy statement for the project as provided by s. 259.035 to ensure the policy is compatible with conservation or recreation purposes~~, consistent with the purposes for which the lands are acquired~~. For any fee simple acquisition of a parcel which is or will be leased back for agricultural purposes, or any acquisition of a less-than-fee interest in land that is or will be used for agricultural purposes, the board ~~of trustees of the Internal Improvement Trust Fund~~ shall first consider having a soil and water conservation district, created pursuant to chapter 582, manage and monitor such interests.

(e)~~(f)~~ State agencies designated to manage lands acquired under this chapter or with funds deposited into the Land Acquisition Trust Fund, except those lands acquired under s. 259.1052, may contract with local governments and soil and water

conservation districts to assist in management activities, including the responsibility of being the lead land manager. Such land management contracts may include a provision for the transfer of management funding to the local government or soil and water conservation district from the land acquisition trust fund of the lead land managing agency in an amount adequate for the local government or soil and water conservation district to perform its contractual land management responsibilities and proportionate to its responsibilities, and which otherwise would have been expended by the state agency to manage the property.

(f) ~~(g)~~ Immediately following the acquisition of any interest in conservation and recreation lands, the department ~~of Environmental Protection~~, acting on behalf of the board ~~of trustees~~, may issue to the lead managing entity an interim assignment letter to be effective until the execution of a formal lease.

(8)(a) State, regional, or local governmental agencies or private entities designated to manage lands under this section shall develop and adopt, with the approval of the board ~~of trustees~~, an individual management plan for each project designed to conserve and protect such lands and their associated natural resources. Private sector involvement in management plan development may be used to expedite the planning process.

(b) Individual management plans required by s. 253.034(5), for parcels over 160 acres, shall be developed with input from an advisory group. Members of this advisory group shall include, at a minimum, representatives of the lead land managing agency, comanaging entities, local private property owners, the appropriate soil and water conservation district, a local

conservation organization, and a local elected official. If habitat or potentially restorable habitat for imperiled species is located on state lands, the Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services shall be included on any advisory group required under chapter 253, and the short-term and long-term management goals required under chapter 253 must advance the goals and objectives of imperiled species management without restricting other uses identified in the management plan. The advisory group shall conduct at least one public hearing within the county in which the parcel or project is located. For those parcels or projects that are within more than one county, at least one areawide public hearing shall be acceptable and the lead managing agency shall invite a local elected official from each county. The areawide public hearing shall be held in the county in which the core parcels are located. Notice of such public hearing shall be posted on the parcel or project designated for management, advertised in a paper of general circulation, and announced at a scheduled meeting of the local governing body before the actual public hearing. The management prospectus required pursuant to paragraph (7)(c) ~~(7)(d)~~ shall be available to the public for a period of 30 days before ~~prior to~~ the public hearing.

(c) Once a plan is adopted, the managing agency or entity shall update the plan at least every 10 years in a form and manner adopted ~~prescribed~~ by rule of the board ~~of trustees~~. Such updates, for parcels over 160 acres, shall be developed with input from an advisory group. Such plans may include transfers of leasehold interests to appropriate conservation organizations or governmental entities designated by the ~~Land Acquisition and~~

~~Management Advisory~~ council ~~or its successor,~~ for uses consistent with the purposes of the organizations and the protection, preservation, conservation, restoration, and proper management of the lands and their resources. Volunteer management assistance is encouraged, including, but not limited to, assistance by youths participating in programs sponsored by state or local agencies, by volunteers sponsored by environmental or civic organizations, and by individuals participating in programs for committed delinquents and adults.

(d)~~1.~~ For each project for which lands are acquired after July 1, 1995, an individual management plan shall be adopted and in place no later than 1 year after the essential parcel or parcels identified in the priority list developed pursuant to s. 259.105 have been acquired. The department ~~of Environmental Protection~~ shall distribute only 75 percent of the acquisition funds to which a budget entity or water management district would otherwise be entitled to any budget entity or any water management district that has more than one-third of its management plans overdue.

~~2. The requirements of subparagraph 1. do not apply to the individual management plan for the Babcock Crescent B Ranch being acquired pursuant to s. 259.1052. The management plan for the ranch shall be adopted and in place no later than 2 years following the date of acquisition by the state.~~

(e) Individual management plans shall conform to the appropriate policies and guidelines of the state land management plan and shall include, but not be limited to:

1. A statement of the purpose for which the lands were acquired, the projected use or uses as defined in s. 253.034,

and the statutory authority for such use or uses.

2. Key management activities necessary to achieve the desired outcomes, including, but not limited to, providing public access, preserving and protecting natural resources, protecting cultural and historical resources, restoring habitat, protecting threatened and endangered species, controlling the spread of nonnative plants and animals, performing prescribed fire activities, and other appropriate resource management.

3. A specific description of how the managing agency plans to identify, locate, protect, and preserve, or otherwise use fragile, nonrenewable natural and cultural resources.

4. A priority schedule for conducting management activities~~, based on the purposes for which the lands were acquired~~.

5. A cost estimate for conducting priority management activities, to include recommendations for cost-effective methods of accomplishing those activities.

6. A cost estimate for conducting other management activities which would enhance the natural resource value or public recreation value ~~for which the lands were acquired~~. The cost estimate shall include recommendations for cost-effective methods of accomplishing those activities.

7. A determination of the public uses and public access that would be compatible with conservation or recreation purposes ~~that would be consistent with the purposes for which the lands were acquired~~.

(f) The Division of State Lands shall submit a copy of each individual management plan for parcels which exceed 160 acres in size to each member of the ~~Acquisition and Restoration~~ council,

which shall:

1. Within 60 days after receiving a plan from the Division of State Lands, review each plan for compliance with the requirements of this subsection and with the requirements of the rules adopted ~~established~~ by the board pursuant to this subsection.

2. Consider the propriety of the recommendations of the managing agency with regard to the future use or protection of the property.

3. After its review, submit the plan, along with its recommendations and comments, to the board ~~of trustees~~, with recommendations as to whether to approve the plan as submitted, approve the plan with modifications, or reject the plan.

(g) The board ~~of trustees~~ shall consider the individual management plan submitted by each state agency and the recommendations of the ~~Acquisition and Restoration~~ council and the department ~~Division of State Lands~~ and shall approve the plan with or without modification or reject such plan. The use or possession of any lands owned by the board ~~of trustees~~ which is not in accordance with an approved individual management plan is subject to termination by the board ~~of trustees~~.

By July 1 of each year, each governmental agency and each private entity designated to manage lands shall report to the Secretary of Environmental Protection on the progress of funding, staffing, and resource management of every project for which the agency or entity is responsible.

(9)(a) The Legislature recognizes that acquiring lands pursuant to this chapter serves the public interest by

protecting land, air, and water resources which contribute to the public health and welfare, providing areas for natural resource based recreation, and ensuring the survival of unique and irreplaceable plant and animal species. The Legislature intends for these lands to be managed and maintained in a manner that is compatible with conservation or recreation purposes ~~for the purposes for which they were acquired~~ and for the public to have access to and use of these lands if public access ~~where it is consistent with acquisition purposes and~~ would not harm the resources the state is seeking to protect on the public's behalf.

(d) Up to one-fifth of the funds appropriated for the purposes identified in paragraph (b) shall be reserved by the board ~~of trustees~~ for interim management of acquisitions and for associated contractual services, to ensure the conservation and protection of natural resources on project sites and to allow limited public recreational use of lands. Interim management activities may include, but not be limited to, resource assessments, control of invasive, nonnative species, habitat restoration, fencing, law enforcement, controlled burning, and public access consistent with preliminary determinations made pursuant to paragraph (7)(f) ~~(7)(g)~~. The board ~~of trustees~~ shall make these interim funds available immediately upon purchase.

Section 16. Subsection (3) and paragraph (a) of subsection (4) of section 259.035, Florida Statutes, are amended to read:

259.035 Acquisition and Restoration Council.—

(3) The council shall provide assistance to the board ~~of trustees~~ in reviewing the recommendations and plans for state-owned conservation lands required under s. 253.034 and this

chapter. The council shall, in reviewing such ~~recommendations and~~ plans, consider the optimization of multiple-use and conservation strategies to accomplish the provisions funded pursuant to former s. 259.101(3)(a), Florida Statutes 2014, and to s. 259.105(3)(b).

(4)(a) By December 1, 2016, the ~~Acquisition and Restoration~~ council shall develop rules defining specific criteria and numeric performance measures needed for lands that are to be acquired for public purpose under the Florida Forever program pursuant to s. 259.105 or with funds deposited into the Land Acquisition Trust Fund pursuant to s. 28(a), Art. X of the State Constitution. These rules shall be reviewed and adopted by the board, then submitted to the Legislature for consideration by February 1, 2017. The Legislature may reject, modify, or take no action relative to the proposed rules. If no action is taken, the rules shall be implemented. Subsequent to their approval, each recipient of funds from the Land Acquisition Trust Fund shall annually report to the department ~~Division of State Lands~~ on each of the numeric performance measures accomplished during the previous fiscal year.

Section 17. Subsections (1), (2), (4), and (5) of section 259.036, Florida Statutes, are amended to read:

259.036 Management review teams.—

(1) To determine whether conservation, preservation, and recreation lands titled in the name of the board ~~of Trustees of the Internal Improvement Trust Fund~~ are being managed for ~~the~~ purposes that are compatible with conservation, preservation, or recreation ~~for which they were acquired and~~ in accordance with a land management plan adopted pursuant to s. 259.032, the board

~~of trustees~~, acting through the department ~~of Environmental Protection~~, shall cause periodic management reviews to be conducted as follows:

(a) The department shall establish a regional land management review team composed of the following members:

1. One individual who is from the county or local community in which the parcel or project is located and who is selected by the county commission in the county which is most impacted by the acquisition.

2. One individual from the Division of Recreation and Parks of the department.

3. One individual from the Florida Forest Service of the Department of Agriculture and Consumer Services.

4. One individual from the Fish and Wildlife Conservation Commission.

5. One individual from the department's district office in which the parcel is located.

6. A private land manager, preferably from the local community, mutually agreeable to the state agency representatives.

7. A member or staff from the jurisdictional water management district or ~~of the~~ local soil and water conservation district board of supervisors.

8. A member of a conservation organization.

(b) The department ~~staff of the Division of State Lands~~ shall act as the review team coordinator for the purposes of establishing schedules for the reviews and other staff functions. The Legislature shall appropriate funds necessary to implement land management review team functions.

(2) The land management review team shall review select management areas before ~~prior to~~ the date the manager is required to submit a 10-year land management plan update. For management areas that exceed 1,000 acres in size, the department ~~Division of State Lands~~ shall schedule a land management review at least every 5 years. A copy of the review shall be provided to the manager, the department ~~Division of State Lands~~, and the ~~Acquisition and Restoration~~ council. The manager shall consider the findings and recommendations of the land management review team in finalizing the required 10-year update of its management plan.

(4) In the event a land management plan has not been adopted within the timeframes specified in s. 259.032(8), the department may direct a management review of the property, to be conducted by the land management review team. The review shall consider the extent to which the land is being managed in a manner that is compatible with conservation or recreation purposes ~~for the purposes for which it was acquired~~ and the degree to which actual management practices are in compliance with the management policy statement and management prospectus for that property.

(5) If the land management review team determines that reviewed lands are not being managed in a manner that is compatible with conservation or recreation purposes ~~for the purposes for which they were acquired or~~ in compliance with the adopted land management plan, management policy statement, or management prospectus, or if the managing agency fails to address the review findings in the updated management plan, the department shall provide the review findings to the board, and

the managing agency must report to the board its reasons for managing the lands as it has.

Section 18. Section 259.037, Florida Statutes, is amended to read:

259.037 Land Management Uniform Accounting Council.—

(1) The Land Management Uniform Accounting Council (LMUAC) is created within the Department of Environmental Protection and shall consist of the director of the Division of State Lands, the director of the Division of Recreation and Parks, and the director of the Office of Coastal and Aquatic Managed Areas~~, and the director of the Office of Greenways and Trails~~ of the department ~~of Environmental Protection~~; the director of the Florida Forest Service of the Department of Agriculture and Consumer Services; the executive director of the Fish and Wildlife Conservation Commission; and the director of the Division of Historical Resources of the Department of State, or their respective designees. Each state agency represented on the LMUAC ~~council~~ shall have one vote. The chair of the LMUAC ~~council~~ shall rotate annually in the foregoing order of state agencies. The agency of the representative serving as chair ~~of the council~~ shall provide staff support for the LMUAC ~~council~~. The Division of State Lands shall serve as the recipient of and repository for the LMUAC's ~~council's~~ documents. The LMUAC ~~council~~ shall meet at the request of the chair.

(2) The Auditor General and the director of the Office of Program Policy Analysis and Government Accountability, or their designees, shall advise the LMUAC ~~council~~ to ensure that appropriate accounting procedures are used ~~utilized~~ and that a uniform method of collecting and reporting accurate costs of

land management activities are created and can be used by all agencies.

(3)(a) All land management activities and costs must be assigned to a specific category, and any single activity or cost may not be assigned to more than one category. Administrative costs, such as planning or training, shall be segregated from other management activities. Specific management activities and costs must initially be grouped, at a minimum, within the following categories:

1. Resource management.
2. Administration.
3. Support.
4. Capital improvements.
5. Recreation visitor services.
6. Law enforcement activities.

Upon adoption of the initial list of land management categories by the LMUAC ~~council~~, agencies assigned to manage conservation or recreation lands shall~~, on July 1, 2000, begin to~~ account for land management costs in accordance with the category to which an expenditure is assigned.

(b) Each reporting agency shall also:

1. Include a report of the available public use opportunities for each management unit of state land, the total management cost for public access and public use, and the cost associated with each use option.

2. List the acres of land requiring minimal management effort, moderate management effort, and significant management effort pursuant to s. 259.032(9)(c). For each category created

in paragraph (a), the reporting agency shall include the amount of funds requested, the amount of funds received, and the amount of funds expended for land management.

3. List acres managed and cost of management for each park, preserve, forest, reserve, or management area.

4. List acres managed, cost of management, and lead manager for each state lands management unit for which secondary management activities were provided.

5. Include a report of the estimated calculable financial benefits to the public for the ecosystem services provided by conservation lands, based on the best readily available information or science that provides a standard measurement methodology to be consistently applied by the land managing agencies. Such information may include, but need not be limited to, the value of natural lands for protecting the quality and quantity of drinking water through natural water filtration and recharge, contributions to protecting and improving air quality, benefits to agriculture through increased soil productivity and preservation of biodiversity, and savings to property and lives through flood control.

(4) The LMUAC ~~council~~ shall provide a report of the agencies' expenditures pursuant to the adopted categories to the Acquisition and Restoration Council and the Division of State Lands for inclusion in its annual report required pursuant to s. 259.036.

(5) Should the LMUAC ~~council~~ determine that the list of land management categories needs to be revised, it shall meet upon the call of the chair.

(6) Biennially, each reporting agency shall also submit an

operational report for each management area along with an approved management plan. The report should assess the progress toward achieving short-term and long-term management goals of the approved management plan, including all land management activities, and identify any deficiencies in management and corrective actions to address identified deficiencies as appropriate. This report shall be submitted to the Acquisition and Restoration Council and the Division of State Lands for inclusion in its annual report required pursuant to s. 259.036.

Section 19. Section 259.041, Florida Statutes, is repealed.

Section 20. Subsection (2) of section 259.047, Florida Statutes, is amended to read:

259.047 Acquisition of land on which an agricultural lease exists.—

(2) If ~~Where~~ consistent with the purposes of conservation and recreation ~~for which the property was acquired~~, the state or acquiring entity shall make reasonable efforts to keep lands in agricultural production which are in agricultural production at the time of acquisition.

Section 21. Subsection (8) of section 259.101, Florida Statutes, is renumbered as subsection (7), and subsection (5), paragraph (a) of subsection (6), and present subsection (7) of that section are amended, to read:

259.101 Florida Preservation 2000 Act.—

(5) DISPOSITION OF LANDS.—

(a) Any lands acquired pursuant to former paragraphs (3)(a), (3)(c), (3)(d), (3)(e), (3)(f), or (3)(g) of this section, Florida Statutes 2014, if title to such lands is vested in the board ~~of Trustees of the Internal Improvement Trust Fund~~,

may be disposed of by the board ~~of Trustees of the Internal Improvement Trust Fund~~ in accordance with the provisions and procedures set forth in s. 253.0341 ~~253.034(6)~~, and lands acquired pursuant to former paragraph (3)(b) of this section, Florida Statutes 2014, may be disposed of by the owning water management district in accordance with the procedures and provisions set forth in ss. 373.056 and 373.089 provided such disposition also shall satisfy the requirements of paragraphs (b) and (c).

(b) Before land acquired with Preservation 2000 funds may be surplused as required by s. 253.0341 ~~253.034(6)~~ or determined to be no longer required for its purposes under s. 373.056(4), as applicable, there shall first be a determination by the board ~~of Trustees of the Internal Improvement Trust Fund~~, or, in the case of water management district lands, by the owning water management district, that such land no longer needs to be preserved in furtherance of the intent of the Florida Preservation 2000 Act. Any lands eligible to be disposed of under this procedure also may be used to acquire other lands through an exchange of lands if such lands obtained in an exchange are described in the same paragraph of former subsection (3) of this section, Florida Statutes 2014, as the lands disposed.

(c) Revenue derived from the disposal of lands acquired with Preservation 2000 funds may not be used for any purpose except for deposit into the Florida Forever Trust Fund within the department ~~of Environmental Protection~~, for recredit to the share held under former subsection (3) of this section, Florida Statutes 2014, in which such disposed land is described.

(6) ALTERNATE USES OF ACQUIRED LANDS.—

(a) The board ~~of Trustees of the Internal Improvement Trust Fund~~, or, in the case of water management district lands, the owning water management district, may authorize the granting of a lease, easement, or license for the use of any lands acquired pursuant to former subsection (3) of this section, Florida Statutes 2014, for any governmental use permitted by s. 17, Art. IX of the State Constitution of 1885, as adopted by s. 9(a), Art. XII of the State Constitution, and any other incidental public or private use that is determined by the board or the owning water management district to be compatible with conservation, preservation, or recreation ~~the purposes for which such lands were acquired~~.

~~(7) ALTERNATIVES TO FEE SIMPLE ACQUISITION.—~~

~~(a) The Legislature finds that, with the increasing pressures on the natural areas of this state, the state must develop creative techniques to maximize the use of acquisition and management moneys. The Legislature finds that the state's environmental land-buying agencies should be encouraged to augment their traditional, fee simple acquisition programs with the use of alternatives to fee simple acquisition techniques. The Legislature also finds that using alternatives to fee simple acquisition by public land-buying agencies will achieve the following public policy goals:~~

~~1. Allow more lands to be brought under public protection for preservation, conservation, and recreational purposes at less expense using public funds.~~

~~2. Retain, on local government tax rolls, some portion of or interest in lands that are under public protection.~~

~~3. Reduce long-term management costs by allowing private property owners to continue acting as stewards of the land, as appropriate.~~

~~Therefore, it is the intent of the Legislature that public land-buying agencies develop programs to pursue alternatives to fee simple acquisition and to educate private landowners about such alternatives and the benefits of such alternatives. It also is the intent of the Legislature that the department and the water management districts spend a portion of their shares of Preservation 2000 bond proceeds to purchase eligible properties using alternatives to fee simple acquisition. Finally, it is the intent of the Legislature that public agencies acquire lands in fee simple for public access and recreational activities. Lands protected using alternatives to fee simple acquisition techniques may not be accessible to the public unless such access is negotiated with and agreed to by the private landowners who retain interests in such lands.~~

~~(b) The Land Acquisition Advisory Council and the water management districts shall identify, within their 1997 acquisition plans, those projects that require a full fee simple interest to achieve the public policy goals, along with the reasons why full title is determined to be necessary. The council and the water management districts may use alternatives to fee simple acquisition to bring the remaining projects in their acquisition plans under public protection. For the purposes of this subsection, the term "alternatives to fee simple acquisition" includes the purchase of development rights; conservation easements; flowage easements; the purchase of~~

~~timber rights, mineral rights, or hunting rights; the purchase of agricultural interests or silvicultural interests; land protection agreements; fee simple acquisitions with reservations; or any other acquisition technique that achieves the public policy goals identified in paragraph (a). It is presumed that a private landowner retains the full range of uses for all the rights or interests in the landowner's land which are not specifically acquired by the public agency. Life estates and fee simple acquisitions with leaseback provisions do not qualify as an alternative to fee simple acquisition under this subsection, although the department and the districts are encouraged to use such techniques if appropriate.~~

~~(c) The department and each water management district shall implement initiatives to use alternatives to fee simple acquisition and to educate private landowners about such alternatives. These initiatives must include at least two acquisitions a year by the department and each water management district utilizing alternatives to fee simple.~~

~~(d) The Legislature finds that the lack of direct sales comparison information has served as an impediment to successful implementation of alternatives to fee simple acquisition. It is the intent of the Legislature that, in the absence of direct comparable sales information, appraisals of alternatives to fee simple acquisitions be based on the difference between the full fee simple valuation and the value of the interests remaining with the seller after acquisition.~~

~~(e) The public agency that has been assigned management responsibility shall inspect and monitor any less-than-fee-simple interest according to the terms of the purchase agreement~~

~~relating to such interest.~~

~~(f) The department and the water management districts may enter into joint acquisition agreements to jointly fund the purchase of lands using alternatives to fee simple techniques.~~

Section 22. Paragraph (a) of subsection (2), paragraphs (i) and (l) of subsection (3), subsections (10) and (13), paragraph (i) of subsection (15), and subsection (19) of section 259.105, Florida Statutes, are amended to read:

259.105 The Florida Forever Act.—

(2)(a) The Legislature finds and declares that:

1. Land acquisition programs have provided tremendous financial resources for purchasing environmentally significant lands to protect those lands from imminent development or alteration, thereby ensuring present and future generations' access to important waterways, open spaces, and recreation and conservation lands.

2. The continued alteration and development of the state's ~~Florida's~~ natural and rural areas to accommodate the state's growing population have contributed to the degradation of water resources, the fragmentation and destruction of wildlife habitats, the loss of outdoor recreation space, and the diminishment of wetlands, forests, working landscapes, and coastal open space.

3. The potential development of the state's ~~Florida's~~ remaining natural areas and escalation of land values require government efforts to restore, bring under public protection, or acquire lands and water areas to preserve the state's essential ecological functions and invaluable quality of life.

4. It is essential to protect the state's ecosystems by

promoting a more efficient use of land, to ensure opportunities for viable agricultural activities on working lands, and to promote vital rural and urban communities that support and produce development patterns consistent with natural resource protection.

5. The state's ~~Florida's~~ groundwater, surface waters, and springs are under tremendous pressure due to population growth and economic expansion and require special protection and restoration efforts, including the protection of uplands and springsheds that provide vital recharge to aquifer systems and are critical to the protection of water quality and water quantity of the aquifers and springs. To ensure that sufficient quantities of water are available to meet the current and future needs of the natural systems and citizens of the state, and assist in achieving the planning goals of the department and the water management districts, water resource development projects on public lands, if ~~where~~ compatible with the resource values of and management objectives for the lands, are appropriate.

6. The needs of urban, suburban, and small communities in the state ~~Florida~~ for high-quality outdoor recreational opportunities, greenways, trails, and open space have not been fully met by previous acquisition programs. Through such programs as the Florida Communities Trust and the Florida Recreation Development Assistance Program, the state shall place additional emphasis on acquiring, protecting, preserving, and restoring open space, ecological greenways, and recreation properties within urban, suburban, and rural areas where pristine natural communities or water bodies no longer exist because of the proximity of developed property.

7. Many of the state's ~~Florida's~~ unique ecosystems, such as the Florida Everglades, are facing ecological collapse due to the state's ~~Florida's~~ burgeoning population growth and other economic activities. To preserve these valuable ecosystems for future generations, essential parcels of land must be acquired to facilitate ecosystem restoration.

8. Access to public lands to support a broad range of outdoor recreational opportunities and the development of necessary infrastructure, if ~~where~~ compatible with the resource values of and management objectives for such lands, promotes an appreciation for the state's ~~Florida's~~ natural assets and improves the quality of life.

9. Acquisition of lands, in fee simple, less-than-fee interest, or other techniques shall be based on a comprehensive science-based assessment of the state's ~~Florida's~~ natural resources which targets essential conservation lands by prioritizing all current and future acquisitions based on a uniform set of data and planned so as to protect the integrity and function of ecological systems and working landscapes, and provide multiple benefits, including preservation of fish and wildlife habitat, recreation space for urban and rural areas, and the restoration of natural water storage, flow, and recharge.

10. The state has embraced performance-based program budgeting as a tool to evaluate the achievements of publicly funded agencies, build in accountability, and reward those agencies which are able to consistently achieve quantifiable goals. While previous and existing state environmental programs have achieved varying degrees of success, few of these programs

can be evaluated as to the extent of their achievements, primarily because performance measures, standards, outcomes, and goals were not established at the outset. Therefore, the Florida Forever program shall be developed and implemented in the context of measurable state goals and objectives.

11. The state must play a major role in the recovery and management of its imperiled species through the acquisition, restoration, enhancement, and management of ecosystems that can support the major life functions of such species. It is the intent of the Legislature to support local, state, and federal programs that result in net benefit to imperiled species habitat by providing public and private land owners meaningful incentives for acquiring, restoring, managing, and repopulating habitats for imperiled species. It is the further intent of the Legislature that public lands, both existing and to be acquired, identified by the lead land managing agency, in consultation with the ~~Florida~~ Fish and Wildlife Conservation Commission for animals or the Department of Agriculture and Consumer Services for plants, as habitat or potentially restorable habitat for imperiled species, be restored, enhanced, managed, and repopulated as habitat for such species to advance the goals and objectives of imperiled species management in a manner that is compatible with conservation or recreation purposes ~~consistent with the purposes for which such lands are acquired~~ without restricting other uses identified in the management plan. It is also the intent of the Legislature that of the proceeds distributed pursuant to subsection (3), additional consideration be given to acquisitions that achieve a combination of conservation goals, including the restoration, enhancement,

management, or repopulation of habitat for imperiled species. The ~~Acquisition and Restoration~~ council, in addition to the criteria in subsection (9), shall give weight to projects that include acquisition, restoration, management, or repopulation of habitat for imperiled species. The term "imperiled species" as used in this chapter and chapter 253, means plants and animals that are federally listed under the Endangered Species Act, or state-listed by the Fish and Wildlife Conservation Commission or the Department of Agriculture and Consumer Services.

~~a.~~ As part of the state's role, all state lands that have imperiled species habitat shall include as a consideration in management plan development the restoration, enhancement, management, and repopulation of such habitats. In addition, the lead land managing agency of such state lands may use fees received from public or private entities for projects to offset adverse impacts to imperiled species or their habitat in order to restore, enhance, manage, repopulate, or acquire land and to implement land management plans developed under s. 253.034 or a land management prospectus developed and implemented under this chapter. Such fees shall be deposited into a foundation or fund created by each land management agency under s. 379.223, s. 589.012, or s. 259.032(9)(c), to be used solely to restore, manage, enhance, repopulate, or acquire imperiled species habitat.

~~b. Where habitat or potentially restorable habitat for imperiled species is located on state lands, the Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services shall be included on any advisory group required under chapter 253, and the short-term~~

~~and long-term management goals required under chapter 253 must advance the goals and objectives of imperiled species management consistent with the purposes for which the land was acquired without restricting other uses identified in the management plan.~~

12. There is a need to change the focus and direction of the state's major land acquisition programs and to extend funding and bonding capabilities, so that future generations may enjoy the natural resources of this state.

(3) Less the costs of issuing and the costs of funding reserve accounts and other costs associated with bonds, the proceeds of cash payments or bonds issued pursuant to this section shall be deposited into the Florida Forever Trust Fund created by s. 259.1051. The proceeds shall be distributed by the department of Environmental Protection in the following manner:

(i) Three and five-tenths percent to the Department of Agriculture and Consumer Services for the acquisition of agricultural lands, through perpetual conservation easements and other perpetual less-than-fee techniques, which will achieve the objectives of Florida Forever and s. 570.71. Rules concerning the application, acquisition, and priority ranking process for such easements shall be developed pursuant to s. 570.71(10) and as provided by this paragraph. The board shall ensure that such rules are consistent with the acquisition process provided for in s. 253.025 ~~259.041~~. ~~Provisions of~~ The rules developed pursuant to s. 570.71(10), shall also provide for the following:

1. An annual priority list shall be developed pursuant to s. 570.71(10), submitted to the ~~Acquisition and Restoration~~ council for review, and approved by the board pursuant to s.

259.04.

2. Terms of easements and acquisitions proposed pursuant to this paragraph shall be approved by the board and may ~~shall~~ not be delegated by the board to any other entity receiving funds under this section.

3. All acquisitions pursuant to this paragraph shall contain a clear statement that they are subject to legislative appropriation.

~~No~~ Funds provided under this paragraph may not ~~shall~~ be expended until final adoption of rules by the board pursuant to s. 570.71.

(l) For the purposes of paragraphs (e), (f), (g), and (h), the agencies that receive the funds shall develop their individual acquisition or restoration lists in accordance with specific criteria and numeric performance measures developed pursuant to s. 259.035(4). Proposed additions may be acquired if they are identified within the original project boundary, the management plan required pursuant to s. 253.034(5), or the management prospectus required pursuant to s. 259.032(7)(c) ~~259.032(7)(d)~~. Proposed additions not meeting the requirements of this paragraph shall be submitted to the ~~Acquisition and Restoration~~ council for approval. The council may only approve the proposed addition if it meets two or more of the following criteria: serves as a link or corridor to other publicly owned property; enhances the protection or management of the property; would add a desirable resource to the property; would create a more manageable boundary configuration; has a high resource value that otherwise would be unprotected; or can be acquired at

less than fair market value.

(10) The ~~Acquisition and Restoration~~ council shall give increased priority to:

(a) ~~those~~ Projects for which matching funds are available.

(b) ~~and to~~ Project elements previously identified on an acquisition list pursuant to this section that can be acquired at 80 percent or less of appraised value.

(c) Projects that can be acquired in less than fee ownership, such as a permanent conservation easement.

(d) Projects that contribute to improving the quality and quantity of surface water and groundwater.

(e) Projects that contribute to improving the water quality and flow of springs.

(f) ~~The council shall also give increased priority to those~~ Projects for which ~~where~~ the state's land conservation plans overlap with the military's need to protect lands, water, and habitat to ensure the sustainability of military missions including:

1.~~(a)~~ Protecting habitat on nonmilitary land for any species found on military land that is designated as threatened or endangered, or is a candidate for such designation under the Endangered Species Act or any Florida statute;

2.~~(b)~~ Protecting areas underlying low-level military air corridors or operating areas; and

3.~~(c)~~ Protecting areas identified as clear zones, accident potential zones, and air installation compatible use buffer zones delineated by our military partners, and for which federal or other funding is available to assist with the project.

(13) An affirmative vote of at least five members of the

~~Acquisition and Restoration~~ council shall be required in order to place a ~~proposed~~ project submitted pursuant to subsection (7) on the proposed project list developed pursuant to subsection (8). Any member of the council who by family or a business relationship has a connection with any project proposed to be ranked shall declare such interest before ~~prior to~~ voting for a project's inclusion on the list.

(15) The ~~Acquisition and Restoration~~ council shall submit to the board ~~of trustees~~, with its list of projects, a report that includes, but need ~~shall~~ not be limited to, the following information for each project listed:

(i) A management policy statement for the project and a management prospectus pursuant to s. 259.032(7)(c) ~~259.032(7)(d)~~.

(19) The ~~Acquisition and Restoration~~ council shall recommend adoption of rules by the board ~~of trustees~~ necessary to implement ~~the provisions of~~ this section relating to~~:~~ solicitation, scoring, selecting, and ranking of Florida Forever project proposals; disposing of or leasing lands or water areas selected for funding through the Florida Forever program; and the process of reviewing and recommending for approval or rejection the land management plans associated with publicly owned properties. ~~Rules promulgated pursuant to this subsection shall be submitted to the President of the Senate and the Speaker of the House of Representatives, for review by the Legislature, no later than 30 days prior to the 2010 Regular Session and shall become effective only after legislative review. In its review, the Legislature may reject, modify, or take no action relative to such rules. The board of trustees~~

~~shall conform such rules to changes made by the Legislature, or, if no action was taken by the Legislature, such rules shall become effective.~~

Section 23. Subsections (6) and (7) of section 259.1052, Florida Statutes, are amended to read:

259.1052 Babcock Crescent B Ranch Florida Forever acquisition; conditions for purchase.—

~~(6) In addition to distributions authorized under s. 259.105(3), the Department of Environmental Protection is authorized to distribute $310 million in revenues from the Florida Forever Trust Fund. This distribution shall represent payment in full for the portion of the Babcock Crescent B Ranch to be acquired by the state under this section.~~

~~(7) As used in this section, the term "state's portion of the Babcock Crescent B Ranch" comprises those lands to be conveyed by special warranty deed to the Board of Trustees of the Internal Improvement Trust Fund under the provisions of the agreement for sale and purchase executed by the Board of Trustees of the Internal Improvement Trust Fund, the Fish and Wildlife Conservation Commission, the Department of Agriculture and Consumer Services, and the participating local government, as purchaser, and MSKP, III, a Florida corporation, as seller.~~

Section 24. Paragraph (d) of subsection (1) of section 73.015, Florida Statutes, is amended to read:

73.015 Presuit negotiation.—

(1) Effective July 1, 2000, before an eminent domain proceeding is brought under this chapter or chapter 74, the condemning authority must attempt to negotiate in good faith with the fee owner of the parcel to be acquired, must provide

the fee owner with a written offer and, if requested, a copy of the appraisal upon which the offer is based, and must attempt to reach an agreement regarding the amount of compensation to be paid for the parcel.

(d) Notwithstanding this subsection, with respect to lands acquired under s. 253.025 ~~259.041~~, the condemning authority is not required to give the fee owner the current appraisal before executing an option contract.

Section 25. Paragraph (b) of subsection (1) of section 125.355, Florida Statutes, is amended to read:

125.355 Proposed purchase of real property by county; confidentiality of records; procedure.—

(1)

(b) If the exemptions provided in this section are utilized, the governing body shall obtain at least one appraisal by an appraiser approved pursuant to s. 253.025 ~~253.025(6)(b)~~ for each purchase in an amount of not more than $500,000. For each purchase in an amount in excess of $500,000, the governing body shall obtain at least two appraisals by appraisers approved pursuant to s. 253.025 ~~253.025(6)(b)~~. If the agreed purchase price exceeds the average appraised price of the two appraisals, the governing body is required to approve the purchase by an extraordinary vote. The governing body may, by ordinary vote, exempt a purchase in an amount of $100,000 or less from the requirement for an appraisal.

Section 26. Paragraph (b) of subsection (1) of section 166.045, Florida Statutes, is amended to read:

166.045 Proposed purchase of real property by municipality; confidentiality of records; procedure.—

(1)

(b) If the exemptions provided in this section are utilized, the governing body shall obtain at least one appraisal by an appraiser approved pursuant to s. 253.025 ~~253.025(6)(b)~~ for each purchase in an amount of not more than $500,000. For each purchase in an amount in excess of $500,000, the governing body shall obtain at least two appraisals by appraisers approved pursuant to s. 253.025 ~~253.025(6)(b)~~. If the agreed purchase price exceeds the average appraised price of the two appraisals, the governing body is required to approve the purchase by an extraordinary vote. The governing body may, by ordinary vote, exempt a purchase in an amount of $100,000 or less from the requirement for an appraisal.

Section 27. Subsection (2) of section 215.82, Florida Statutes, is amended to read:

215.82 Validation; when required.—

(2) Any bonds issued pursuant to this act which are validated shall be validated in the manner provided by chapter 75. In actions to validate bonds to be issued in the name of the State Board of Education under s. 9(a) and (d), Art. XII of the State Constitution and bonds to be issued pursuant to chapter 259, the Land Conservation Program ~~Act of 1972~~, the complaint shall be filed in the circuit court of the county where the seat of state government is situated, the notice required to be published by s. 75.06 shall be published only in the county where the complaint is filed, and the complaint and order of the circuit court shall be served only on the state attorney of the circuit in which the action is pending. In any action to validate bonds issued pursuant to s. 1010.62 or issued pursuant

to s. 9(a)(1), Art. XII of the State Constitution or issued pursuant to s. 215.605 or s. 338.227, the complaint shall be filed in the circuit court of the county where the seat of state government is situated, the notice required to be published by s. 75.06 shall be published in a newspaper of general circulation in the county where the complaint is filed and in two other newspapers of general circulation in the state, and the complaint and order of the circuit court shall be served only on the state attorney of the circuit in which the action is pending; provided, however, that if publication of notice pursuant to this section would require publication in more newspapers than would publication pursuant to s. 75.06, such publication shall be made pursuant to s. 75.06.

Section 28. Section 215.965, Florida Statutes, is amended to read:

215.965 Disbursement of state moneys.—Except as provided in s. 17.076, s. 253.025(17) ~~253.025(14), s. 259.041(18)~~, s. 717.124(4)(b) and (c), s. 732.107(5), or s. 733.816(5), all moneys in the State Treasury shall be disbursed by state warrant, drawn by the Chief Financial Officer upon the State Treasury and payable to the ultimate beneficiary. This authorization shall include electronic disbursement.

Section 29. Subsection (8) of section 253.027, Florida Statutes, is amended to read:

253.027 Emergency archaeological property acquisition.—

(8) WAIVER OF APPRAISALS OR SURVEYS.—The Board of Trustees of the Internal Improvement Trust Fund may waive or limit any appraisal or survey requirements in s. 253.025 ~~259.041~~, if necessary to effectuate the purposes of this section. Fee simple

title is not required to be conveyed if some lesser interest will allow the preservation of the archaeological resource. Properties purchased pursuant to this section shall be considered archaeologically unique or significant properties and may be purchased under the provisions of s. 253.025(9) ~~253.025(7)~~.

Section 30. Section 253.7824, Florida Statutes, is amended to read:

253.7824 Sale of products; proceeds.—The Department of Environmental Protection may authorize the removal and sale of products from the land where environmentally appropriate, the proceeds from which shall be deposited into the appropriate trust fund in accordance with the same disposition provided under s. 253.0341 ~~253.034(6)(k), (l), or (m)~~ applicable to the sale of land.

Section 31. Paragraphs (b) and (c) of subsection (2) of section 260.015, Florida Statutes, are amended to read:

260.015 Acquisition of land.—

(2) For purposes of the Florida Greenways and Trails Program, the board may:

(b) Accept title to abandoned railroad rights-of-way which is conveyed by quitclaim deed through purchase, dedication, gift, grant, or settlement, notwithstanding s. 253.025 ~~259.041(1)~~.

(c) Enter into an agreement or, upon delegation, the department may enter into an agreement, with a nonprofit corporation, as defined in s. 253.025 ~~259.041(7)(e)~~, to assume responsibility for acquisition of lands pursuant to this section. The agreement may transfer responsibility for all

matters which may be delegated or waived pursuant to s. 253.025 ~~259.041(1)~~.

Section 32. Paragraph (b) of subsection (3) of section 260.016, Florida Statutes, is amended to read:

260.016 General powers of the department.—

(3) The department or its designee is authorized to negotiate with potentially affected private landowners as to the terms under which such landowners would consent to the public use of their lands as part of the greenways and trails system. The department shall be authorized to agree to incentives for a private landowner who consents to this public use of his or her lands for conservation or recreational purposes, including, but not limited to, the following:

(b) Agreement to exchange, subject to the approval of the board ~~of Trustees of the Internal Improvement Trust Fund~~ or other applicable unit of government, ownership or other rights of use of public lands for the ownership or other rights of use of privately owned lands. Any exchange of state-owned lands, title to which is vested in the board ~~of Trustees of the Internal Improvement Trust Fund~~, for privately owned lands shall be subject to the requirements of s. 253.025 ~~259.041~~.

Section 33. Subsections (6) and (7) of section 369.317, Florida Statutes, are amended to read:

369.317 Wekiva Parkway.—

(6) The Central Florida Expressway Authority is hereby granted the authority to act as a third-party acquisition agent, pursuant to s. 253.025 ~~259.041~~ on behalf of the Board of Trustees of the Internal Improvement Trust Fund or chapter 373 on behalf of the governing board of the St. Johns River Water

Management District, for the acquisition of all necessary lands, property and all interests in property identified herein, including fee simple or less-than-fee simple interests. The lands subject to this authority are identified in paragraph 10.a., State of Florida, Office of the Governor, Executive Order 03-112 of July 1, 2003, and in Recommendation 16 of the Wekiva Basin Area Task Force created by Executive Order 2002-259, such lands otherwise known as Neighborhood Lakes, a 1,587+/-acre parcel located in Orange and Lake Counties within Sections 27, 28, 33, and 34 of Township 19 South, Range 28 East, and Sections 3, 4, 5, and 9 of Township 20 South, Range 28 East; Seminole Woods/Swamp, a 5,353+/-acre parcel located in Lake County within Section 37, Township 19 South, Range 28 East; New Garden Coal; a 1,605+/-acre parcel in Lake County within Sections 23, 25, 26, 35, and 36, Township 19 South, Range 28 East; Pine Plantation, a 617+/-acre tract consisting of eight individual parcels within the Apopka City limits. The Department of Transportation, the Department of Environmental Protection, the St. Johns River Water Management District, and other land acquisition entities shall participate and cooperate in providing information and support to the third-party acquisition agent. The land acquisition process authorized by this paragraph shall begin no later than December 31, 2004. Acquisition of the properties identified as Neighborhood Lakes, Pine Plantation, and New Garden Coal, or approval as a mitigation bank shall be concluded no later than December 31, 2010. Department of Transportation and Central Florida Expressway Authority funds expended to purchase an interest in those lands identified in this subsection shall be eligible as environmental mitigation for

road construction related impacts in the Wekiva Study Area. If any of the lands identified in this subsection are used as environmental mitigation for road-construction-related impacts incurred by the Department of Transportation or Central Florida Expressway Authority, or for other impacts incurred by other entities, within the Wekiva Study Area or within the Wekiva parkway alignment corridor, and if the mitigation offsets these impacts, the St. Johns River Water Management District and the Department of Environmental Protection shall consider the activity regulated under part IV of chapter 373 to meet the cumulative impact requirements of s. 373.414(8)(a).

(a) Acquisition of the land described in this section is required to provide right-of-way for the Wekiva Parkway, a limited access roadway linking State Road 429 to Interstate 4, an essential component in meeting regional transportation needs to provide regional connectivity, improve safety, accommodate projected population and economic growth, and satisfy critical transportation requirements caused by increased traffic volume growth and travel demands.

(b) Acquisition of the lands described in this section is also required to protect the surface water and groundwater resources of Lake, Orange, and Seminole counties, otherwise known as the Wekiva Study Area, including recharge within the springshed that provides for the Wekiva River system. Protection of this area is crucial to the long term viability of the Wekiva River and springs and the central Florida region’s water supply. Acquisition of the lands described in this section is also necessary to alleviate pressure from growth and development affecting the surface and groundwater resources within the

recharge area.

(c) Lands acquired pursuant to this section that are needed for transportation facilities for the Wekiva Parkway shall be determined not necessary for conservation purposes pursuant to ss. 253.0341 ~~253.034(6)~~ and 373.089(5) and shall be transferred to or retained by the Central Florida Expressway Authority or the Department of Transportation upon reimbursement of the full purchase price and acquisition costs.

(7) The Department of Transportation, the Department of Environmental Protection, the St. Johns River Water Management District, Central Florida Expressway Authority, and other land acquisition entities shall cooperate and establish funding responsibilities and partnerships by agreement to the extent funds are available to the various entities. Properties acquired with Florida Forever funds shall be in accordance with s. 253.025 ~~259.041~~ or chapter 373. The Central Florida Expressway Authority shall acquire land in accordance with this section ~~of law~~ to the extent funds are available from the various funding partners; however, the authority is~~, but shall~~ not ~~be~~ required or ~~nor~~ assumed to fund the land acquisition beyond the agreement and funding provided by the various land acquisition entities.

Section 34. Paragraph (a) of subsection (3) of section 373.139, Florida Statutes, is amended to read:

373.139 Acquisition of real property.—

(3) The initial 5-year work plan and any subsequent modifications or additions thereto shall be adopted by each water management district after a public hearing. Each water management district shall provide at least 14 days' advance notice of the hearing date and shall separately notify each

county commission within which a proposed work plan project or project modification or addition is located of the hearing date.

(a) Appraisal reports, offers, and counteroffers are confidential and exempt from ~~the provisions of~~ s. 119.07(1) until an option contract is executed or, if no option contract is executed, until 30 days before a contract or agreement for purchase is considered for approval by the governing board. However, each district may, at its discretion, disclose appraisal reports to private landowners during negotiations for acquisitions using alternatives to fee simple techniques, if the district determines that disclosure of such reports will bring the proposed acquisition to closure. If ~~In the event that~~ negotiation is terminated by the district, the appraisal report, offers, and counteroffers shall become available pursuant to s. 119.07(1). Notwithstanding ~~the provisions of~~ this section and s. 253.025 ~~259.041~~, a district and the Division of State Lands may share and disclose appraisal reports, appraisal information, offers, and counteroffers when joint acquisition of property is contemplated. A district and the Division of State Lands shall maintain the confidentiality of such appraisal reports, appraisal information, offers, and counteroffers in conformance with this section and s. 253.025 ~~259.041~~, except in those cases in which a district and the division have exercised discretion to disclose such information. A district may disclose appraisal information, offers, and counteroffers to a third party who has entered into a contractual agreement with the district to work with or on the behalf of or to assist the district in connection with land acquisitions. The third party shall maintain the confidentiality of such information in conformance with this

section. In addition, a district may use, as its own, appraisals obtained by a third party provided the appraiser is selected from the district's list of approved appraisers and the appraisal is reviewed and approved by the district.

Section 35. Subsection (8) of section 375.031, Florida Statutes, is amended to read:

375.031 Acquisition of land; procedures.—

(8) The department may, if it deems it desirable and in the best interest of the program, request the board of trustees to sell or otherwise dispose of any lands or water storage areas acquired under this act. The board of trustees, when so requested, shall offer the lands or water storage areas, on such terms as the department may determine, first to other state agencies and then, if still available, to the county or municipality in which the lands or water storage areas lie. If not acquired by another state agency or local governmental body for beneficial public purposes, the lands or water storage areas shall then be offered by the board of trustees at public sale, after first giving notice of such sale by publication in a newspaper published in the county or counties in which such lands or water storage areas lie not less than once a week for 3 consecutive weeks. All proceeds from the sale or disposition of any lands or water storage areas pursuant to this section shall be deposited into the appropriate trust fund pursuant to s. 253.0341 ~~253.034(6)(k), (l), or (m)~~.

Section 36. Subsection (2) of section 375.041, Florida Statutes, is amended to read:

375.041 Land Acquisition Trust Fund.—

(2) All moneys and revenue from the sale or other

disposition of land, water areas, or related resources acquired on or after July 1, 2015, for the purposes of s. 28, Art. X of the State Constitution shall be deposited into or credited to the Land Acquisition Trust Fund, except as otherwise provided pursuant to s. 253.0341 ~~253.034(6)(l)~~.

Section 37. Paragraph (a) of subsection (1) of section 380.05, Florida Statutes, is amended to read:

380.05 Areas of critical state concern.—

(1)(a) The state land planning agency may from time to time recommend to the Administration Commission specific areas of critical state concern. In its recommendation, the agency shall include recommendations with respect to the purchase of lands situated within the boundaries of the proposed area as environmentally endangered lands and outdoor recreation lands under the Land Conservation Program ~~Act of 1972~~. The agency also shall include any report or recommendation of a resource planning and management committee appointed pursuant to s. 380.045; the dangers that would result from uncontrolled or inadequate development of the area and the advantages that would be achieved from the development of the area in a coordinated manner; a detailed boundary description of the proposed area; specific principles for guiding development within the area; an inventory of lands owned by the state, federal, county, and municipal governments within the proposed area; and a list of the state agencies with programs that affect the purpose of the designation. The agency shall recommend actions which the local government and state and regional agencies must accomplish in order to implement the principles for guiding development. These actions may include, but need ~~shall~~ not be limited to, revisions

of the local comprehensive plan and adoption of land development regulations, density requirements, and special permitting requirements.

Section 38. Paragraph (b) of subsection (5) of section 380.055, Florida Statutes, is amended to read:

380.055 Big Cypress Area.—

(5) ACQUISITION OF BIG CYPRESS NATIONAL PRESERVE.—

(b) The Board of Trustees of the Internal Improvement Trust Fund shall set aside from the proceeds of the full faith and credit bonds authorized by the Land Conservation Program ~~Act of 1972~~, or from other funds authorized, appropriated, or allocated for the acquisition of environmentally endangered lands, or from both sources, $40 million for acquisition of the area proposed as the Federal Big Cypress National Preserve, Florida, or portions thereof.

Section 39. Paragraph (f) of subsection (4) of section 380.508, Florida Statutes, is amended to read:

380.508 Projects; development, review, and approval.—

(4) Projects or activities which the trust undertakes, coordinates, or funds in any manner shall comply with the following guidelines:

(f) The trust shall cooperate with local governments, state agencies, federal agencies, and nonprofit organizations in ensuring the reservation of lands for parks, recreation, fish and wildlife habitat, historical preservation, or scientific study. If any local government, state agency, federal agency, or nonprofit organization is unable, due to limited financial resources or other circumstances of a temporary nature, to acquire a site for the purposes described in this paragraph, the

trust may acquire and hold the site for subsequent conveyance to the appropriate governmental agency or nonprofit organization. The trust may provide such technical assistance as required to aid local governments, state and federal agencies, and nonprofit organizations in completing acquisition and related functions. The trust may not reserve lands acquired in accordance with this paragraph for more than 5 years from the time of acquisition. A local government, federal or state agency, or nonprofit organization may acquire the land at any time during this period for public purposes. The purchase price shall be based upon the trust's cost of acquisition, plus administrative and management costs in reserving the land. The payment of the purchase price shall be by money, trust-approved property of an equivalent value, or a combination of money and trust-approved property. If, after the 5-year period, the trust has not sold to a governmental agency or nonprofit organization land acquired for site reservation, the trust shall dispose of such land at fair market value or shall trade it for other land of comparable value which will serve to accomplish the purposes of this part. Any proceeds from the sale of such land received by the department shall be deposited into the appropriate trust fund pursuant to s. 253.0341 ~~253.034(6)(k), (l), or (m)~~.

Project costs may include costs of providing parks, open space, public access sites, scenic easements, and other areas and facilities serving the public where such features are part of a project plan approved according to this part. In undertaking or coordinating projects or activities authorized by this part, the trust shall, when appropriate, use and promote the use of

creative land acquisition methods, including the acquisition of less than fee interest through, among other methods, conservation easements, transfer of development rights, leases, and leaseback arrangements. The trust shall assist local governments in the use of sound alternative methods of financing for funding projects and activities authorized under this part. Any funds over and above eligible project costs, which remain after completion of a project approved according to this part, shall be transmitted to the state and deposited into the Florida Forever Trust Fund.

Section 40. Section 589.07, Florida Statutes, is amended to read:

589.07 Florida Forest Service may acquire lands for forest purposes.—The Florida Forest Service, on behalf of the state and subject to the restrictions mentioned in s. 589.08, may acquire lands, suitable for state forest purposes, by gift, donation, contribution, purchase, or otherwise and may enter into agreements with the Federal Government, or other agency, for acquiring by gift, purchase, or otherwise, such lands as are, in the judgment of the Florida Forest Service, suitable and desirable for state forests. The acquisition procedures for state lands provided in s. 253.025 ~~259.041~~ do not apply to acquisition of land by the Florida Forest Service.

Section 41. Paragraphs (a) and (b) of subsection (4) of section 944.10, Florida Statutes, are amended to read:

944.10 Department of Corrections to provide buildings; sale and purchase of land; contracts to provide services and inmate labor.—

(4)(a) Notwithstanding s. 253.025 or s. 287.057, whenever

the department finds it to be necessary for timely site acquisition, it may contract without the need for competitive selection with one or more appraisers whose names are contained on the list of approved appraisers maintained by the Division of State Lands of the Department of Environmental Protection in accordance with s. 253.025(8) ~~253.025(6)(b)~~. In those instances in which the department directly contracts for appraisal services, it must also contract with an approved appraiser who is not employed by the same appraisal firm for review services.

(b) Notwithstanding s. 253.025(8) ~~253.025(6)~~, the department may negotiate and enter into an option contract before an appraisal is obtained. The option contract must state that the final purchase price cannot exceed the maximum value allowed by law. The consideration for such an option contract may not exceed 10 percent of the estimate obtained by the department or 10 percent of the value of the parcel, whichever amount is greater.

Section 42. Subsections (6) and (7) of section 957.04, Florida Statutes, are amended to read:

957.04 Contract requirements.—

(6) Notwithstanding s. 253.025(9) ~~253.025(7)~~, the Board of Trustees of the Internal Improvement Trust Fund need not approve a lease-purchase agreement negotiated by the Department of Management Services if the Department of Management Services finds that there is a need to expedite the lease-purchase.

(7)(a) Notwithstanding s. 253.025 or s. 287.057, whenever the Department of Management Services finds it to be in the best interest of timely site acquisition, it may contract without the need for competitive selection with one or more appraisers whose

names are contained on the list of approved appraisers maintained by the Division of State Lands of the Department of Environmental Protection in accordance with s. 253.025(8) ~~253.025(6)(b)~~. In those instances when the Department of Management Services directly contracts for appraisal services, it shall also contract with an approved appraiser who is not employed by the same appraisal firm for review services.

(b) Notwithstanding s. 253.025(8) ~~253.025(6)~~, the Department of Management Services may negotiate and enter into lease-purchase agreements before an appraisal is obtained. Any such agreement must state that the final purchase price cannot exceed the maximum value allowed by law.

Section 43. Paragraphs (a) and (b) of subsection (12) of section 985.682, Florida Statutes, are amended to read:

985.682 Siting of facilities; criteria.—

(12)(a) Notwithstanding s. 253.025 or s. 287.057, when the department finds it necessary for timely site acquisition, it may contract, without using the competitive selection procedure, with an appraiser whose name is on the list of approved appraisers maintained by the Division of State Lands of the Department of Environmental Protection under s. 253.025(8) ~~253.025(6)(b)~~. When the department directly contracts for appraisal services, it must contract with an approved appraiser who is not employed by the same appraisal firm for review services.

(b) Notwithstanding s. 253.025(8) ~~253.025(6)~~, the department may negotiate and enter into an option contract before an appraisal is obtained. The option contract must state that the final purchase price may not exceed the maximum value

allowed by law. The consideration for such an option contract may not exceed 10 percent of the estimate obtained by the department or 10 percent of the value of the parcel, whichever amount is greater.

Section 44. Paragraph (b) of subsection (1) of section 1013.14, Florida Statutes, is amended to read:

1013.14 Proposed purchase of real property by a board; confidentiality of records; procedure.—

(1)

(b) Before ~~Prior to~~ acquisition of the property, the board shall obtain at least one appraisal by an appraiser approved pursuant to s. 253.025(8) ~~253.025(6)(b)~~ for each purchase in an amount greater than $100,000 and not more than $500,000. For each purchase in an amount in excess of $500,000, the board shall obtain at least two appraisals by appraisers approved pursuant to s. 253.025(8) ~~253.025(6)(b)~~. If the agreed to purchase price exceeds the average appraised value, the board is required to approve the purchase by an extraordinary vote.

Section 45. This act shall take effect July 1, 2016.

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/16
Meeting Date

1290
Bill Number (if applicable)

Topic STATE LANDS

Amendment Barcode (if applicable)

Name DAVID COLLEY

Job Title

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Sarasota FL 34243
City *State* *Zip*

Phone

Email

Speaking: ☐ For ☑ Against ☐ Information

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

Representing SIERRA CLUB FLORIDA

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/3/16
Meeting Date

1290
Bill Number (if applicable)

Topic State Lands

Amendment Barcode (if applicable)

Name Andrew Ketchel

Job Title Director of Legislative Affairs

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Speaking: ☑ For ☐ Against ☐ Information

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

Representing Dept. Of Environmental Protection

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3 / 3 /2016
Meeting Date

Topic _____ Bill Number 1290 *(if applicable)*

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

Job Title TRUSTEE

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

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

Speaking: ☑ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

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

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

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

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	PCS/SB 1356 (964084)
INTRODUCER:	Appropriations Committee (Recommended by Appropriations Subcommittee on Education); and Senators Brandes and Stargel
SUBJECT:	Employment After Retirement of School District Personnel
DATE:	March 2, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peacock	McVaney	GO	**Favorable**
2.	Sikes	Elwell	AED	**Recommend: Fav/CS**
3.	Sikes	Kynoch	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 1356 amends section 1012.33, Florida Statutes, to clarify provisions relating to reemployment of retirees by district school boards as instructional personnel on a contract basis.

The bill has no impact on state funds.

The bill takes effect upon becoming a law.

II. Present Situation:

School District Instructional Personnel Contracts

In 2011, the Legislature passed the Student Success Act (act),[1] to require, among other things, the use of performance evaluations to assess performance. The evaluation system for administrative and instructional personnel differentiates among four levels of performance: highly effective, effective, needs improvement,[2] or unsatisfactory.[3] The Commissioner of

[1] Chapter 2011-1, L.O.F.
[2] Section 1012.34(2)(e)3., F.S., provides that for instructional personnel in the first three years of employment, the evaluation may designate the performance as developing.
[3] Section 1012.34(2)(e), F.S.

Education is required to consult with experts, instructional personnel, school administrators, and education stakeholders in developing the criteria for the performance levels.

Prior to 2011, instructional personnel with as little as three years of service could be granted a professional service contract, which provided for automatic renewal of the contract unless the superintendent charged the employee with unsatisfactory performance.[4] For instructional personnel hired on or after July 1, 2011, the act, in effect, provides that professional service contracts and tenure may no longer be given to any instructional personnel who do not currently have a professional service contract.

Specifically, the act provides that employees hired on or after July 1, 2011, must be awarded probationary contracts for a period of one year upon initial employment in a school district.[5] Probationary contract employees may be dismissed without cause or may resign without breach of contract.[6] The district may not award a probationary contract more than once to the same employee.[7] The school district may award an annual contract upon the successful completion of a probationary contract.[8] An annual contract is an employment contract for a period of no longer than one school year, which the district school board may choose to award or not award at the end of the contract term without cause.[9] Instructional personnel with an annual contract may be suspended or dismissed at any time during the term of the contract for just cause.[10]

In addition, the act links the renewal of a professional service contract, for those employees who have a professional service contract, to the employee's performance evaluation.[11] If an employee who holds a professional service contract is not performing his or her duties in a satisfactory manner, the act requires such an employee to receive notice and be placed on probation.[12] If the employee receives two consecutive annual performance evaluations of unsatisfactory, two annual performance evaluations of unsatisfactory within a three-year period, or three consecutive annual performance evaluations of needs improvement or a combination of needs improvement and unsatisfactory, the district may terminate or not renew the employee's contract.[13]

The Florida Retirement System

The Florida Retirement System (FRS) was established in 1970 when the Legislature consolidated the Teachers' Retirement System, the State and County Officers and Employees' Retirement System, and the Highway Patrol Pension Fund. In 1972, the Judicial Retirement System was added to the FRS, and in 2007, the membership of the Institute of Food and Agricultural Sciences Supplemental Retirement Program was included in the Regular Class of the FRS as a

[4] *See* s. 1012.33(3)(e), F.S. (2010).
[5] Section 1012.335(2)(a), F.S.
[6] Section 1012.335(1)(c), F.S.
[7] *Id.*
[8] Section 1012.335(2)(a), F.S.
[9] Section 1012.335(1)(a), F.S.
[10] Section 1012.335(4), F.S.
[11] Section 1012.33(3), F.S.
[12] Section 1012.34(4)(b), F.S.
[13] See ss. 1012.33 and 1012.34, F.S.

closed group.[14] The FRS is a contributory system, with most members contributing three percent of their salaries.[15]

The FRS is a multi-employer, contributory plan, governed by the Florida Retirement System Act in Ch. 121, F.S. As of June 30, 2014, the FRS had 622,089 active members, 363,034 annuitants, 16,137 disabled retirees, and 38,058 active participants of the Deferred Retirement Option Program (DROP).[16] As of June 30, 2014, the FRS consisted of 1,014 total employers and is the primary retirement plan for the employees and officers of state and county government agencies, district school boards, Florida College institutions, and state universities, as well as the employees and officers of the 186 cities and 262 special districts that have elected to join the system.[17]

The membership of the FRS is divided into five membership classes:

- The Regular Class[18] consists of 537,993 active members, plus 5,402 in renewed membership;
- The Special Risk Class[19] includes 68,593 active members;
- The Special Risk Administrative Support Class[20] has 84 active members;
- The Elected Officers' Class[21] has 2,040 active members, plus 147 in renewed membership; and
- The Senior Management Service Class[22] has 7,607 members, plus 184 in renewed membership.[23]

Investment Plan

In 2000, the Legislature created the Public Employee Optional Retirement Program (investment plan), a defined contribution plan offered to eligible employees as an alternative to the FRS Pension Plan.

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[14] The Florida Retirement System Pension Plan and Other State Administered Systems Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2014, at p. 29. Available online at: https://www.rol.frs.state.fl.us/forms/2013-14_CAFR.pdf.

[15] Prior to 1975, members of the FRS were required to make employee contributions of either four percent for Regular Class employees or six percent for Special Risk Class members. Employees were again required to contribute to the system after July 1, 2011. Members in the Deferred Retirement Option Program do not contribute to the system.

[16] Florida Retirement System Annual Financial Report Fiscal Year Ended June 30, 2014, at 112.

[17] *Id.*, at 146.

[18] The Regular Class is for all members who are not assigned to another class. (Section 121.021(12), F.S.)

[19] The Special Risk Class is for members employed as law enforcement officers, firefighters, correctional officers, probation officers, paramedics and emergency technicians, among others. (Section 121.0515, F.S.)

[20] The Special Risk Administrative Support Class is for a special risk member who moved or was reassigned to a nonspecial risk law enforcement, firefighting, correctional, or emergency medical care administrative support position with the same agency, or who is subsequently employed in such a position under the Florida Retirement System. Section 121.0515(8), F.S.

[21] The Elected Officers' Class is for elected state and county officers, and for those elected municipal or special district officers whose governing body has chosen Elected Officers' Class participation for its elected officers. Section 121.052, F.S.

[22] The Senior Management Service Class is for members who fill senior management level positions assigned by law to the Senior Management Service Class or authorized by law as eligible for Senior Management Service designation. (Section 121.055, F.S.)

[23] All figures from Florida Retirement System Annual Financial Report Fiscal Year Ended June 30, 2014, at 115.

Benefits under the investment plan accrue in individual member accounts funded by both employee and employer contributions and investment earnings. Benefits are provided through employee-directed investments offered by approved investment providers.

A member vests immediately in all employee contributions paid to the investment plan.[24] With respect to the employer contributions, a member vests after completing one work year of employment with an FRS employer.[25] Vested benefits are payable upon termination or death as a lump-sum distribution, direct rollover distribution, or periodic distribution.[26] The investment plan also provides disability coverage for both in the line of duty and regular disability retirement benefits.[27] An FRS member who qualifies for disability while enrolled in the investment plan must apply for benefits as if the employee were a member of the pension plan. If approved for retirement disability benefits, the member is transferred to the pension plan.[28]

The State Board of Administration (SBA) is primarily responsible for administering the investment plan.[29] The SBA is comprised of the Governor as chair, the Chief Financial Officer, and the Attorney General.[30]

Pension Plan

The pension plan is administered by the secretary of the Department of Management Services through the Division of Retirement.[31] Investment management of the pension plan assets is handled by the State Board of Administration.

Any member initially enrolled in the pension plan before July 1, 2011, vests in the pension plan after completing six years of service with an FRS employer.[32] For members enrolled on or after July 1, 2011, the member vests in the pension plan after eight years of creditable service.[33] Benefits payable under the pension plan are calculated based on the member's years of creditable service multiplied by the service accrual rate multiplied by the member's average final compensation.[34] For most members of the pension plan, normal retirement occurs at 30 years of service or age 62.[35] For members in the Special Risk and Special Risk Administrative Support

[24] Section 121.4501(6)(a), F.S.
[25] If a member terminates employment before vesting in the investment plan, the nonvested money is transferred from the member's account to the SBA for deposit and investment by the SBA in its suspense account for up to five years. If the member is not reemployed as an eligible employee within five years, then any nonvested accumulations transferred from a member's account to the SBA's suspense account are forfeited. (Section 121.4501(6)(b) – (d), F.S.)
[26] Section 121.591, F.S.
[27] Section 121.4501(16), F.S.
[28] Pension plan disability retirement benefits, which apply for investment plan members who qualify for disability, compensate an in the line of duty disabled member up to 65 percent of the average monthly compensation as of the disability retirement date for special risk class members. Other members may receive up to 42 percent of the member's average monthly compensation for disability retirement benefits. If the disability occurs other than in the line of duty, the monthly benefit may not be less than 25 percent of the average monthly compensation as of the disability retirement date. Section 121.091(4)(f), F.S.
[29] Section 121.4501(8), F.S.
[30] FLA.CONST. art. IV, s. 4.
[31] Section 121.025, F.S.
[32] Section 121.021(45)(a), F.S.
[33] Section 121.021(45)(b), F.S.
[34] Section 121.091, F.S.
[35] Section 121.021(29)(a)1., F.S.

Classes, normal retirement occurs at 25 years of service or age 55.[36] Members initially enrolled in the pension plan on or after July 1, 2011, have longer vesting requirements. For unreduced benefits for members initially enrolled after that date, most members must complete 33 years of service or attain age 65, and members in the Special Risk classes must complete 30 years of service or attain age 60.[37]

Deferred Retirement Option Program

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 and receive a lump sum benefit at a fixed rate of interest for that additional service.[38] Certain instructional personnel in district school boards may participate in DROP for an additional 36 months.[39] Enrollment in DROP requires the participant to serve the employer with a deferred resignation from employment at the end of the period. Current law provides that members who reach their normal retirement date based on service before they reach age 62, or age 55 for Special Risk members, may defer participation in DROP to the 12 months immediately following the attainment of age 57, or 52.[40]

Employment after Retirement

Section 121.091, F.S., governs the payment of benefits under the FRS. For the purposes of the pension plan, a "retiree" means a former member of the FRS or an existing system who has terminated employment and is receiving benefit payments from the system in which he or she was a member.[41] For the purposes of the investment plan, a "retiree" means a former member of the investment plan who has terminated employment and taken a distribution of vested employee or employer contributions, except for a mandatory distribution of a de minimis account authorized by the state board or a minimum required distribution provided the Internal Revenue Code.[42]

After retiring under the FRS, a retiree can work for any private employer, for any public employer not participating in the FRS, or for any employer in another state, without affecting their FRS benefits.

However, there are certain termination requirements and reemployment limitations that affect retirement benefits if a retiree is employed with an FRS-participating employer during the first 12 calendar months after the effective retirement date without DROP participation or after the DROP termination date. If a retiree returns to work during the first six calendar months of retirement or after the member's DROP termination date, then the member's retirement application is voided and all retirement benefits, including any funds accumulated during DROP participation, must be repaid to the FRS Trust Fund. This restriction applies even if the particular

[36] Section 121.021(29)(b)1., F.S.
[37] Sections 121.021(29)(a)2. and (b)2., F.S.
[38] Section 121.021(13)(a), F.S.
[39] Section 121.021(13)(b), F.S.
[40] Section 121.091(13)(a)2., F.S.
[41] Section 121.021(60), F.S.
[42] Section 121.4501(2)(k), F.S.

position held is not covered by the FRS. An FRS retiree cannot be reemployed by an FRS employer for a period of 6 months without voiding the member's retirement.

A retiree's benefit will be suspended if the retiree is hired by an FRS participating employer during the seventh through twelfth calendar months of retirement or after the DROP termination date. Beginning the thirteenth calendar month, the benefits are reinstated and no employment restrictions exist.

Suspended retirement benefits for the months a reemployed retiree is employed by an FRS employer during the reemployment limitation period are not payable to the retiree. The reemployed retiree and the employing agency are jointly and severally liable for repaying any retirement benefits the employee receives while working during this period.

There are no limits on working for an FRS employer after a retiree has been retired for 12 calendar months. If a retiree is re-employed with an FRS participating employer, the retiree will be required to sign a statement that the reemployment does not violate these provisions.[43]

Prior to July 1, 2010, there were various exceptions to employment with FRS-covered employers during the reemployment limitation period. All reemployment limitation exceptions that were not specific to educational institutions were closed by passage of Ch. 2009-209, L.O.F., which also extended the termination period from 1 month to 6 months immediately after retirement during which a retiree could not be reemployed with any FRS employer without voiding his retirement.

Legal Ambiguity for Reemployment of Instructional Personnel

In 2011, two retired reemployed instructional personnel brought suit in Orange County, Florida to determine whether the county was required to issue professional service contracts after the employees' successfully completed three years of employment.[44] The Orange County Public Schools argued that s. 121.091, F.S., required the instructional personnel to be rehired on an annual contractual basis. The issue in the case centered on whether the FRS act required instructional personnel to be reemployed with an annual contract for the rest of the member's career, or whether the FRS act only pertained to the initial year of reemployment and such member may ultimately be given a professional service contract under s. 1012.33, F.S., which provided for such a contract after three years of service.

The circuit court found that the Legislature intended for retired teachers to be rehired on the same terms as newly hired teachers. At that time, newly hired teachers were placed on an initial annual contract and after serving three years in the district, received a professional service contract.

The Orange County School Board appealed the final judgment to the Fifth District Court of Appeal arguing that the trial court erred and that s. 121.091, F.S., precludes the school board

[43] The information in this section of the bill analysis comes from the FRS Pension Plan: Deferred Retirement Option Program Handbook, 2014 edition, located at https://www.rol.frs.state.fl.us/forms/drop-guide.pdf and the FRS Pension Plan member Handbook, 2013 edition, located at https://www.rol.frs.state.fl.us/forms/member_handbook.pdf. *See also* ss. 121.091(9), 121.122, and 1012.01(2), F.S.

[44] A copy of the circuit court decision is on file with the Senate Government Oversight and Accountability Committee.

from ever issuing a contract longer than an annual contract when employing retired instructional personnel.[45] The Fifth District Court of Appeal, however, agreed with the lower court and found that the limitations in s. 121.091, F.S., only apply at the time of the initial rehire.

III. Effect of Proposed Changes:

Section 1 amends s. 1012.33, F.S., to allow a district school board to reemploy a retiree as instructional personnel under a 1-year probationary contract. If the retiree successfully completes the probationary contract, such employee may receive an annual contract. The bill states that the retiree is not eligible for a professional service contract.

Section 2 provides that this bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of a state tax shares with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The private sector impact of PCS/SB 1356 is indeterminate.

C. Government Sector Impact:

The bill has no impact on state funds. The bill may have an impact on school districts since districts will not be required to provide professional services contracts for instructional personnel who are rehired after retiring from the FRS.

[45] *Orange County School Board v. Rachman and Schuman*, 87 So.3d 48 (Fla. 5th DCA 2012).

VI. Technical Deficiencies:

This bill uses the term "retiree" but does not define the term. It is unclear whether retiree is intended to include all retirees (private and public sector), retirees of the FRS pension plan, retirees of the FRS investment plan, or retirees from the particular school district. The effects of this legislation could be significantly different based on this definition.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1012.33 of the Florida Statutes.

IX. Additional Information:

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

Recommended CS by Appropriations Subcommittee on Education on February 24, 2016:
The committee substitute:

- Specifically states that a reemployed retiree is not eligible for a professional service contract.
- Removes provisions stating legislative intent and the Legislature's position on the opinion of the Fifth District Court of Appeal in *Orange County School Board v. Rachman and Schuman*, 87 So.3d 48 (Fla. 5th DCA 2012).
- Removes the provision stating that the bill does not void, or intend to void any professional service contract awarded to a retiree before the bill's effective date.
- Removes direction for the Division of Law Revision and Information to replace the phrase "the effective date of this act" wherever it occurs in this act with the date the act becomes law

B. Amendments:

None.

964084

576-04115-16

Proposed Committee Substitute by the Committee on Appropriations (Appropriations Subcommittee on Education)

A bill to be entitled

An act relating to employment after retirement of school district personnel; amending s. 1012.33, F.S.; revising provisions relating to reemployment of retirees as instructional personal on a contract basis; providing that retirees are not eligible for a professional service contract; providing an effective date.

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

Section 1. Subsection (8) of section 1012.33, Florida Statutes, is amended to read:

1012.33 Contracts with instructional staff, supervisors, and school principals.—

(8) Notwithstanding any other provision of law, a retired member may interrupt retirement and be reemployed in any public school as instructional personnel under a 1-year probationary contract as defined in s. 1012.335(1). If the retiree successfully completes the probationary contract, the district school board may reemploy the retiree under an annual contract as defined in s. 1012.335(1). The retiree is not eligible for a professional service contract ~~A member reemployed by the same district from which he or she retired may be employed on a probationary contractual basis as provided in subsection (1)~~.

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

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	SB 1356
INTRODUCER:	Senators Brandes and Stargel
SUBJECT:	Employment After Retirement of School District Personnel
DATE:	March 2, 2016
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peacock	McVaney	GO	**Favorable**
2.	Sikes	Elwell	AED	**Recommend: Fav/CS**
3.	Sikes	Kynoch	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

SB 1356 amends section 1012.33, Florida Statues, to provide legislative intent and to revise provisions relating to reemployment of retirees by district school boards as instructional personnel on a contract basis.

The bill further provides legislative intent and clarification for purposes of pending civil and administrative proceedings for suits against district school boards for not awarding professional services contracts to retirees.

The bill may have a positive fiscal impact on local school districts.

The bill takes effect upon becoming a law.

II. Present Situation:

School District Instructional Personnel Contracts

In 2011, the Legislature passed the Student Success Act (act),[1] to require, among other things, the use of performance evaluations to assess performance. The evaluation system for administrative and instructional personnel differentiates among four levels of performance:

[1] Chapter 2011-1, L.O.F.

highly effective, effective, needs improvement,[2] or unsatisfactory.[3] The Commissioner of Education is required to consult with experts, instructional personnel, school administrators, and education stakeholders in developing the criteria for the performance levels.

Prior to 2011, instructional personnel with as little as three years of service could be granted a professional service contract, which provided for automatic renewal of the contract unless the superintendent charged the employee with unsatisfactory performance.[4] For instructional personnel hired on or after July 1, 2011, the act, in effect, provides that professional service contracts and tenure may no longer be given to any instructional personnel who do not currently have a professional service contract.

Specifically, the act provides that employees hired on or after July 1, 2011, must be awarded probationary contracts for a period of one year upon initial employment in a school district.[5] Probationary contract employees may be dismissed without cause or may resign without breach of contract.[6] The district may not award a probationary contract more than once to the same employee;[7] after the initial year, the school district may award an annual contract upon the successful completion of a probationary contract.[8] An annual contract is an employment contract for a period of no longer than one school year, which the district school board may choose to award or not award at the end of the contract term without cause.[9] Instructional personnel with an annual contract may be suspended or dismissed at any time during the term of the contract for just cause.[10]

In addition, the act ties the renewal of a professional service contract, for those employees who have a professional service contract, to the employee's performance evaluation; the professional service contract is no longer automatically renewed.[11] If an employee who holds a professional service contract is not performing his or her duties in a satisfactory manner, the act requires such an employee to receive notice and be placed on probation.[12] If the employee receives two consecutive annual performance evaluations of unsatisfactory, two annual performance evaluations of unsatisfactory within a three-year period, or three consecutive annual performance evaluations of needs improvement or a combination of needs improvement and unsatisfactory, the district may terminate or not renew the employee's contract.[13]

[2] Section 1012.34(2)(e)3., F.S., provides that for instructional personnel in the first three years of employment, the evaluation may designate the performance as developing.
[3] Section 1012.34(2)(e), F.S.
[4] *See* s. 1012.33(3)(e), F.S. (2010).
[5] Section 1012.335(2)(a), F.S.
[6] Section 1012.335(1)(c), F.S.
[7] *Id.*
[8] Section 1012.335(2)(a), F.S.
[9] Section 1012.335(1)(a), F.S.
[10] Section 1012.335(4), F.S.
[11] Section 1012.33(3), F.S.
[12] Section 1012.34(4)(b), F.S.
[13] See ss. 1012.33 and 1012.34, F.S.

The Florida Retirement System

The Florida Retirement System (FRS) was established in 1970 when the Legislature consolidated the Teachers' Retirement System, the State and County Officers and Employees' Retirement System, and the Highway Patrol Pension Fund. In 1972, the Judicial Retirement System was added to the FRS, and in 2007, the membership of the Institute of Food and Agricultural Sciences Supplemental Retirement Program was included in the Regular Class of the FRS as a closed group.[14] The FRS is a contributory system, with most members contributing three percent of their salaries.[15]

The FRS is a multi-employer, contributory plan, governed by the Florida Retirement System Act in Ch. 121, F.S. As of June 30, 2014, the FRS had 622,089 active members, 363,034 annuitants, 16,137 disabled retirees, and 38,058 active participants of the Deferred Retirement Option Program (DROP).[16] As of June 30, 2014, the FRS consisted of 1,014 total employers; it is the primary retirement plan for the employees and officers of state and county government agencies, district school boards, Florida College institutions, and state universities, as well as the employees and officers of the 186 cities and 262 special districts that have elected to join the system.[17]

The membership of the FRS is divided into five membership classes:

- The Regular Class[18] consists of 537,993 active members, plus 5,402 in renewed membership;
- The Special Risk Class[19] includes 68,593 active members;
- The Special Risk Administrative Support Class[20] has 84 active members;
- The Elected Officers' Class[21] has 2,040 active members, plus 147 in renewed membership; and
- The Senior Management Service Class[22] has 7,607 members, plus 184 in renewed membership.[23]

[14] The Florida Retirement System Pension Plan and Other State Administered Systems Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2014, at p. 29. Available online at: https://www.rol.frs.state.fl.us/forms/2013-14_CAFR.pdf.

[15] Prior to 1975, members of the FRS were required to make employee contributions of either four percent for Regular Class employees or six percent for Special Risk Class members. Employees were again required to contribute to the system after July 1, 2011. Members in the Deferred Retirement Option Program do not contribute to the system.

[16] Florida Retirement System Annual Financial Report Fiscal Year Ended June 30, 2014, at 112.

[17] *Id.*, at 146.

[18] The Regular Class is for all members who are not assigned to another class. (Section 121.021(12), F.S.)

[19] The Special Risk Class is for members employed as law enforcement officers, firefighters, correctional officers, probation officers, paramedics and emergency technicians, among others. (Section 121.0515, F.S.)

[20] The Special Risk Administrative Support Class is for a special risk member who moved or was reassigned to a nonspecial risk law enforcement, firefighting, correctional, or emergency medical care administrative support position with the same agency, or who is subsequently employed in such a position under the Florida Retirement System. Section 121.0515(8), F.S.

[21] The Elected Officers' Class is for elected state and county officers, and for those elected municipal or special district officers whose governing body has chosen Elected Officers' Class participation for its elected officers. Section 121.052, F.S.

[22] The Senior Management Service Class is for members who fill senior management level positions assigned by law to the Senior Management Service Class or authorized by law as eligible for Senior Management Service designation. (Section 121.055, F.S.)

[23] All figures from Florida Retirement System Annual Financial Report Fiscal Year Ended June 30, 2014, at 115.

Investment Plan

In 2000, the Legislature created the Public Employee Optional Retirement Program (investment plan), a defined contribution plan offered to eligible employees as an alternative to the FRS Pension Plan.

Benefits under the investment plan accrue in individual member accounts funded by both employee and employer contributions and investment earnings. Benefits are provided through employee-directed investments offered by approved investment providers.

A member vests immediately in all employee contributions paid to the investment plan.[24] With respect to the employer contributions, a member vests after completing one work year of employment with an FRS employer.[25] Vested benefits are payable upon termination or death as a lump-sum distribution, direct rollover distribution, or periodic distribution.[26] The investment plan also provides disability coverage for both in the line of duty and regular disability retirement benefits.[27] An FRS member who qualifies for disability while enrolled in the investment plan must apply for benefits as if the employee were a member of the pension plan. If approved for retirement disability benefits, the member is transferred to the pension plan.[28]

The State Board of Administration (SBA) is primarily responsible for administering the investment plan.[29] The SBA is comprised of the Governor as chair, the Chief Financial Officer, and the Attorney General.[30]

Pension Plan

The pension plan is administered by the secretary of the Department of Management Services through the Division of Retirement.[31] Investment management of the pension plan assets is handled by the State Board of Administration.

Any member initially enrolled in the pension plan before July 1, 2011, vests in the pension plan after completing six years of service with an FRS employer.[32] For members enrolled on or after July 1, 2011, the member vests in the pension plan after eight years of creditable service.[33]

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[24] Section 121.4501(6)(a), F.S.

[25] If a member terminates employment before vesting in the investment plan, the nonvested money is transferred from the member's account to the SBA for deposit and investment by the SBA in its suspense account for up to five years. If the member is not reemployed as an eligible employee within five years, then any nonvested accumulations transferred from a member's account to the SBA's suspense account are forfeited. (Section 121.4501(6)(b) – (d), F.S.)

[26] Section 121.591, F.S.

[27] Section 121.4501(16), F.S.

[28] Pension plan disability retirement benefits, which apply for investment plan members who qualify for disability, compensate an in the line of duty disabled member up to 65 percent of the average monthly compensation as of the disability retirement date for special risk class members. Other members may receive up to 42 percent of the member's average monthly compensation for disability retirement benefits. If the disability occurs other than in the line of duty, the monthly benefit may not be less than 25 percent of the average monthly compensation as of the disability retirement date. Section 121.091(4)(f), F.S.

[29] Section 121.4501(8), F.S.

[30] FLA.CONST. art. IV, s. 4.

[31] Section 121.025, F.S.

[32] Section 121.021(45)(a), F.S.

[33] Section 121.021(45)(b), F.S.

Benefits payable under the pension plan are calculated based on the member's years of creditable service multiplied by the service accrual rate multiplied by the member's average final compensation.[34] For most members of the pension plan, normal retirement occurs at 30 years of service or age 62.[35] For members in the Special Risk and Special Risk Administrative Support Classes, normal retirement occurs at 25 years of service or age 55.[36] Members initially enrolled in the pension plan on or after July 1, 2011, have longer vesting requirements. For unreduced benefits for members initially enrolled after that date, most members must complete 33 years of service or attain age 65, and members in the Special Risk classes must complete 30 years of service or attain age 60.[37]

Deferred Retirement Option Program

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 and receive a lump sum benefit at a fixed rate of interest for that additional service.[38] Certain instructional personnel in district school boards may participate in DROP for an additional 36 months.[39] Enrollment in DROP requires the participant to serve the employer with a deferred resignation from employment at the end of the period. Current law provides that members who reach their normal retirement date based on service before they reach age 62, or age 55 for Special Risk members, may defer participation in DROP to the 12 months immediately following the attainment of age 57, or 52.[40]

Employment after Retirement

Generally

Section 121.091, F.S., governs the payment of benefits under the FRS. For the purposes of the pension plan, a "retiree" means a former member of the FRS or an existing system who has terminated employment and is receiving benefit payments from the system in which he or she was a member.[41] For the purposes of the investment plan, a "retiree" means a former member of the investment plan who has terminated employment and taken a distribution of vested employee or employer contributions, except for a mandatory distribution of a de minimis account authorized by the state board or a minimum required distribution provided the Internal Revenue Code.[42]

After retiring under the FRS, a retiree can work for any private employer, for any public employer not participating in the FRS, or for any employer in another state, without affecting their FRS benefits.

[34] Section 121.091, F.S.
[35] Section 121.021(29)(a)1., F.S.
[36] Section 121.021(29)(b)1., F.S.
[37] Sections 121.021(29)(a)2. and (b)2., F.S.
[38] Section 121.021(13)(a), F.S.
[39] Section 121.021(13)(b), F.S.
[40] Section 121.091(13)(a)2., F.S.
[41] Section 121.021(60), F.S.
[42] Section 121.4501(2)(k), F.S.

However, there are certain termination requirements and reemployment limitations that affect retirement benefits **if a retiree is employed with an FRS-participating employer** during the first 12 calendar months after the effective retirement date without DROP participation or after the DROP termination date. If a retiree returns to work during the **first six calendar months** of retirement or after the member's DROP termination date, then the member's retirement application is voided and all retirement benefits, including any funds accumulated during DROP participation, must be repaid to the FRS Trust Fund. This restriction applies even if the particular position held is not covered by the FRS. An FRS retiree cannot be reemployed by an FRS employer for a period of 6 months without voiding the member's retirement.

A retiree's benefit will be suspended if the retiree is hired an FRS during the **seventh through twelfth calendar months** of retirement or after the DROP termination date. Beginning the thirteenth calendar month, the benefits are reinstated and no employment restrictions exist.

Suspended retirement benefits for the months a reemployed retiree is employed by an FRS employer during the reemployment limitation period will be payable to the retiree. The reemployed retiree and the employing agency are jointly and severally liable for repaying any retirement benefits the employee receives while working during this period.

There are no limits on working for an FRS employer after a retiree has been retired for 12 calendar months. If a retiree is re-employed with an FRS participating employer, they will be required to sign a statement that their reemployment does not violate these provisions.[43]

Prior to July 1, 2010, there were various exceptions to employment with FRS-covered employers during the reemployment limitation period. All reemployment limitation exceptions that were not specific to educational institutions were closed by operation of Ch. 2009-209, Law of Fla., which also extended the termination period from 1 month to 6 months immediately after retirement during which a retiree could not be reemployed with any FRS employer without voiding his retirement.

Exception to the suspension of retirement benefits for Instructional Personnel

The exception to the suspension of retirement benefits relevant to this discussion is the authority of a district school board to reemploy as instructional personnel after 1 calendar month of retirement a retiree whose FRS retirement was effective before July 1, 2010. That retiree could be reemployed on an annual contractual basis after one calendar month of retirement without having her or his retirement benefits suspended.[44] This law does not address the employment relationship after the end of the first twelve months of retirement.

This exception does not apply to any retiree whose effective retirement date is on or after July 1, 2010.

[43] The information in this section of the bill analysis comes from the FRS Pension Plan: Deferred Retirement Option Program Handbook, 2014 edition, located at https://www.rol.frs.state.fl.us/forms/drop-guide.pdf and the FRS Pension Plan member Handbook, 2013 edition, located at https://www.rol.frs.state.fl.us/forms/member_handbook.pdf. *See also* ss. 121.091(9), 121.122, and 1012.01(2), F.S.

[44] Section 121.091(9)(b)1.a., F.S.

Legal Ambiguity for Reemployment of Instructional Personnel

In 2011, two retired reemployed instructional personnel brought suit in Orange County, Florida to determine whether the county was required to issue professional service contracts after the employees' successfully completed three years of employment.[45] The Orange County Public Schools argued that s. 121.091, F.S., required the instructional personnel to be rehired on an annual contractual basis. The issue in the case centered on whether the FRS act required instructional personnel to be reemployed with an annual contract for the rest of the member's career, or whether the FRS act only pertained to the initial year of reemployment and such member may ultimately be given a professional service contract under s. 1012.33, F.S., which provided for such a contract after three years of service.

The circuit court found that the Legislature intended for retired teachers to be rehired on the same terms as newly hired teachers. At that time, newly hired teachers were placed on an initial annual contract and after serving three years in the district, received a professional service contract.

The Orange County School Board appealed the final judgment to the Fifth District Court of Appeal arguing that the trial court erred and that s. 121.091, F.S., precludes the school board from ever issuing a contract longer than an annual contract when employing retired instructional personnel.[46] The Fifth District Court of Appeal, however, agreed with the lower court and found that the limitations in s. 121.091, F.S., only apply at the time of the initial rehire.

III. Effect of Proposed Changes:

Section 1 amends s. 1012.33, F.S., to allow a district school board to reemploy a retiree as instructional personnel under a 1-year probationary contract. If the retiree successfully completes the probationary contract, such employee may receive an annual contract.

The bill states that neither this legislation nor any other previous law allows a retiree to be awarded a professional service contract.

This section further provides that the holding in *Orange County School Board v. Rachman and Shuman*[47] was contrary to legislative intent at the time the statutes were enacted and that retirees under s. 121.091(9), F.S., were never entitled to professional service contracts, regardless of the retiree's date of retirement. This section notes that retirees are not eligible, and were never eligible, to receive a professional services contract under s., F.S., or any statute.

The bill provides legislative intent directing the judge in a civil action or administrative proceeding to rule against a classroom teacher on any claim or cause of action against the district school board, district superintendent, or district school board employee for not awarding that teacher a professional service contract.

[45] A copy of the circuit court decision is on file with the Government Oversight and Accountability committee.
[46] *Orange County School Board v. Rachman and Schuman*, 87 So.3d 48 (Fla. 5th DCA 2012).
[47] *Id.*

The bill provides that it does not void, is not intended to void, and does not in any way impair any professional service contract inadvertently awarded by a district school board to a retiree before the effective date of this act.

Section 2 directs the Division of Law Revision and Information to replace the phrase "the effective date of this act" wherever it occurs in this act with the date the act becomes law.

Section 3 provides that this bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of a state tax shares with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The private sector impact of SB 1356 is indeterminate.

C. Government Sector Impact:

The government sector impact of the bill is indeterminate. The bill may have an impact on school districts since districts will not be required to provide professional services contracts for instructional personnel who are rehired after retiring from the FRS.

VI. Technical Deficiencies:

This bill uses the term "retiree" but does not define the term. It is unclear whether retiree is intended to include all retirees (private and public sector), retirees of the FRS pension plan, retirees of the FRS investment plan, or retirees from the particular school district. The effects of this legislation could be significantly different based on this definition.

On lines 50-53 of the bill, the language states that this legislation does not void or impair in any way a professional service contract "inadvertently" awarded by a district school board to a retiree prior to the effective date of this act. It is unclear whether the implicit meaning is to void or impair a professional service contract that the school board intentionally awarded to a retiree.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1012.33 of the Florida Statutes.

IX. Additional Information:

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

None.

B. Amendments:

None.

By Senator Brandes

22-01074-16 20161356__

A bill to be entitled

An act relating to employment after retirement of school district personnel; amending s. 1012.33, F.S.; revising provisions relating to reemployment of retirees as instructional personnel on a contract basis; providing legislative intent and findings to clarify authorization to award contracts; providing requirements for a judgment in certain civil actions or administrative proceedings; providing applicability; providing a directive to the Division of Law Revision and Information; providing an effective date.

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

Section 1. Subsection (8) of section 1012.33, Florida Statutes, is amended to read:

1012.33 Contracts with instructional staff, supervisors, and school principals.—

(8) Notwithstanding any other provision of law, a district school board may reemploy a retiree as instructional personnel, as defined in s. 1012.01, under a 1-year probationary contract, as defined in s. 1012.335(1). If the retiree successfully completes the probationary contract, the district school board may reemploy the retiree under an annual contract, as defined in s. 1012.335(1).

(a) Neither this subsection nor any other law enacted before the effective date of this act allows, or was intended to allow, a retiree to be awarded a professional service contract. The Legislature finds that the holding in Orange County School Board v. Rachman and Schuman, 87 So. 3d 48 (Fla. 5th DCA 2012), which found that retirees under s. 121.091(9)(b)1.a. and this

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subsection as enacted before the effective date of this act were entitled to a professional service contract, was contrary to the legislative intent at the time the statutes were enacted. The Legislature finds that retirees under s. 121.091(9), regardless of the retiree's date of retirement, and under this subsection are not eligible, and were never eligible, to receive a professional service contract under this section or any other law. In a civil action or administrative proceeding, if a classroom teacher was formerly retired and then reemployed by the district school board pursuant to s. 121.091(9) and this section as enacted before the effective date of this act, the Legislature intends, in accordance with the findings expressed in this subsection, that a judgment be entered against that classroom teacher on any claim or cause of action against the district school board, the district school superintendent, or a district school board employee for not awarding that teacher a professional service contract.

(b) This subsection does not void, is not intended to void, and does not in any way impair any professional service contract inadvertently awarded by a district school board to a retiree before the effective date of this act ~~retired member may interrupt retirement and be reemployed in any public school. A member reemployed by the same district from which he or she retired may be employed on a probationary contractual basis as provided in subsection (1)~~.

Section 2. The Division of Law Revision and Information is directed to replace the phrase "the effective date of this act" wherever it occurs in this act with the date this act becomes a law.

Section 3. This act shall take effect upon becoming a law.

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

The Florida Senate

Committee Agenda Request

To: Senator Tom Lee, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 24, 2016

I respectfully request that **Senate Bill #1356**, relating to **Employment After Retirement of School District Personnel**, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Senator Jeff Brandes
Florida Senate, District 22

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-3-16
Meeting Date

1356
Bill Number (if applicable)

Topic Reemployed Retirees

Amendment Barcode (if applicable)

Name Scott Howat

Job Title SR Exec Director, Gov. Relations

Address 445 W. Amelia St
Street

Orland FL 32801
City *State* *Zip*

Phone 407-317-3337

Email scott.howat@ocps.net

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Orange Co Public Schools

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-3-16
Meeting Date

1356
Bill Number (if applicable)

Topic Reemployment of Retirees

Amendment Barcode (if applicable)

Name John Sullivan

Job Title Director of Legislative Affairs

Address 600 SE 3rd Ave
Street

Phone 754-321-2608

Ft Lauderdale FL 33301
City *State* *Zip*

Email John.Sullivan@browardschools.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Broward County Schools

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	SB 1428
INTRODUCER:	Senator Simmons
SUBJECT:	State Investments
DATE:	March 2, 2016
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peacock	McVaney	GO	**Favorable**
2.	Loe	DeLoach	AGG	**Recommend: Favorable**
3.	Loe	Kynoch	AP	**Favorable**

I. Summary:

SB 1428 encourages the State Board of Administration (SBA) to take actions in support of the MacBride Principles in Northern Ireland. The MacBride Principles define the objectives for companies operating in Northern Ireland to provide fair employment opportunities to individuals from underrepresented religious groups in the workforce.

Specifically, the bill encourages the State Board of Administration (SBA) to determine which publicly traded companies that the Florida Retirement System Trust Fund has invested in operate in Northern Ireland. For those companies identified, the SBA is encouraged to:

- Notify the company that the SBA supports the MacBride Principles;
- Inquire regarding actions taken by the company in support of the MacBride Principles;
- Encourage a company that has not adopted the MacBride Principles to make all lawful efforts to implement similar fair employment practices; and
- Support the adoption of the MacBride Principles in exercising its proxy voting authority.

The bill provides that the SBA is not liable for, and a cause of action does not arise from, any action or inaction by the SBA in the administration of these provisions.

The SBA estimates that the costs for implementation should be minimal and covered within the existing management fee assessed on the FRS Trust Fund.

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

II. Present Situation:

State Board of Administration

The State Board of Administration (SBA) is created in Article IV, section 4(e) of the State Constitution. The Governor, the Chief Financial Officer, and the Attorney General serve as the trustees of the SBA. The SBA derives its powers to oversee state funds from Art. XII, s. 9 of the State Constitution. The SBA provides a variety of investment services to various governmental entities at both the state and local government levels.

The SBA has responsibility to invest the funds of the Florida Retirement System (FRS) Trust Fund which holds the assets of the FRS Pension Plan and the FRS Investment Plan. The FRS is the primary retirement system for employees of the state, universities, state colleges, school boards, counties, and various other local governments in Florida. The table below shows the primary funds the SBA invests and the balances of those funds as of January 26, 2016.[1]

All SBA Funds - Estimated Market Values As of January 26, 2016 Market Close	
Fund Name	**Estimated Current Value**
Florida Retirement System Pension Plan	$136,093,884,390
Florida PRIME	$8,904,562,611
Florida Retirement System Investment Plan	$7,917,531,799
Lawton Chiles Endowment Fund	$568,432,757
Other SBA Mandates	$16,884,963,473
Total	**$170,369,375,029**

In investing assets, the SBA is statutorily directed to follow the fiduciary standards of care set forth in the Employee Retirement Income Security Act (ERISA), subject to certain limitations.[2] Pursuant to section 215.444, F.S., a nine-member Investment Advisory Council provides recommendations on investment policy, strategy, and procedures. The SBA's ability to invest the FRS assets is governed by s. 215.47, F.S., which provides for a "legal list" of the types of investments and the percent of the total fund that may be invested in each investment type.

Previous Restrictions on Investments in Northern Ireland

In the 2015 Legislative Session, section 121.153, F.S., relating to restrictions on investments in institutions doing business in or with Northern Ireland, was repealed.[3] Section 121.153, F.S., was enacted by the Florida Legislature in 1988, and had required the SBA to determine the existence of nine types of affirmative action taken to eliminate the ethnic or religious discrimination practiced by the government of Northern Ireland, or with agencies or instrumentalities thereof.

These affirmative actions, known as the MacBride Principles,[4] included:

[1] State Board of Administration "Daily Estimate Report" as of January 26, 2016, issued January 27, 2016.
[2] Sections 215.44 and 215.47, F.S.
[3] Chapter 2015-75, Laws of Fla.
[4] Neil J. Conway, *Investment Responsibility in Northern Ireland: The MacBride Principles of Fair Employment*, 24 Loy. L.A. Int'l & Comp. L. Rev 1 (Jan. 2002).

- Increasing the representation of individuals from underrepresented religious groups in the workforce, including managerial, supervisory, administrative, clerical, and technical jobs;
- Providing adequate security for the protection of minority employees both at the workplace and while traveling to and from work;
- Banning provocative religious or political emblems from the workplace;
- Publicly advertising all job openings and making special recruitment efforts to attract applicants from underrepresented religious groups;
- Providing that layoff, recall, and termination procedures should not in practice favor particular religious groupings;
- Abolishing job reservations, apprenticeship restrictions, and differential employment criteria which discriminate on the basis of religion or ethnic origin;
- Developing training programs that will prepare substantial numbers of current minority employees for skilled jobs, including the expansion of existing programs and the creation of new programs to train, upgrade, and improve the skills of minority employees;
- Establishing procedures to assess, identify, and actively recruit minority employees with potential for further advancement; and
- Appointing senior management staff members to oversee affirmative action efforts and setting up timetables to carry out affirmative action principles.

III. Effect of Proposed Changes:

Section 1 defines the term "MacBride Principles" as the objectives for companies operating in Northern Ireland to:

- Increase the representation of individuals from underrepresented religious groups in the workforce, including managerial, supervisory, administrative, clerical, and technical jobs.
- Provide adequate security for the protection of minority employees both at the workplace and while traveling to and from work.
- Ban provocative religious or political emblems from the workplace.
- Publicly advertise all job openings and make special recruitment efforts to attract applicants from underrepresented religious groups.
- Provide that layoff, recall, and termination procedures should not in practice favor particular religious groups.
- Abolish job reservations, apprenticeship restrictions, and differential employment criteria that discriminate on the basis of religion or ethnic origin.
- Develop training programs that will prepare substantial numbers of current minority employees for skilled jobs, including the expansion of existing programs and the creation of new programs to train, upgrade, and improve the skills of minority employees.
- Establish procedures to assess, identify, and actively recruit minority employees with potential for further advancement.
- Appoint senior management staff members to oversee affirmative action efforts and to set up timetables to carry out affirmative action principles.

The term "operating" is defined as actively engaging in commerce geographically in Northern Ireland through the acquisition, development, maintenance, ownership, sale, possession, lease, or operation of equipment, facilities, personnel, products, services, or personal property.

The term "publicly traded company" is defined as any business organization having equity securities listed on a national or an international exchange that is regulated by a national or an international regulatory authority.

The term "state board" is defined as the State Board of Administration.

The bill encourages the SBA to determine which publicly traded companies in which the Florida Retirement System Trust Fund is invested operate in Northern Ireland and is further encouraged to:

- Notify the publicly traded company that the state board supports the MacBride Principles;
- Inquire regarding the actions that the publicly traded company has taken in support of or furtherance of the MacBride Principles;
- Encourage a publicly traded company that has not adopted the MacBride Principles to make all lawful efforts to implement the fair employment practices embodied in the MacBride Principles; and
- Support the adoption of the MacBride Principles in exercising its proxy voting authority. For these purposes, the state board may not be a fiduciary under this section in exercising its proxy voting authority.

Also, the bill allows the SBA to utilize various sources of public information, including information provided by nonprofit organizations, research firms, international organizations, and government entities, to make the determinations.

Additionally, the bill provides that the SBA may not be held liable for, and no cause of action may arise from, any action or inaction by the SBA in administering these provisions.

Section 2 provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shares with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

The SBA estimates that the cost for implementation of SB 1428 should be minimal and covered within the existing management fee assessed on the FRS Trust Fund. Research services will need to be procured to determine which SBA investments in publicly traded companies have operations in or with Northern Ireland. The SBA will be required to dedicate staff time to complete the encouraged actions.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 215.4702 of the Florida Statutes.

IX. Additional Information:

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

None.

B. Amendments:

None.

By Senator Simmons

10-01338-16 20161428__

A bill to be entitled

An act relating to state investments; creating s. 215.4702, F.S.; defining terms; encouraging the State Board of Administration to determine which publicly traded companies in which the Florida Retirement System Trust Fund is invested operate in Northern Ireland; encouraging the state board to take certain action upon making a determination; authorizing the state board to rely on public information in making a determination; providing that the state board is not liable or subject to a cause of action under the act; providing an effective date.

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

Section 1. Section 215.4702, Florida Statutes, is created to read:

215.4702 Investments in publicly traded companies operating in Northern Ireland.—

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

(a) "MacBride Principles" means the objectives for companies operating in Northern Ireland to:

1. Increase the representation of individuals from underrepresented religious groups in the workforce, including managerial, supervisory, administrative, clerical, and technical jobs.

2. Provide adequate security for the protection of minority employees both at the workplace and while traveling to and from work.

3. Ban provocative religious or political emblems from the workplace.

4. Publicly advertise all job openings and make special

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recruitment efforts to attract applicants from underrepresented religious groups.

5. Provide that layoff, recall, and termination procedures should not in practice favor particular religious groups.

6. Abolish job reservations, apprenticeship restrictions, and differential employment criteria that discriminate on the basis of religion or ethnic origin.

7. Develop training programs that will prepare substantial numbers of current minority employees for skilled jobs, including the expansion of existing programs and the creation of new programs to train, upgrade, and improve the skills of minority employees.

8. Establish procedures to assess, identify, and actively recruit minority employees with potential for further advancement.

9. Appoint senior management staff members to oversee affirmative action efforts and to set up timetables to carry out affirmative action principles.

(b) "Operating" means actively engaging in commerce geographically in Northern Ireland through the acquisition, development, maintenance, ownership, sale, possession, lease, or operation of equipment, facilities, personnel, products, services, or personal property.

(c) "Publicly traded company" means any business organization having equity securities listed on a national or an international exchange that is regulated by a national or an international regulatory authority.

(d) "State board" means the State Board of Administration.

(2) The state board is encouraged to determine which

publicly traded companies in which the Florida Retirement System Trust Fund is invested operate in Northern Ireland. If the state board determines that a publicly traded company meets such criteria, the state board is encouraged to:

(a) Notify the publicly traded company that the state board supports the MacBride Principles;

(b) Inquire regarding the actions that the publicly traded company has taken in support of or furtherance of the MacBride Principles;

(c) Encourage a publicly traded company that has not adopted the MacBride Principles to make all lawful efforts to implement the fair employment practices embodied in the MacBride Principles; and

(d) Support the adoption of the MacBride Principles in exercising its proxy voting authority. For these purposes, the state board may not be a fiduciary under this section in exercising its proxy voting authority.

(3) In making the determination specified in subsection (2), the state board may, to the extent it deems appropriate, rely on available public information, including information provided by nonprofit organizations, research firms, international organizations, and government entities.

(4) The state board may not be held liable for, and a cause of action does not arise from, any action or inaction by the state board in the administration of this section.

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

The Florida Senate

Committee Agenda Request

To: Senator Tom Lee, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 11, 2016

I respectfully request that **Senate Bill 1428**, relating to State Investments, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator David Simmons
Florida Senate, District 10

File signed original with committee office

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/16
Meeting Date

1428
Bill Number (if applicable)

Topic STATE INVESTMENTS

Amendment Barcode (if applicable)

Name JOHN KUCZWANSKI CUZ-WAN-SKI

Job Title COMMUNICATIONS MANAGER

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Street
TALLAHASSEE, FL 32308
City *State* *Zip*

Phone (850) 413-1754

Email John.Kuczwanski@SBAFLA.COM

Speaking: ☒ For ☐ Against ☐ Information

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

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	PCS/CS/SB 1430 (680352)
INTRODUCER:	Appropriations Committee (Recommended by Appropriations Subcommittee on General Government); Governmental Oversight and Accountability Committee; and Senator Brandes
SUBJECT:	State Technology
DATE:	March 2, 2016
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peacock	McVaney	GO	**Fav/CS**
2.	Wilson	DeLoach	AGG	**Recommend: Fav/CS**
3.	Wilson	Kynoch	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1430 establishes a chief data officer within the Agency for State Technology (AST) who must be appointed by the executive director.

The bill amends s. 282.0051, F.S., to expand the AST's duties to include overseeing the transition of various licenses and identification cards to an optional digital proof of the licenses and identification cards for a specified fee and developing standards for the digitization of such licenses and identification cards. The AST is authorized to access all identity, license and identification card data, and other pertinent information within possession of any state agency, commission or department, unless prohibited by federal law, and to adopt rules regarding such access. The AST must also consult with each state agency on various issues relating to commercial cloud computing services.

The Department of Highway Safety and Motor Vehicles (DHSMV), in conjunction with AST, must develop a secure and uniform system for issuing an optional digital proof of driver license. The DHSMV may adopt rules to ensure the valid authentication of digital proof of driver licenses. License or card holders electing to purchase the digital proof of driver license will pay $5 which shall be deposited into the Highway Safety Operating Trust Fund.

The bill has a significant fiscal impact to state funds. The bill appropriates $146,001 in recurring funds and $503,999 in nonrecurring funds from the General Revenue Fund to the DHSMV for implementing the optional digital proof driver license pilot program and the AST for the chief

data officer position. The AST will require an additional $195,200 for the additional duties and responsibilities included in the bill. These additional resources are not appropriated in the bill. See Section V.

The effective date of the bill is October 1, 2016.

II. Present Situation:

Agency for State Technology

The Agency for State Technology (AST) was created on July 1, 2014.[1] The executive director of AST is appointed by the Governor and confirmed by the Senate.

For the 2015-2016 fiscal year, the AST is authorized 25 full-time equivalent positions within its Executive Direction and Support Services budget entity. Of those positions, the executive director is required to designate the following:[2]

- Deputy executive director;
- Chief planning officer and six strategic planning coordinators;
- Chief operations officer;
- Chief information security officer; and
- Chief technology officer.

The duties and responsibilities of the AST include:[3]

- Developing and publishing information technology (IT) policy for management of the state's IT resources.
- Establishing and publishing IT architecture standards.
- Establishing project management and oversight standards with which state agencies must comply when implementing IT projects.
- Performing project oversight on all state IT projects with total costs of $10 million or more.
- Identifying opportunities for standardization and consolidation of IT services that support common business functions and operations.
- Establishing best practices for procurement of IT products in collaboration with the Department of Management Services (DMS).
- Participating with the DMS in evaluating, conducting and negotiating competitive solicitations for state term contracts for IT commodities, consultant services, or staff augmentation contractual services.
- Collaborating with the DMS in IT resource acquisition planning.
- Developing standards for IT reports and updates.
- Upon request, assisting state agencies in development of IT related legislative budget requests.
- Conducting annual assessments of state agencies to determine compliance with IT standards and guidelines developed by AST.
- Providing operational management and oversight of the state data center.
- Recommending other IT services that should be designed, delivered, and managed as enterprise IT services.

[1] Chapter 2014-221, Laws of Florida.
[2] Section 20.61(2), F.S.
[3] Section 282.0051, F.S.

- Recommending additional consolidations of agency data centers or computing facilities into the state data center.
- In consultation with state agencies, proposing a methodology for identifying and collecting current and planned IT expenditure data at a state agency level.
- Performing project oversight on any cabinet agency IT project that has a total project cost of $25 million or more and impacts one or more other agencies.
- Consulting with departments regarding risks and other effects for IT projects implemented by an agency that must be connected to or accommodated by an IT system administered by a cabinet agency.
- Reporting annually to the Governor, the President of the Senate and the Speaker of the House regarding state IT standards or policies that conflict with federal regulations or requirements.

Technology Advisory Council

The Technology Advisory Council,[4] consisting of seven members, is established within the AST. Four members of the council are appointed by the Governor of which two members must be from the private sector. The President of the Senate and the Speaker of the House of Representatives each appoint one member of the council. The Attorney General, the Commissioner of Agriculture and Consumer Services, and the Chief Financial Officer jointly appoint one member by agreement of a majority of these officers.

The Technology Advisory Council makes recommendations to the Executive Director on enterprise information technology policies, standards, services, and architecture.[5] The council may also identify and recommend opportunities for the establishment of public-private partnerships when considering technology infrastructure and services in order to accelerate project delivery and provide a source of new or increased project funding.[6] The Executive Director consults with the council with regards to executing the duties and responsibilities of the agency relating to statewide information technology strategic planning and policy.[7]

Digital Proof of Driver License

In 2014, the Legislature enacted s. 322.032, F.S.,[8] requiring the Department of Highway Safety and Motor Vehicles (DHSMV) to prepare for the development of an optional digital proof of driver license in a format that allows law enforcement to verify the authenticity of the digital proof.

Section 322.059, F.S., requires that any person whose driver license or registration has been suspended must return that driver license immediately to the DHSMV. If he or she fails to return the license or registration, a law enforcement agent may seize the driver license. This section further provides that the DHSMV shall invalidate the digital proof of driver license for such person whose driver license is suspended.

Section 322.15, F.S., requires that every licensee must have his or her driver license in his or her possession at all times while operating a motor vehicle and shall display that license upon

[4] Section 20.61(3), F.S.
[5] Section 20.61(3)(a), F.S.
[6] *Id*.
[7] Section 20.61(3)(b), F.S.
[8] Chapter 2014-216, s. 27, Laws of Fla.

demand of a law enforcement officer or an authorized representative of the DHSMV. Also, this section allows a licensee to present or submit a digital proof of driver license in lieu of a physical driver license.

A person who possesses a false digital proof of driver license commits a second degree misdemeanor punishable by imprisonment not to exceed 60 days.[9]

III. Effect of Proposed Changes:

Section 1 amends s. 20.61, F.S., to establish a chief data officer position within the Agency for State Technology (AST).

Section 2 amends s. 282.0051, F.S., to expand the powers, duties, and functions of the AST to include:

- Overseeing the transition of licenses and identification cards to digital proof of licenses and identification cards to be issued by state agencies, commissions, and departments at the option of licenseholders and cardholders upon payment of a $5 fee.
- Developing standards for the digitization of individual types of licenses and identification cards when digital proofs of those licenses and identification cards are authorized by law.
- Developing a central digital platform that can store or access data for each type of digital proof of license and identification card.
- Contracting with a third party to assist in the fulfillment of the requirements for a digital proof of license or identification card.
- Consulting with each state agency on the development of the agency's legislative budget request for the use of commercial cloud computing services, current plans for the expansion of cloud computing to leverage the utility-based model, security benefits of transitioning to cloud computing, and any other factors delaying or inhibiting the expansion of cloud computing usage.

The bill requires state agencies, commissions, and departments to consult with the AST before contracting with any third-party entity to develop digital proof of license or identification card. If any state agency, commission or department seeks to develop its own digital proof of license or identification card without contracting services to a third party, the AST must develop standards for such digital proof of license or identification card and be consulted in the development of such license or identification card. All state agencies must evaluate and consider commercial cloud computing services before making any new information technology or telecommunications investment.

In consultation with other state agencies and giving consideration to the feasibility study[10] conducted pursuant to s. 30, chapter 2014-221, Laws of Florida, the chief data officer is directed to:

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[9] Section 322.032(4)(b), F.S. *Also, see* s. 775.082, F.S.

[10] The feasibility study directed AST to analyze, evaluate, and provide recommendations for managing state government data in a manner that promotes interoperability and openness; ensures that, whenever legally permissible and not cost prohibitive, such data is available to the public in ways that make the data easy to find and use; and complies with the provisions of ch. 119, F.S. AST submitted this report to the Governor, the President of the Senate, and the Speaker of the House on June 1, 2015. A copy of this study may be accessed at http://www.ast.myflorida.com/doc%20library/1%20-%20DEL6_GDFS_OUTLINE_FINAL_20150601.pdf.

- Establish a governance structure for managing state government data in a manner that promotes interoperability and openness.
- Establish a catalog of state government data which documents the acceptable use of, security and compliance requirements for, sharing agreements for, and format and methods available to access the data.

Section 3 amends s. 322.032, F.S., to require the Department of Highway Safety and Motor Vehicles (DHSMV), in coordination with the AST, to develop a secure and uniform system for issuing an optional digital proof of driver's license for a fee of $5. This fee must be deposited into the Highway Safety Operating Trust Fund within the DHSMV. The DHSMV is authorized to contract with one or more private entities to develop a digital proof of driver license system.

The digital proof of driver license developed must be in a format that allows law enforcement to verify the authenticity of the digital proof and must display the same required information about the licenseholder as does a driver license issued under ch. 322, F.S.

The DHSMV, in coordination with the AST, may adopt rules to ensure valid authentication of digital proof of driver licenses by law enforcement.

The DHSMV, in coordination with the AST, must implement a digital proof of driver license pilot program by July 1, 2017, using the developed secure and uniform system. Program participants are limited to elected state officials and state employee volunteers. The DHSMV must provide a report on the results of the pilot program to the Governor, the President of the Senate, and the Speaker of the House of Representatives by March 1, 2018.

The bill amends the criminal penalties for the offense of possession of a false digital proof of driver license, a second degree misdemeanor, to also include imposition of a fine not to exceed $500.

Section 4 appropriates the sum of $500,000 in nonrecurring funds from the General Revenue Fund to the DHSMV for the purpose of implementing the pilot program created by the amendment to s. 322.032, F.S., for the 2016-2017 fiscal year. The bill also appropriates $146,001 in recurring and $3,999 in nonrecurring funds from the General Revenue Fund and one full-time equivalent position with associated salary rate of 100,000 to the Agency for State Technology for the chief data officer position.

Section 5 provides an effective date of October 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of a state tax shares with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

PCS/CS/SB 1430 provides a $5 fee to be assessed for each license that a citizen wishes to have digital proof of license. The revenue collected will be deposited in the Highway Safety Operating Trust Fund within the DHSMV. Since participation is optional, the annual revenue estimated to be collected is indeterminate.

B. Private Sector Impact:

The private sector impact of the bill is indeterminate. The bill directs the AST to establish a catalog of state government data which may result in data requirement changes affecting state agencies ultimately resulting in an impact on the state agency customers.

C. Government Sector Impact:

The bill appropriates $500,000 nonrecurring from the General Revenue Fund for Fiscal Year 2016-2017 to implement digital proof of driver licenses pilot program within Department of Highway Safety and Motor Vehicles.

The bill appropriates $146,001 in recurring and $3,999 in nonrecurring funds from the General Revenue Fund and one full-time equivalent position with associated salary rate of 100,000 for Fiscal Year 2016-2017 to the Agency for State Technology for the chief data officer position.

The bill creates new duties within the Agency for State Technology (AST) to oversee the transition of licenses and identification cards to digital proof of licenses and identification cards and directs the AST to create a central digital platform to store and access the data. The AST's new duties include the establishment of a governance structure and a catalog of state government data consistent with the data feasibility study completed in 2015. According to the study, implementation of the recommendations are estimated to be $195,200 which is unfunded.[11]

Requiring state agencies to consult and potentially participate with the AST on a governance structure to manage state government data and to provide information to establish a catalog of state government data will have an indeterminate fiscal impact.

[11] The feasibility study directed AST to analyze, evaluate, and provide recommendations for managing state government data in a manner that promotes interoperability and openness; ensures that, whenever legally permissible and not cost prohibitive, such data is available to the public in ways that make the data easy to find and use; and complies with the provisions of ch. 119, F.S. AST submitted this report to the Governor, the President of the Senate, and the Speaker of the House on June 1, 2015. A copy of this study may be accessed at http://www.ast.myflorida.com/doc%20library/1%20-%20DEL6_GDFS_OUTLINE_FINAL_20150601.pdf

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.61, 282.0051, and 322.032.

IX. Additional Information:

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

Recommended CS/CS by Appropriations Subcommittee on General Government on February 24, 2016:

- Deletes the provision regarding full access to state agency, commission, or department identity, license and identification card data by the Agency for State Technology (AST) and eliminates rule making authority for AST governing access to data held by state agencies. Eliminates AST exemption from public disclosure of any data or information accessed.
- Deletes the requirement that the AST make the state government data catalog available to other state agencies and the public if legally permissible and not cost prohibitive.
- The sum of $146,001 in recurring and $3,999 in nonrecurring funds from the General Revenue Fund and one full-time equivalent position with associated salary rate of 100,000 is appropriated to the AST for the chief data officer position created in the bill for the 2016-2017 fiscal year.

CS by Governmental Oversight and Accountability on February 9, 2016:

- Authorizes the AST to consult with each state agency on the development of the agency's legislative budget request for the use of commercial cloud computing services, current plans for expansion of cloud computing, security benefits of transitioning to cloud computing, and any factors delaying expansion of cloud computing;
- All state agencies must evaluate and consider commercial cloud computing services before making any new information technology or telecommunications investment;
- Specifies that the $5 fee for issuing an optional digital proof of a driver license shall be deposited into the Highway Safety Operating Trust Fund;
- Deletes provisions of the original bill regarding FWC's development of a secure and uniform system for issuing an optional digital proof of boater safety identification card, vessel licenses and licenses for game, freshwater or saltwater fish, or fur-bearing animals; and
- The sum of $500,000 in nonrecurring funds from the General Revenue Fund is appropriated to the DHSMV for implementing a digital proof of driver license pilot program, in coordination with the AST, for the 2016-2017 fiscal year.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate . House

. . . . .

The Committee on Appropriations (Gaetz) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Present subsections (17) and (18) of section 282.0051, Florida Statutes, are redesignated as subsections (19) and (20), respectively, and new subsections (17) and (18) are added to that section, to read:

282.0051 Agency for State Technology; powers, duties, and functions.—The Agency for State Technology shall have the

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following powers, duties, and functions:

(17) In consultation with other state agencies and giving consideration to the feasibility study conducted pursuant to s. 30, chapter 2014-221, Laws of Florida:

(a) Establish a governance structure for managing state government data in a manner that promotes interoperability and openness; and

(b) Establish a catalog of state government data which documents the acceptable use of, security and compliance requirements for, sharing agreements for, and format and methods available to access the data.

(18) Consult with each state agency on the development of the agency's legislative budget request for the use of commercial cloud computing services, current plans for the expansion of cloud computing to leverage the utility-based model, security benefits of transitioning to cloud computing, and any factors delaying or inhibiting the expansion of cloud computing usage. All state agencies must evaluate and consider commercial cloud computing services before making any new information technology or telecommunications investment.

Section 2. Paragraph (d) of subsection (2) of section 282.201, Florida Statutes, is amended, and paragraph (g) is added to that subsection, to read:

282.201 State data center.—The state data center is established within the Agency for State Technology and shall provide data center services that are hosted on premises or externally through a third-party provider as an enterprise information technology service. The provision of services must comply with applicable state and federal laws, regulations, and

policies, including all applicable security, privacy, and auditing requirements.

(2) STATE DATA CENTER DUTIES.—The state data center shall:

(d) Enter into a service-level agreement with each customer entity to provide the required type and level of service or services. If a customer entity fails to execute an agreement within 60 days after commencement of a service, the state data center may cease service. A service-level agreement may not have an original ~~a~~ term exceeding 3 years, except that it may be extended for up to 6 months. If the state data center and an existing customer entity execute an extension or fail to execute a new service-level agreement before the expiration of an existing service-level agreement, the state data center shall submit a report to the Executive Office of the Governor within 5 days after the date of the executed extension, or 15 days before the scheduled expiration date of the service-level agreement, which explains the specific issues preventing execution of a new service-level agreement and describing the plan and schedule for resolving those issues. Each service-level agreement, ~~and~~ at a minimum, must:

1. Identify the parties and their roles, duties, and responsibilities under the agreement.

2. State the duration of the contract term and specify the conditions for renewal.

3. Identify the scope of work.

4. Identify the products or services to be delivered with sufficient specificity to permit an external financial or performance audit.

5. Establish the services to be provided, the business

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standards that must be met for each service, the cost of each service, and the metrics and processes by which the business standards for each service are to be objectively measured and reported.

6. Provide a timely billing methodology to recover the cost of services provided to the customer entity pursuant to s. 215.422.

7. Provide a procedure for modifying the service-level agreement based on changes in the type, level, and cost of a service.

8. Include a right-to-audit clause to ensure that the parties to the agreement have access to records for audit purposes during the term of the service-level agreement.

9. Provide that a service-level agreement may be terminated by either party for cause only after giving the other party ~~and the Agency for State Technology~~ notice in writing of the cause for termination and an opportunity for the other party to resolve the identified cause within a reasonable period.

10. Provide for mediation of disputes by the Division of Administrative Hearings pursuant to s. 120.573.

(g) Plan, design, and conduct testing with information technology resources and implement service enhancements that are within the scope of the services provided by the state data center, if cost-effective.

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

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

And the title is amended as follows:

Delete everything before the enacting clause

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and insert:

A bill to be entitled

An act relating to state technology; amending s. 282.0051, F.S.; requiring the agency to establish a governance structure for managing state government data and to establish a certain catalog of such data; requiring the agency to consult with state agencies on specified factors relating to cloud computing; requiring state agencies to evaluate and consider cloud computing services before making certain investments; amending s. 282.201, F.S.; revising requirements for a certain service-level agreement entered into by the state data center within the Agency for State Technology with a customer entity; authorizing extension of an original agreement to a specified time; requiring the state data center to submit a specified report to the Executive Office of the Governor under certain circumstances; deleting a requirement for a certain notice to be given to the agency before an agreement may be terminated; requiring the state data center to plan, design, and conduct testing with information technology resources and implement certain service enhancements if cost-effective; providing an effective date.


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576-04153-16

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on General Government)

A bill to be entitled

An act relating to state technology; amending s. 20.61, F.S.; establishing a chief data officer within the Agency for State Technology who shall be appointed by the executive director; amending s. 282.0051, F.S.; authorizing the Agency for State Technology to oversee the transition of various licenses and identification cards to an optional digital proof of the licenses and identification cards for a specified fee; requiring the agency to develop standards for the digitization of individual licenses and identification cards; requiring the agency to develop a central digital platform that can store or access data for each type of digital proof of license and identification card; requiring state agencies, commissions, and departments to consult with the agency under certain circumstances; authorizing the agency to contract with a third party; requiring the agency to direct the chief data officer to establish a governance structure for managing state government data and to establish a certain catalog of such data; requiring the agency to consult with state agencies on specified factors relating to cloud computing; requiring state agencies to evaluate and consider cloud computing services before making certain investments; amending s. 322.032, F.S.; requiring the Department of Highway Safety and Motor Vehicles, in coordination with the


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Agency for State Technology, to develop, rather than begin to review and prepare for the development of, a system for issuing an optional digital proof of driver license for a specified fee, subject to certain requirements; providing for deposit of such fees; authorizing the department, in coordination with the agency, to adopt rules to ensure valid authentication of digital proof of driver licenses; providing criteria for digital proof of driver licenses; requiring the department, in coordination with the agency, to implement a digital proof of driver license pilot program by a specified date, subject to certain requirements; requiring the department to provide a report to the Governor and the Legislature by a specified date; adding a penalty for possession of false digital proof of driver license; providing appropriations; providing an effective date.

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

Section 1. Paragraph (f) is added to subsection (2) of section 20.61, Florida Statutes, to read:

20.61 Agency for State Technology.—The Agency for State Technology is created within the Department of Management Services. The agency is a separate budget program and is not subject to control, supervision, or direction by the Department of Management Services, including, but not limited to, purchasing, transactions involving real or personal property, personnel, or budgetary matters.

(2) The following positions are established within the agency, all of whom shall be appointed by the executive director:

(f) Chief data officer.

Section 2. Present subsections (17) and (18) of section 282.0051, Florida Statutes, are redesignated as subsections (20) and (21), respectively, and new subsections (17), (18), and (19) are added to that section, to read:

282.0051 Agency for State Technology; powers, duties, and functions.—The Agency for State Technology shall have the following powers, duties, and functions:

(17) Oversee the transition of licenses and identification cards to digital proof of licenses and identification cards to be issued by state agencies, commissions, and departments at the option of licenseholders and cardholders upon payment of a $5 fee. The agency shall develop standards for the digitization of individual types of licenses and identification cards when digital proofs of those licenses and identification cards are authorized by law. The agency shall also develop a central digital platform that can store or access data for each type of digital proof of license and identification card. State agencies, commissions, and departments must consult with the agency before contracting with any third-party entity to develop digital proof of license or identification card. If any state agency, commission, or department seeks to develop its own digital proof of license or identification card without contracting services to a third party, the agency shall develop standards for such digital proof of license or identification card and must be consulted in the development of such license or

identification card. The agency may contract with a third party to assist in the fulfillment of the requirements of this subsection.

(18) In consultation with other state agencies and giving consideration to the feasibility study conducted pursuant to s. 30, chapter 2014-221, Laws of Florida, direct the chief data officer to:

(a) Establish a governance structure for managing state government data in a manner that promotes interoperability and openness; and

(b) Establish a catalog of state government data which documents the acceptable use of, security and compliance requirements for, sharing agreements for, and format and methods available to access the data.

(19) Consult with each state agency on the development of the agency's legislative budget request for the use of commercial cloud computing services, current plans for the expansion of cloud computing to leverage the utility-based model, security benefits of transitioning to cloud computing, and any factors delaying or inhibiting the expansion of cloud computing usage. All state agencies must evaluate and consider commercial cloud computing services before making any new information technology or telecommunications investment.

Section 3. Section 322.032, Florida Statutes, is amended to read:

322.032 Digital proof of driver license.—

(1) The department, in coordination with the Agency for State Technology, shall develop ~~begin to review and prepare for the development of~~ a secure and uniform system for issuing an


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optional digital proof of driver license for a fee of $5. Such fees shall be deposited into the Highway Safety Operating Trust Fund. The department may contract with one or more private entities to develop a digital proof of driver license system pursuant to s. 282.0051(17).

(2) ~~The~~ Digital proof of driver license developed by the department or by an entity contracted by the department must be in ~~such~~ a format that allows ~~as to allow~~ law enforcement to verify the authenticity of such ~~the~~ digital proof ~~of driver license~~. The department, in coordination with the Agency for State Technology, may adopt rules to ensure valid authentication of digital proof of driver licenses by law enforcement.

(3) Digital proof of driver license must display the same required information about the licenseholder as does a driver license under this chapter.

(4) ~~(3)~~ A person may not be issued ~~a~~ digital proof of driver license until he or she has satisfied all of the requirements of this chapter for issuance of a physical driver license ~~as provided in this chapter~~.

(5) The department, in coordination with the Agency for State Technology, shall implement a digital proof of driver license pilot program by July 1, 2017, using the developed secure and uniform system. Program participants must be limited to elected state officials and state employee volunteers. The department shall provide a report on the results of the pilot program to the Governor, the President of the Senate, and the Speaker of the House of Representatives by March 1, 2018.

(6) ~~(4)~~ A person who:

(a) Manufactures ~~a~~ false digital proof of driver license


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commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Possesses ~~a~~ false digital proof of driver license commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 4. For the 2016-2017 fiscal year, the sums of $146,001 in recurring funds and $3,999 in nonrecurring funds are appropriated from the General Revenue Fund to the Agency for State Technology, and one full-time equivalent position with associated salary rate of 100,000 is authorized, for the purpose of implementing the position of chief data officer established by the amendment to s. 20.61, Florida Statutes.

Section 5. For the 2016-2017 fiscal year, the sum of $500,000 in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Highway Safety and Motor Vehicles for the purpose of implementing the pilot program created by the amendment to s. 322.032, Florida Statutes.

Section 6. This act shall take effect October 1, 2016.

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	CS/SB 1430
INTRODUCER:	Governmental Oversight and Accountability Committee and Senator Brandes
SUBJECT:	State Technology
DATE:	March 2, 2016
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peacock	McVaney	GO	**Fav/CS**
2.	Wilson	DeLoach	AGG	**Recommend: Fav/CS**
3.	Wilson	Kynoch	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1430 establishes a chief data officer within the Agency for State Technology (AST) who must be appointed by the executive director.

The bill amends s. 282.0051, F.S., to expand the AST's duties to include overseeing the transition of various licenses and identification cards to an optional digital proof of the licenses and identification cards for a specified fee and developing standards for the digitization of such licenses and identification cards. The AST is authorized to access all identity, license and identification card data, and other pertinent information within possession of any state agency, commission or department, unless prohibited by federal law, and to adopt rules regarding such access. The AST must also consult with each state agency on various issues relating to commercial cloud computing services.

The Department of Highway Safety and Motor Vehicles (DHSMV), in conjunction with AST, must develop a secure and uniform system for issuing an optional digital proof of driver license. The DHSMV may adopt rules to ensure the valid authentication of digital proof of driver licenses. License or card holders electing to purchase the digital proof of driver license will pay $5 which shall be deposited into the Highway Safety Operating Trust Fund.

The bill has a significant fiscal impact to state funds. The bill appropriates $500,000 in nonrecurring funds from the General Revenue Fund to the DHSMV for implementing the optional digital proof driver license pilot program. In addition, as estimated by the 2015 Florida Government Data Feasibility Study directed in ch. 2014-221, AST will require $320,000 in recurring funds from the General Revenue Fund for the chief data officer position and the

additional duties and responsibilities included in the bill. These resources are not appropriated in the bill.

The effective date of the bill is October 1, 2016.

II. Present Situation:

Agency for State Technology

The Agency for State Technology (AST) was created on July 1, 2014.[1] The executive director of AST is appointed by the Governor and confirmed by the Senate.

For the 2015-2016 fiscal year, the AST is authorized 25 full-time equivalent positions within its Executive Direction and Support Services budget entity. Of those positions, the executive director is required to designate the following:[2]

- Deputy executive director;
- Chief planning officer and six strategic planning coordinators;
- Chief operations officer;
- Chief information security officer; and
- Chief technology officer.

The duties and responsibilities of the AST include:[3]

- Developing and publishing information technology (IT) policy for management of the state's IT resources.
- Establishing and publishing IT architecture standards.
- Establishing project management and oversight standards with which state agencies must comply when implementing IT projects.
- Performing project oversight on all state IT projects with total costs of $10 million or more.
- Identifying opportunities for standardization and consolidation of IT services that support common business functions and operations.
- Establishing best practices for procurement of IT products in collaboration with the Department of Management Services (DMS).
- Participating with the DMS in evaluating, conducting and negotiating competitive solicitations for state term contracts for IT commodities, consultant services, or staff augmentation contractual services.
- Collaborating with the DMS in IT resource acquisition planning.
- Developing standards for IT reports and updates.
- Upon request, assisting state agencies in development of IT related legislative budget requests.
- Conducting annual assessments of state agencies to determine compliance with IT standards and guidelines developed by AST.
- Providing operational management and oversight of the state data center.
- Recommending other IT services that should be designed, delivered, and managed as enterprise IT services.

[1] Chapter 2014-221, Laws of Florida.
[2] Section 20.61(2), F.S.
[3] Section 282.0051, F.S.

- Recommending additional consolidations of agency data centers or computing facilities into the state data center.
- In consultation with state agencies, proposing a methodology for identifying and collecting current and planned IT expenditure data at a state agency level.
- Performing project oversight on any cabinet agency IT project that has a total project cost of $25 million or more and impacts one or more other agencies.
- Consulting with departments regarding risks and other effects for IT projects implemented by an agency that must be connected to or accommodated by an IT system administered by a cabinet agency.
- Reporting annually to the Governor, the President of the Senate and the Speaker of the House regarding state IT standards or policies that conflict with federal regulations or requirements.

Technology Advisory Council

The Technology Advisory Council,[4] consisting of seven members, is established within the AST. Four members of the council are appointed by the Governor of which two members must be from the private sector. The President of the Senate and the Speaker of the House of Representatives each appoint one member of the council. The Attorney General, the Commissioner of Agriculture and Consumer Services, and the Chief Financial Officer jointly appoint one member by agreement of a majority of these officers.

The Technology Advisory Council makes recommendations to the Executive Director on enterprise information technology policies, standards, services, and architecture.[5] The council may also identify and recommend opportunities for the establishment of public-private partnerships when considering technology infrastructure and services in order to accelerate project delivery and provide a source of new or increased project funding.[6] The Executive Director consults with the council with regards to executing the duties and responsibilities of the agency relating to statewide information technology strategic planning and policy.[7]

Digital Proof of Driver License

In 2014, the Legislature enacted s. 322.032, F.S.,[8] requiring the Department of Highway Safety and Motor Vehicles (DHSMV) to prepare for the development of an optional digital proof of driver license in a format that allows law enforcement to verify the authenticity of the digital proof.

Section 322.059, F.S., requires that any person whose driver license or registration has been suspended must return that driver license immediately to the DHSMV. If he or she fails to return the license or registration, a law enforcement agent may seize the driver license. This section further provides that the DHSMV shall invalidate the digital proof of driver license for such person whose driver license is suspended.

Section 322.15, F.S., requires that every licensee must have his or her driver license in his or her possession at all times while operating a motor vehicle and shall display that license upon

[4] Section 20.61(3), F.S.
[5] Section 20.61(3)(a), F.S.
[6] *Id*.
[7] Section 20.61(3)(b), F.S.
[8] Chapter 2014-216, s. 27, Laws of Fla.

demand of a law enforcement officer or an authorized representative of the DHSMV. Also, this section allows a licensee to present or submit a digital proof of driver license in lieu of a physical driver license.

A person who possesses a false digital proof of driver license commits a second degree misdemeanor punishable by imprisonment not to exceed 60 days.[9]

III. Effect of Proposed Changes:

Section 1 amends s. 20.61, F.S., to establish a chief data officer position within the Agency for State Technology (AST).

Section 2 amends s. 282.0051, F.S., to expand the powers, duties, and functions of the AST to include:

- Overseeing the transition of licenses and identification cards to digital proof of licenses and identification cards to be issued by state agencies, commissions, and departments at the option of licenseholders and cardholders upon payment of a $5 fee.
- Developing standards for the digitization of individual types of licenses and identification cards when digital proofs of those licenses and identification cards are authorized by law.
- Developing a central digital platform that can store or access data for each type of digital proof of license and identification card.
- Contracting with a third party to assist in the fulfillment of the requirements for a digital proof of license or identification card.
- Authorizing full access to all identity data, license and identification card data, and other pertinent information within the possession of any state agency, commission, or department unless otherwise prohibited by federal law.
- Consulting with each state agency on the development of the agency's legislative budget request for the use of commercial cloud computing services, current plans for the expansion of cloud computing to leverage the utility-based model, security benefits of transitioning to cloud computing, and any other factors delaying or inhibiting the expansion of cloud computing usage.

The bill requires state agencies, commissions, and departments to consult with the AST before contracting with any third-party entity to develop digital proof of license or identification card. If any state agency, commission or department seeks to develop its own digital proof of license or identification card without contracting services to a third party, the AST must develop standards for such digital proof of license or identification card and be consulted in the development of such license or identification card. All state agencies must evaluate and consider commercial cloud computing services before making any new information technology or telecommunications investment.

This section grants authority to the AST to adopt rules governing its access to data held by other state agencies, commissions, and departments. The bill provides that if any data or information accessed by the AST is exempt from public disclosure pursuant to general law, section 2 may not be construed to negate the exemption.

[9] Section 322.032(4)(b), F.S. *Also, see* s. 775.082, F.S.

In consultation with other state agencies and giving consideration to the feasibility study[10] conducted pursuant to s. 30, chapter 2014-221, Laws of Florida, the chief data officer is directed to:

- Establish a governance structure for managing state government data in a manner that promotes interoperability and openness.
- Establish a catalog of state government data which documents the acceptable use of, security and compliance requirements for, sharing agreements for, and format and methods available to access the data.
- Ensure that, if legally permissible and not cost prohibitive, such data is readily available to other state agencies and the public in compliance with the public records requirements of ch. 119, F.S.

Section 3 amends s. 322.032, F.S., to require the Department of Highway Safety and Motor Vehicles (DHSMV), in coordination with the AST, to develop a secure and uniform system for issuing an optional digital proof of driver's license for a fee of $5. This fee must be deposited into the Highway Safety Operating Trust Fund within the DHSMV. The DHSMV is authorized to contract with one or more private entities to develop a digital proof of driver license system.

The digital proof of driver license developed must be in a format that allows law enforcement to verify the authenticity of the digital proof and must display the same required information about the licenseholder as does a driver license issued under ch. 322, F.S.

The DHSMV, in coordination with the AST, may adopt rules to ensure valid authentication of digital proof of driver licenses by law enforcement.

The DHSMV, in coordination with the AST, must implement a digital proof of driver license pilot program by July 1, 2017, using the developed secure and uniform system. Program participants are limited to elected state officials and state employee volunteers. The DHSMV must provide a report on the results of the pilot program to the Governor, the President of the Senate, and the Speaker of the House of Representatives by March 1, 2018.

The bill amends the criminal penalties for the offense of possession of a false digital proof of driver license, a second degree misdemeanor, to also include imposition of a fine not to exceed $500.

Section 4 appropriates the sum of $500,000 in nonrecurring funds from the General Revenue Fund to the DHSMV for the purpose of implementing the pilot program created by the amendment to s. 322.032, F.S., for the 2016-2017 fiscal year.

Section 5 provides an effective date of October 1, 2016.

[10] The feasibility study directed AST to analyze, evaluate, and provide recommendations for managing state government data in a manner that promotes interoperability and openness; ensures that, whenever legally permissible and not cost prohibitive, such data is available to the public in ways that make the data easy to find and use; and complies with the provisions of ch. 119, F.S. AST submitted this report to the Governor, the President of the Senate, and the Speaker of the House on June 1, 2015. A copy of this study may be accessed at http://www.ast.myflorida.com/doc%20library/1%20-%20DEL6_GDFS_OUTLINE_FINAL_20150601.pdf.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of a state tax shares with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

CS/SB 1430 provides a $5 fee to be assessed for each license that a citizen wishes to have digital proof of license. The revenue collected will be deposited in the Highway Safety Operating Trust Fund within the DHSMV. Since participation is optional, the annual revenue estimated to be collected is indeterminate.

B. Private Sector Impact:

The private sector impact of the bill is indeterminate. The bill directs the AST to establish a catalog of state government data. This may result in data requirement changes affecting state agencies, ultimately resulting in an impact on the state agency customers.

C. Government Sector Impact:

The bill appropriates $500,000 nonrecurring from the General Revenue Fund for Fiscal Year 2016-2017 to implement digital proof of driver licenses pilot program within Department of Highway Safety and Motor Vehicles.

The bill creates new duties within the Agency for State Technology (AST) to oversee the transition of licenses and identification cards to digital proof of licenses and identification cards and directs the AST to create a central digital platform to store and access the data. The AST's new duties include the establishment of a governance structure and a catalog of state government data consistent with the data feasibility study completed in 2015. According to the study, implementation of the recommendations are estimated to be $320,000 which includes the new Chief Data Officer position.[11]

[11] The feasibility study directed AST to analyze, evaluate, and provide recommendations for managing state government data in a manner that promotes interoperability and openness; ensures that, whenever legally permissible and not cost prohibitive, such data is available to the public in ways that make the data easy to find and use; and complies with the provisions of ch. 119, F.S. AST submitted this report to the Governor, the President of the Senate, and the Speaker of the House on June 1, 2015. A copy of this study may be accessed at http://www.ast.myflorida.com/doc%20library/1%20-%20DEL6_GDFS_OUTLINE_FINAL_20150601.pdf

Requiring state agencies to consult and potentially participate with the AST on a governance structure to manage state government data and to provide information to establish a catalog of state government data will have an indeterminate fiscal impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.61, 282.0051, and 322.032.

IX. Additional Information:

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

CS by Governmental Oversight and Accountability on February 9, 2016:

- Authorizes the AST to consult with each state agency on the development of the agency's legislative budget request for the use of commercial cloud computing services, current plans for expansion of cloud computing, security benefits of transitioning to cloud computing, and any factors delaying expansion of cloud computing;
- All state agencies must evaluate and consider commercial cloud computing services before making any new information technology or telecommunications investment;
- Specifies that the $5 fee for issuing an optional digital proof of a driver license shall be deposited into the Highway Safety Operating Trust Fund;
- Deletes provisions of the original bill regarding FWC's development of a secure and uniform system for issuing an optional digital proof of boater safety identification card, vessel licenses and licenses for game, freshwater or saltwater fish, or fur-bearing animals; and
- The sum of $500,000 in nonrecurring funds from the General Revenue Fund is appropriated to the DHSMV for implementing a digital proof of driver license pilot program, in coordination with the AST, for the 2016-2017 fiscal year.

B. Amendments:

None.

By the Committee on Governmental Oversight and Accountability; and Senator Brandes

585-03244-16 20161430c1

A bill to be entitled

An act relating to state technology; amending s. 20.61, F.S.; establishing a chief data officer within the Agency for State Technology who shall be appointed by the executive director; amending s. 282.0051, F.S.; authorizing the Agency for State Technology to oversee the transition of various licenses and identification cards to an optional digital proof of the licenses and identification cards for a specified fee; requiring the agency to develop standards for the digitization of individual licenses and identification cards; requiring the agency to develop a central digital platform that can store or access data for each type of digital proof of license and identification card; requiring state agencies, commissions, and departments to consult with the agency under certain circumstances; authorizing the agency to contract with a third party; providing that the agency has full access to certain data and information within the possession of any state agency, commission, or department under certain circumstances; authorizing the agency to adopt rules governing its access of such data; providing for construction; requiring the agency to direct the chief data officer to establish a governance structure for managing state government data, to establish a certain catalog of such data, and to ensure that such data is available to other state agencies and the public and complies with ch. 119, F.S.; requiring the agency to consult with state agencies on specified factors relating to cloud computing; requiring state agencies to evaluate and

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consider cloud computing services before making certain investments; amending s. 322.032, F.S.; requiring the Department of Highway Safety and Motor Vehicles, in coordination with the Agency for State Technology, to develop, rather than begin to review and prepare for the development of, a system for issuing an optional digital proof of driver license for a specified fee, subject to certain requirements; providing for deposit of such fees; authorizing the department, in coordination with the agency, to adopt rules to ensure valid authentication of digital proof of driver licenses; providing criteria for digital proof of driver licenses; requiring the department, in coordination with the agency, to implement a digital proof of driver license pilot program by a specified date, subject to certain requirements; requiring the department to provide a report to the Governor and the Legislature by a specified date; adding a penalty for possession of false digital proof of driver license; providing an appropriation; providing an effective date.

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

Section 1. Paragraph (f) is added to subsection (2) of section 20.61, Florida Statutes, to read:

20.61 Agency for State Technology.—The Agency for State Technology is created within the Department of Management Services. The agency is a separate budget program and is not

subject to control, supervision, or direction by the Department of Management Services, including, but not limited to, purchasing, transactions involving real or personal property, personnel, or budgetary matters.

(2) The following positions are established within the agency, all of whom shall be appointed by the executive director:

(f) Chief data officer.

Section 2. Present subsections (17) and (18) of section 282.0051, Florida Statutes, are redesignated as subsections (21) and (22), respectively, and new subsections (17), (18), (19), and (20) are added to that section, to read:

282.0051 Agency for State Technology; powers, duties, and functions.—The Agency for State Technology shall have the following powers, duties, and functions:

(17) Oversee the transition of licenses and identification cards to digital proof of licenses and identification cards to be issued by state agencies, commissions, and departments at the option of licenseholders and cardholders upon payment of a $5 fee. The agency shall develop standards for the digitization of individual types of licenses and identification cards when digital proofs of those licenses and identification cards are authorized by law. The agency shall also develop a central digital platform that can store or access data for each type of digital proof of license and identification card. State agencies, commissions, and departments must consult with the agency before contracting with any third-party entity to develop digital proof of license or identification card. If any state agency, commission, or department seeks to develop its own

digital proof of license or identification card without contracting services to a third party, the agency shall develop standards for such digital proof of license or identification card and must be consulted in the development of such license or identification card. The agency may contract with a third party to assist in the fulfillment of the requirements of this subsection.

(18) Have full access to all identity data, license and identification card data, and other pertinent information within the possession of any state agency, commission, or department unless otherwise prohibited by federal law. The agency may adopt rules governing its access to data held by other state agencies, commissions, and departments. If any data or information accessed by the agency is exempt from public disclosure pursuant to general law, this section may not be construed to negate the exemption.

(19) In consultation with other state agencies and giving consideration to the feasibility study conducted pursuant to s. 30, chapter 2014-221, Laws of Florida, direct the chief data officer to:

(a) Establish a governance structure for managing state government data in a manner that promotes interoperability and openness;

(b) Establish a catalog of state government data which documents the acceptable use of, security and compliance requirements for, sharing agreements for, and format and methods available to access the data; and

(c) Ensure that, if legally permissible and not cost prohibitive, such data is readily available to other state

agencies and the public in compliance with the public records requirements of chapter 119.

(20) Consult with each state agency on the development of the agency's legislative budget request for the use of commercial cloud computing services, current plans for the expansion of cloud computing to leverage the utility-based model, security benefits of transitioning to cloud computing, and any factors delaying or inhibiting the expansion of cloud computing usage. All state agencies must evaluate and consider commercial cloud computing services before making any new information technology or telecommunications investment.

Section 3. Section 322.032, Florida Statutes, is amended to read:

322.032 Digital proof of driver license.—

(1) The department, in coordination with the Agency for State Technology, shall develop ~~begin to review and prepare for the development of~~ a secure and uniform system for issuing an optional digital proof of driver license for a fee of $5. Such fees shall be deposited into the Highway Safety Operating Trust Fund. The department may contract with one or more private entities to develop a digital proof of driver license system pursuant to s. 282.0051(17).

(2) ~~The~~ Digital proof of driver license developed by the department or by an entity contracted by the department must be in ~~such~~ a format that allows ~~as to allow~~ law enforcement to verify the authenticity of such ~~the~~ digital proof ~~of driver license~~. The department, in coordination with the Agency for State Technology, may adopt rules to ensure valid authentication of digital proof of driver licenses by law enforcement.

(3) Digital proof of driver license must display the same required information about the licenseholder as does a driver license under this chapter.

(4) ~~(3)~~ A person may not be issued ~~a~~ digital proof of driver license until he or she has satisfied all of the requirements of this chapter for issuance of a physical driver license ~~as provided in this chapter~~.

(5) The department, in coordination with the Agency for State Technology, shall implement a digital proof of driver license pilot program by July 1, 2017, using the developed secure and uniform system. Program participants must be limited to elected state officials and state employee volunteers. The department shall provide a report on the results of the pilot program to the Governor, the President of the Senate, and the Speaker of the House of Representatives by March 1, 2018.

(6) ~~(4)~~ A person who:

(a) Manufactures ~~a~~ false digital proof of driver license commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Possesses ~~a~~ false digital proof of driver license commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 4. For the 2016-2017 fiscal year, the sum of $500,000 in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Highway Safety and Motor Vehicles for the purpose of implementing the pilot program created by the amendment to s. 322.032, Florida Statutes.

Section 5. This act shall take effect October 1, 2016.

The Florida Senate

Committee Agenda Request

To: Senator Tom Lee, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 24, 2016

I respectfully request that **Senate Bill #1430**, relating to **State Technology**, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Senator Jeff Brandes
Florida Senate, District 22

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

3/3/16
Meeting Date

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

1430
Bill Number (if applicable)

Topic STATE TECHNOLOGY

Amendment Barcode (if applicable)

Name JAMES TAYLOR

Job Title EXECUTIVE DIRECTOR

Address 115 PARK AVE
Street

Phone 407 218-2750

TALLY FL
City *State* *Zip*

Email

Speaking: ☑ For ☐ Against ☐ Information

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

Representing FLORIDA TECHNOLOGY COUNCIL

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3 / 3 /2016
Meeting Date

Topic _____ Bill Number 1430 *(if applicable)*

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

Job Title TRUSTEE

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

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

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

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

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

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

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Committee	
BILL:	PCS/CS/SB 1646 (747054)
INTRODUCER:	Appropriations Committee (Recommended by Appropriations Subcommittee on Transportation, Tourism, and Economic Development); Commerce and Tourism Committee; and Senator Latvala
SUBJECT:	Economic Development
DATE:	March 2, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Askey	McKay	CM	**Fav/CS**
2.	Gusky	Miller	ATD	**Recommend: Fav/CS**
3.	Gusky	Kynoch	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1646 makes several changes to the state's economic development programs to increase accountability and efficiency.

Related to economic development incentives programs generally, the bill:

- Revises definitions of "cumulative capital investment," "economic benefit," and "average private sector wage in the area" across the state's economic development incentive programs.
- Regarding incentive contracts, the bill:
  - Limits incentive contract terms to 10 years,
  - Requires contracts to embody the written descriptions provided to the Legislature,
  - Requires contracts to include provisions requiring the capital investment made for the project remain in the state for the duration of the contract, and
  - Requires the Department of Economic Opportunity (DEO) to provide notice of executed contracts to the Legislature.
- Requires incentive reports to include information on jobs created and retained that provide health benefits.

Related to the Quick Action Closing Fund Program, the bill:

- Renames the Quick Action Closing Fund as the "Florida Enterprise Fund."
- Lowers the required economic benefits (return on investment) from 5 to 1, to 2.5 to 1.

- Requires that projects create at least 10 jobs.
- Requires local financial support of at least 20 percent of the award.
- Prohibits payment before performance conditions are met.

Related to the Qualified Defense and Space Contractors Tax Refund Program, the bill:
- Extends the program to 2018.
- Allows businesses to receive refunds for activity in 2014 if the business failed to timely submit information and meets other conditions.

Related to the Qualified Target Industry Tax Refund Program, the bill:
- Clarifies that payments are not refunds of taxes, but that the taxes paid serve as limitations on the amount of incentive payments a business may receive.
- Expands the definition of "target industry business" to include a college, university or professional school that only offers baccalaureate or higher degrees that address health care workforce demands, under certain circumstances.

Related to the Quick Response Training Program and CareerSource Florida, Inc. (CareerSource), the bill:
- Authorizes CareerSource to execute contracts that obligate reimbursement payments for up to $30 million for any given 24-month period.
- Provides that an educational institution providing administrative assistance or receiving QRT grant funding *may* be included as a party to a grant agreement, making the fiscal agent's role permissive instead of mandatory.
- Includes the president of CareerSource as a member of EFI's board of directors.

Related to the sports industry in Florida, the bill:
- Moves the Florida Sports Foundation from Enterprise Florida, Inc., (EFI) to the Department of Economic Opportunity (DEO).
  - Revises the membership of the governing board of the Florida Sports Foundation.
  - Deletes residency requirement for participants of the Sunshine State Games and the Florida Senior Games.
  - Conforms distributions from sports-related license plates to be made to the Florida Sports Foundation.
- Removes the Legislature from the project approval process under the Sports Development Program; projects, including projects recommended for approval by the DEO in the 2015-2016 fiscal year, would be certified and approved by the DEO.
- Repeals expired provisions related to an International Game Fish Association World Center facility.

Related to the state's entertainment industry, the bill:
- Moves the DEO Office of Film and Entertainment (OFE) to EFI, and renaming it the Division of Film and Entertainment (division).
- Creates the Entertainment Action Fund, from which approved production companies may receive funds from the program for qualified expenditures in the state.
- Changes the repeal date of the entertainment industry financial incentive program to April 1, 2016, and prohibiting program tax credits from being certified after that date. Tax

credits certified before April 1, 2016, may be awarded on or after April 1, 2016, if certain requirements are met. Tax credits will not be awarded after June 30, 2017.
- Revises the entertainment industry sales tax exemption certificate program to prohibit backdating of tax exemption certificates.
- Prohibits a production company from benefiting from both the Entertainment Action Fund and the sales tax exemption certificate program for the same production.

Other provisions of the bill include:
- Permitting a qualified job-training organization to participate in a self-insurance fund;
- Allowing local governments to adopt a flexible and quicker approval process for the development of nonresidential projects, including office and industrial parks; and
- Allowing local governments to provide economic development ad valorem tax exemptions to datacenters that are replacing or refreshing equipment.

The transfer of funds currently held in escrow by Enterprise Florida, Inc., to the Quick Action Closing Fund Escrow Account within the Economic Development Trust Fund will have an indeterminate, but positive, fiscal impact on the State Economic Enhancement and Development Trust Fund. The DEO's certification of three applicants for annual distributions under the Sports Development Program during Fiscal Year 2015-2016 will have a recurring negative fiscal impact to the General Revenue Fund of up to $7 million per year. The bill does not provide a specific appropriation for the Entertainment Action Fund program; however, the bill does include the program as an incentive program authorized for funding from the Florida Enterprise Account, subject to appropriation. The extension of the Qualified Defense Contractor and Space Flight Business Tax Refund (QDSC) program to allow the DEO to certify applications through June 30, 2018, will have a negative impact to state revenues. Funds to make payments for this refund program are appropriated in the General Appropriations Act each year. The bill will have an indeterminate, but positive, fiscal impact to businesses that are certified to participate in the QDSC program. The bill will have an indeterminate, but expected to be minimal, impact to the DEO and EFI; any additional costs are expected to be absorbed within existing resources. See Section V.

The bill provides an effective date of July 1, 2016, except as otherwise provided for in the bill and except for the effective date section, which takes effect upon becoming law.

II. Present Situation:

For the purposes of this bill analysis, the Present Situation will be addressed in the Effect of Proposed Changes section below.

III. Effect of Proposed Changes:

Economic Development Incentive Programs

Current Situation

Florida has a number of incentive programs intended to promote economic development in the state. These programs are collectively referred to as the economic development "toolkit" and come in a variety of forms including tax refunds, tax credits, tax exemptions, and cash grants.

The Qualified Target Industry Business Tax Refund (QTI) program is designed to attract high wage jobs in targeted industries to the state.[1] The target industries are identified by the Department of Economic Opportunity (DEO) using such criteria as future growth, stability, high wages, market and resource independence, industrial base diversification, and positive economic impact. Approved QTI projects have contractual performance measures with specific milestones to be verified prior to payment of any tax refunds. This incentive requires 20 percent of the award to come from the local government. QTI businesses are eligible for tax refunds in the amount of eligible taxes that were paid by the business. The program is funded through a specific annual appropriation.[2]

The Qualified Defense Contractor and Space Flight Business Tax Refund (QDSC) program is designed to attract high wage jobs in the space and defense industries.[3] As with the QTI refund, 20 percent of the award comes from the local government. As with other programs, the QDSC tax refunds are awarded after contractual performance-based milestones are met and verified by the state. The program is funded through a specific annual appropriation. Currently, an applicant cannot be certified as qualified after June 30, 2014, but any agreements in effect after that date continue in accordance with their terms.

The QTI and QDSC programs share a $35 million cap on tax refund payments, per fiscal year.

The Capital Investment Tax Credit (CITC) is designed to attract and grow capital-intensive industries in Florida.[4] Eligible projects must be in designated high-impact portions of certain sectors, determined by the DEO, including clean energy, biomedical technology, financial services, information or silicon technology, or transportation equipment manufacturing. Corporate headquarters facilities are also eligible. The DEO reported that $21.5 million in tax credits were claimed in 2014.[5] The annual credit can be provided for up to 20 years against corporate income tax liability.

To apply for the CITC, a business must meet cumulative capital investment requirements, among other criteria. For the purposes of the CITC tax credit "cumulative capital investment" is defined as the total capital investment in land, buildings, and equipment made in connection with a qualifying project during the period from the beginning of construction of the project to the commencement of operations.

The High Impact Performance Incentive (HIPI)[6] grant program is designed to spur capital investment and job creation in the same high-impact sectors as for the CITC tax credit. The cash grant is reserved for major facilities operating in designated portions of high-impact sectors. The program has an annual cap of $30 million for scheduled performance grant payments. This program authorizes the recapture of funds if a business fails to meet its contractual performance

[1] Section 288.106, F.S.
[2] Section 288.095, F.S.
[3] Section 288.1045, F.S.
[4] Section 220.191, F.S.
[5] Department of Economic Opportunity, *DEO: 2015 Incentives Report*, December 30, 2015, (on file with the Commerce and Tourism Committee).
[6] Section 288.108, F.S.

requirements. Currently, the DEO "certifies" a qualified high impact business for program participation.

The Quick Action Closing (QAC) Fund grant program is designed to be a competitive "deal closing" tool for negotiations where the state's other incentives are not enough to incentivize a business to remain, locate, or expand in the state.[7] Under current law, in order to be eligible for QAC funds a project must meet five criteria:

- Be in a qualified target industry;
- Have a positive economic benefit ratio of at least 5 to 1;
- Be an inducement to the project's location or expansion in the state;
- Pay an average annual wage of at least 125 percent of the area-wide or statewide private sector average wage; and
- Be supported by the local community in which the project is to be located.

A waiver of eligibility requirements can be considered if certain criteria are met.[8]

A QAC project must have a performance based contract requiring specific scheduled milestones and annual compliance requirements. The program authorizes sanctions and penalties for failure to perform. The DEO reports that $44.2 million in grant incentives was approved in Fiscal Year 2014-15.[9]

The Innovation Incentive Program (IIP) is designed to empower the state to compete effectively for research and development, innovation business, or alternative and renewable energy projects.[10] The state makes long-term investments in industry clusters critical to the state's future economic diversification. The projects have contractual performance measures and milestones that must be achieved before grant payment. The contracts also include a reinvestment provision, requiring recipients to pay a portion of earned royalty revenues back to the state for investment in existing state trust funds. A 1 to 1 local match is also required, and the project must ultimately result in a cumulative break-even economic benefit within a 20-year period. The DEO reports that as of 2015, for the life of the program nine companies have been awarded funds of $455.7 million.[11]

The Office of Economic Development and Research (EDR) and the Office of Program Policy Analysis and Government Accountability (OPPAGA) are required to provide a detailed analysis of state economic development programs according to a recurring schedule established in law.[12] The EDR must evaluate and determine the economic benefits, as defined in s. 288.005(1), F.S., of each program over the previous 3 years. For the purposes of EDR's analysis, the calculation of economic benefits is the same as the state's return on investment.

[7] Section 288.1088, F.S.
[8] Section 288.1088(3)(a), F.S.
[9] *Supra* note 5, at 18.
[10] Section 288.1089, F.S.
[11] *Supra* note 5, at 27.
[12] Section 288.0001, F.S.

Effect of Proposed Changes

Qualified Target Industry Tax Refund Program

Section 13 amends s. 288.106, F.S., to clarify that the QTI "tax refund" program is not a repayment of taxes, but that taxes paid operate as a limitation on the incentive payments a business can receive. The bill deletes obsolete provisions relating to economic recovery extensions that expired in 2012 and special incentives for "disproportionally affected counties" that expired in 2014.

The definition of "target industry business" is expanded in the bill to include any business within NAICS code 611310 (college, university or professional school) that only offers baccalaureate or higher degrees that address health care workforce demand if the local governing body and EFI make a determination that the community where the business may locate has conditions affecting the fiscal and economic viability of the local community or area.

The bill replaces language authorizing a "local financial support exemption option" with local financial support waiver provisions that will apply consistently across the economic development incentive programs, as applicable. Generally, a business may not receive more than 80 percent of its total tax refunds that are authorized under the program from state funds. The DEO may grant to a local government a waiver that reduces the required amount of local financial support by ten percent or eliminates the required support for a designated rural area of opportunity (RAO). To be eligible to receive a waiver that reduces or eliminates the required amount of local financial support, a local government must provide the DEO with:

- A resolution adopted by the governing body of the county or municipality where the project will be located requesting that the applicant's project be waived from the local financial support requirement; and
- A statement prepared by a certified public accountant which describes the financial constraints preventing the local government from providing the required local financial support. However, a fiscally constrained county does not need to provide this statement.

Qualified Defense and Space Contractor Tax Refund Program

Section 12 amends s. 288.1045, F.S., to extend the expiration date for applicants to become certified as qualified to participate in the program to June 30, 2018. The bill also amends that section to allow a business that does not submit documentation requested by the DEO and as required by the agreement to claim an approved refund if:

- The business submits the documentation to the DEO;
- The business provides a written statement to the DEO detailing the extenuating circumstances that resulted in the failure to timely submit documentation required by the agreement;
- Funds appropriated for the program remain available;
- The business was scheduled to submit information to the DEO between January 1, 2014, and December 31, 2104; and
- The business has met all other requirements in the agreement.

The bill replaces language authorizing a "local financial support exemption option" with local financial support waiver provisions as described above for the QTI Tax Refund Program.

High-Impact Performance Incentive (HIPI) Program

Section 14 amends s. 288.108, F.S., to require that HIPI projects have an economic benefit ratio of at least 1 to 1. The bill also removes the current certification process and creates the following approval process for HIPI projects:

- The DEO's executive director shall recommend that a HIPI project be approved or denied to the Governor.
- The Governor may approve a HIPI performance grant award of less than $2 million without consulting the Legislature. The Governor must provide a written description and evaluation of the approved project to the President of the Senate and the Speaker of the House of Representatives (the presiding officers) within one business day after approval.
- For a HIPI performance grant award of $2 million or more, the Governor must provide a written description and evaluation of the project to the presiding officers at least 14 days before approving the project. If either of the presiding officers timely advises the Governor, in writing, that his or her planned or proposed action exceeds the delegated authority of the Governor or is contrary to legislative policy or intent, the Governor must direct the DEO to immediately suspend any planned or proposed action.
- The DEO must provide a written description of an amendment, modification, or extension of an executed HIPI agreement that results in a 0.5-point or greater reduction in the project's economic benefit ratio to the presiding officers within one business day after approval.
- An amendment, modification, or extension may not be made to an executed HIPI agreement if:
  - Such action would reduce the project's economic benefits ratio to less than 1 to 1.
  - The award of state funds outlined in the agreement has not been reduced by a proportionate amount.
- Upon the Governor's approval, the DEO will certify the applicant as a high-impact business and enter into a performance grant agreement with the business pursuant to s. 288.061, F.S. The agreement shall require the business to submit proof of performance within a specified time period, not to exceed 90 days, from the required performance date.

Florida Enterprise Program (formerly QAC)

Section 15 amends s. 288.1088, F.S., to rename the "Quick Action Closing Fund" as the "Florida Enterprise Program." The bill amends eligibility criteria to require projects to have a positive economic benefit ratio of at least 2.5 to 1 and create at least 10 new jobs. The bill provides an exception to the requirement that a project pay an average annual wage of at least 125 percent of the average private sector wage in the area for projects located in a designated RAO. For projects located in a RAO, the average annual wage must be at least 100 percent, rather than 125 percent, of the average private sector wage in the area.

The bill provides the same approval process for Florida Enterprise Program projects as for the HIPI Program. The DEO must provide a written description and evaluation of an amendment, a modification, or an extension of an executed contract that results in a 0.5-point or greater reduction in the project's economic benefit ratio to the presiding officers within one business day after approval. An amendment, modification, or extension may not be made to an executed Florida Enterprise Program agreement if:

- Such action would reduce the project's economic benefits ratio to less than 2.5 to 1.

- The award of state funds outlined in the agreement has not been reduced by a proportionate amount.

The bill also requires that local support include a resolution adopted by the governing board of the county or municipality in which the project is located. The resolution must include a commitment of local financial support similar to current law requirements for the QTI and QDSC programs. The bill defines "local financial support" as funding from local sources, public or private, which is paid to the Economic Development Trust Fund and which is equal to 20 percent of the Florida Enterprise Program grant award to the business. The state share of the award cannot be more than 80 percent. The bill provides that the local financial support requirement can be waived in the same manner provided for the QTI and QDSC tax refund programs, as described above.

Local financial support can include any tax abatement granted to a business or the appraised market value of municipal or county land conveyed or provided at a discount to the business. The DEO is prohibited from entering into a contract with a business if the local financial support resolution is not passed within 90 days after the Governor has approved the project. The bill prohibits a business from providing over 5 percent of the local financial support, and prohibits funds appropriated from the General Revenue Fund or any state trust fund from being used for local financial support.

Prior to payment under the Florida Enterprise Program, a business must meet and report on contract performance criteria. The bill expands the list of performance criteria that must be included in a Florida Enterprise Program contract to include the amount of local financial support that will be annually available and will be paid into the Economic Development Trust Fund. The bill prohibits payment to a business unless the required local financial support is paid into the Economic Development Trust Fund.

Innovation Incentive Program

Section 16 amends s. 288.1089, F.S., relating to the Innovation Incentive Program, to:

- Require a local government that requests a waiver that reduces or eliminates the one-to-one match to provide the DEO with a statement prepared by a Florida certified public accountant that describes the financial constraints preventing the local government from meeting the local financial support requirement. However, a fiscally constrained county does not need to provide this statement.
- Provide the same approval process for Innovation Incentive Program projects as for the Florida Enterprise Program and the HIPI Program projects.
- Require, upon the Governor's approval, the DEO to enter into an agreement with the business pursuant to s. 288.061, F.S. The agreement shall require the business to submit proof of performance within a specified time period, not to exceed 90 days, from the required performance date.

The DEO must provide a written description and evaluation of an amendment, a modification, or an extension of an executed contract that results in a 0.5-point or greater reduction in the project's economic benefit ratio to the presiding officers within one business day after approval. An amendment, modification, or extension may not be made to an executed Innovation Incentive Program agreement if:

- Such action would reduce the project's economic benefits ratio to less than 1 to 1.
- The award of state funds outlined in the agreement has not been reduced by a proportionate amount.

Sections 5 and 9 amend ss. 288.0001 and 288.076, F.S., respectively, to make conforming changes related to the name change of the QAC program to the Florida Enterprise Program.

Section 5 also amends s. 288.0001, F.S., to add a report on the retention of Major League Baseball (MLB) spring training baseball franchises under s. 288.11631, F.S., to the list of reports included in the economic development programs evaluation schedule beginning January 1, 2018, and every 3 years thereafter.[13] The section also replaces a reference to "VISIT Florida" with the "Florida Tourism Industry Marketing Corporation."

Economic Development Trust Fund

Current Situation

Under current law, funds transferred from local governments for the purposes of the local financial support requirements of the QDSC and the QTI programs are deposited in the Economic Development Incentives Account within the Economic Development Trust Fund. Economic Development Incentives Account funds can only be used to pay tax refunds and make other payments authorized for the QDSC, QTI, and Brownfield Redevelopment Tax Refund programs.[14]

Effect of Proposed Changes

Section 10 amends s. 288.095, F.S., to:
- Allow local financial support associated with the Florida Enterprise Program (formerly QAC) be deposited in the Economic Development Incentives Account; and
- Create the Florida Enterprise Fund Account and the Quick Action Closing Fund Escrow Account within the Economic Development Trust Fund.

For each of the three accounts in the Economic Development Trust Fund, the bill provides that any balance in the account at the end of a fiscal year remains in the account and is available for carrying out the purposes of the account.

Florida Enterprise Fund Account

The Florida Enterprise Fund Account consists of moneys deposited in the account for purposes of the following incentives programs:
- Local Government Matching Grant Program (s. 288.0659, F.S.);
- QDSC Tax Refund Program (s. 288.1045, F.S.);
- QTI Tax Refund Program (s. 288.106, F.S.);
- Brownfield Redevelopment Bonus Program (s. 288.107, F.S.);
- HIPI Grant Program (s. 288.108, F.S.);

[13] Section 288.0001, F.S.
[14] Section 288.095, F.S.

- Florida Enterprise (formerly QAC) Program (s. 288.1088, F.S.);
- Innovation Incentive Program (s. 288.1089); and
- Entertainment Action Fund (s. 288-1256).

For each of the incentive programs listed above, the bill requires the DEO to provide the Legislature with: a list of potential claims for payment by January 2 of each year; and a list of actual claims for payment by March 1 of each year.

Funds in the Florida Enterprise Fund Account may only be expended pursuant to legislative appropriation or an approved budget amendment. The bill provides that notwithstanding s. 17.61(3)(c), F.S., the DEO must transfer interest earnings from the account to the State Economic Development (SEED) Trust Fund on a quarterly basis.

Quick Action Closing Fund Escrow Account

The Quick Action Closing Fund Escrow Account consists of moneys transferred from EFI which were held in an escrow account on June 30, 2016, for approved QAC contracts or agreements and moneys for Florida Enterprise Program contract or agreements approved on or after July 1, 2016. Moneys in the account must be managed and invested to generate the maximum amount of interest earnings, consistent with the requirement that the moneys be available to make payments. The bill provides that notwithstanding s. 17.61(3)(c), F.S., the DEO must transfer interest earnings from the account to the State Economic Development (SEED) Trust Fund on a quarterly basis.

Moneys in the account are appropriated to make payments for projects authorized under s. 288.1088, F.S., after certain conditions have been met or to make any required transfers, including transfers of interest earnings. The bill also requires the DEO to make quarterly determinations of whether moneys in the account are associated with an agreement or contract that has been terminated, that has otherwise expired, or for which a business has not met required performance conditions. Any such funds must be returned to the SEED Trust Fund within 10 days after the determination.

Section 11 of the bill requires EFI to transfer any funds held in an escrow account for approved QAC agreements or contracts on June 30, 2016, to the DEO by July 10, 2016, for deposit in the Quick Action Closing Fund Escrow Account within the Economic Development Trust Fund.

Incentive Contract Administration and Evaluation

Current Situation

The DEO is generally responsible for overseeing the incentive application and certification approval process, and for incentive agreement and contract management.

The DEO evaluates each incentive application to determine the economic benefits of the proposed award of state incentives proposed for the project. Currently, “economic benefits” are defined as the direct, indirect, and induced gains in state revenues as a percentage of the state’s investment. The state’s investment includes state grants, tax exemptions, tax refunds, tax credits

and other state incentives.[15] The Office of Economic and Demographic Research (EDR) establishes the methodology and model used to calculate the economic benefits. An amended definition of "economic benefits" may be developed by the EDR.[16]

The DEO must approve or deny an incentive application and issue a certification letter within 10 business days of application *submission*.[17]

The DEO is responsible for entering into incentive contracts or agreements with businesses and overseeing the performance of those contracts. Currently, incentive contracts must specify the following:

- The total amount of the award;
- The performance conditions that must be met to obtain the award;
- The schedule for payment; and
- Sanctions that would apply for failure to meet performance conditions.
- Contracts may also include representations, warranties and other covenants.[18]

Current law does not require incentive contracts to specify the duration of the contract nor require any capital investment made by the business to remain in the state for the duration of the contract. In addition, current law does not specifically allow for QAC and HIPI agreements to be amended. However, under certain circumstances an IIP award agreement can be amended.

Effect of Proposed Changes

Section 6 amends s. 288.005, F.S., to include a definition for "average private sector wage in the area," effectively standardizing use of the term for economic development programs. The term is defined to mean the statewide average wage in the private sector or the average of all private sector wages in the county or standard metropolitan area in which the project is located, as determined by the DEO. The bill makes conforming changes to reflect the new definition in the:

- Capital Investment Tax Credit program **(Section 4)**;[19]
- Research and Development Tax Credit program **(Section 39)**;[20]
- Qualified Defense Contractor and Space Flight Business Tax Refund program **(Section 12)**;[21]
- Qualified Target Industry Tax Refund program **(Section 13)**;[22]
- Florida Enterprise Program, formerly the Quick Action Closing Fund, program **(Section 15)**;[23] and
- Innovation Incentive Program **(Section 16)**[24].

[15] Section 288.005, F.S.
[16] Section 288.061, F.S.
[17] With the exception of the QAC and the IIP.
[18] Section 288.061, F.S.
[19] Section 220.191, F.S.
[20] Section 220.196, F.S.
[21] Section 288.1045, F.S.
[22] Section 288.106, F.S.
[23] Section 288.1088, F.S.
[24] Section 288.1089, F.S.

The bill revises several definitions to effectively standardize the requirement that no public funds can be counted when determining the economic benefit or return on investment of an incentive project, specifically:

- **Section 4** amends s. 220.191, F.S., related to the CITC tax credit, to clarify that the definition of "cumulative capital investment" is the total capital investment in land, buildings, and equipment made by, *or on behalf of,* the qualifying business in connection with a qualifying project during the period from the beginning construction of the project or the commencement of operations. The amended definition clarifies that the term does not include funds granted to or spent on behalf of the qualifying business by the state, a local government, or other governmental entity; funds appropriated in the General Appropriations Act (GAA); or funds otherwise provided to the qualifying business by a state agency, local government, or other governmental entity.
- **Section 14** amends s. 288.108, F.S., related to the HIPI program, to clarify that the term "cumulative investment" does not include funds granted to or spent on behalf of the qualifying business by the state, a local government, or other governmental entity; funds appropriated in the GAA; or funds otherwise provided to the qualifying business by a state agency, local government, or other governmental entity.
- **Sections 6 and 9** amends ss. 288.005(3) and 288.076(1)(e), F.S., respectively, related to definitions and return on investment reporting, to clarify that the "state investment" includes all state funds spent or foregone to benefit a business, including state funds appropriated to public and private entities, in addition to state grants, tax exemptions, tax refunds, tax credits, and any other source of state funds reasonably known to the DEO at the time of the approval

Section 8 significantly amends s. 288.061, F.S., related to the economic development incentive application process to include provisions relating to the evaluation and approval processes, and contract requirements. The bill:

- Directs the DEO to prescribe an application form that must be used for all incentives and specifies the information that must be included.
- Requires the DEO to review and evaluate each incentive application for the economic benefits of the proposed incentive award for the project before the project is approved and each time an agreement or contract is amended, modified, or extended by the department.
- Codifies the DEO's due diligence process by specifying what information must be reviewed during the evaluation process.
- Clarifies that the DEO has 10 business days from receiving a *complete* application, rather than a *submitted* application, to approve or deny the application and issue a certification letter for all incentives with the exception of the HIPI, Florida Enterprise Program (formerly QAC), and Innovation Incentive programs.
- Requires the DEO to recommend approval or deny a complete incentive application for the HIPI, Florida Enterprise Program (formerly QAC), and Innovation Incentive programs within 7 business days; requires recommendations for approval to include:
  - Total amount of the incentive award;
  - Anticipated project performance conditions, including but not limited to, net new employment in the state, average salary, and total capital investment incurred by the business;
  - Baseline of current service and a measure of enhanced capability;
  - Methodology for validating performance;

  - Schedule of performance grant payments; and
  - Sanctions for failure to meet performance conditions, including any clawback provisions.
- Prescribes the information that must be included in an incentive agreement or contract, including a requirement that the business use the state job bank (EmployFlorida Marketplace) to advertise job openings created as a result of the incentive.
- Provides that the DEO may only make an incentive payment to a business after the DEO has verified the business has met the required project performance conditions and only in the year the payment is scheduled to be paid pursuant to the agreement or contract.
- Prohibits the DEO from transferring any funds appropriated by the Legislature for incentive programs outside of the state treasury except to make a payment to a business as scheduled in an agreement or contract or as expressly provided in the General Appropriations Act.

Section 8 further amends s. 288.061, F.S., to:

- Require the EDR's amended definition of "economic benefits," to include all state funds spent or forgone to benefit the business, including state funds appropriated to public and private entities, to the extent that those funds are reasonably known by the DEO at the time of approval. The bill also directs the EDR to include guidelines for the appropriate application of the DEO's internal model.
- Require the DEO to consider all cumulative capital investment for the purpose of evaluating an incentive application. However, the DEO is prohibited from attributing state funds to the capital investment made by the business when calculating the economic benefit of an award.
- Prohibit the DEO from entering into economic development incentive agreements or contracts that exceed 10 years. However, the bill provides that the DEO may enter into successive agreements or contracts for a project to extend the first 10-year term, contingent upon the successful completion of the previous agreement or contract. Agreements and contracts for the CITC tax credit and IIP projects are not subject to the restriction on the 10 year term.
- Specify that contracts and agreements that require the business to make a capital investment must also require that such investment remain in the state for the duration of the agreement or contract. The bill exempts investments made in transportation-related assets specifically used for the purpose of transporting goods and employees from the requirement.
- Require the DEO to provide a notice, including an updated description and evaluation, to the Legislature upon final execution of each incentive contract or agreement. The bill requires HIPI, FEF (formerly QAC), and IIP contracts to embody the information included in the written description and evaluation presented to the Legislature.

Currently, the DEO and Enterprise Florida, Inc. (EFI) are required to report information pertaining to each incentive program on the DEO's incentive portal (an online listing of all incentive contracts with specified information) and EFI's annual incentive report. **Sections 9 and 31** amend ss. 288.076 and 288.907, F.S., respectively, to require that DEO's incentives portal and EFI's annual incentives report include data on the number of jobs created and retained and the number of jobs created and retained that provide health benefits. Section 288.076, F.S., is further amended to require the DEO to publish a summary document for all active contracts that includes scheduled performance and payment information. The DEO is required to publish any amendment, modification, or extension to a contract or agreement with 48 hours of approval

(information may be redacted prior to publication to protect against the disclosure of any confidential information).

Quick Response Training Program and CareerSource Florida, Inc. (CareerSource)

Current Situation

The 1993 Legislature established the Quick Response Training (QRT) Program to meet the workforce needs of existing, new, and expanding industries. The program provides grant funding for customized, skill-based training designed to meet the special requirements of businesses in Florida's qualified target industries. Industry associations from the target industry list may apply for consortium grants to serve multiple businesses in the same industry sector. The program is state funded and provides grants to qualifying businesses to train their new full-time employees. For the purpose of employee retention, grants are also provided to companies that are considering leaving the state. All grant applications are given equal consideration and are processed on a first-come, first-served basis. Each grant lasts no more than 24 months. Grant recipients pay for pre-approved direct training-related costs, including instructor wages, curriculum development, and textbooks and manuals. Grant recipients are reimbursed for a portion of the expenses upon submission of required documentation.[25]

Program funds are allocated to a local fiscal agent, which can be a career center, community college, or state university. The fiscal agents manage grant contracts between CareerSource and grant recipients. There are 30 fiscal agents to assist local businesses in the application, reporting, and reimbursement processes; fiscal agents may keep up to 5% of the grant award amount for performing these tasks. The majority of fiscal agents are community colleges, while a few are local school boards and state universities (e.g., the Hillsborough County School Board, the University of North Florida).[26]

Recipients may provide the grant-funded training via a company employee, independent training vendor, or local fiscal agent. Although the program originally intended for fiscal agents to be the primary training providers, relatively few grant recipients use them for that purpose. Instead, most grant recipients use in-house employees or independent vendors to provide the training.[27]

Contract terms for QRT grants range from 12 to 24 months. Companies can start training as soon as they receive an approval date, and training must be completed by the contract end date. CSF reimburses QRT recipients on a cost per-hour basis, at a maximum rate of $30 per hour for 12 to 15 hours of training, per trainee. QRT recipients must submit a one-page monthly status report even if no training occurs. In addition, once a company has completed some training, it sends forms for reimbursement to the fiscal agent, who in turn forwards forms to CSF. Businesses receiving QRT grants have 60 days after the contract end date to submit closeout paper work for their grant. QRT recipients submit two final reports: an end of contract report and a post-training

[25] *See Florida Economic Development Program Evaluations – Year 3*, Report No. 15-11, Office of Program Policy Analysis and Gov't Accountability, Florida Legislature, (November 2015) at http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1511rpt.pdf at 39 (last accessed February 13, 2015) (hereinafter OPPAGA Report 15-11).
[26] *Supra* note 25 at 40.
[27] Id.

evaluation, which asks the business to assess various training outcomes and rate aspects of the grant application and reporting processes.[28]

CareerSource is a not-for-profit corporation that serves as Florida's state-level workforce investment board.[29] CareerSource is responsible for developing and implementing a 5-year plan for the statewide workforce system and collaborates with the DEO, local workforce development boards (formerly known as regional workforce boards), and one-stop career centers to ensure that the workforce services provided are consistent with state and local plans. CareerSource also provides state-level policy, planning, performance evaluation, and oversight of the delivery of workforce services.[30] Currently, the chairperson of the board of directors of CareerSource is a member of EFI's board of directors.[31]

Effect of Proposed Changes

Section 7 amends s. 288.047, F.S., relating to the Quick Response Training Program, to specifically authorize CareerSource to enter into grant agreements, but the total amount of obligations for payment may not exceed $30 million for any 24-month period. The total amount of reimbursements approved for payment may not exceed the amount appropriated for that purpose in a fiscal year. The DEO may only transfer funds appropriated for the Quick Response Training Program to CareerSource as needed to make reimbursement payments.

The bill also:

- Prioritizes funding for QRT grant awards to businesses and industries in rural areas of opportunity and other rural areas, in distressed inner-city areas, in brownfield areas, or that seek to significantly upgrade employee skills or avoid a significant layoff;
- Provides that an educational institution providing administrative assistance or receiving QRT grant funding *may* be included as a party to a grant agreement, making the fiscal agent's role permissive instead of mandatory;
- Clarifies that matching contributions that are actually received during the fiscal year may be counted toward EFI's private sector support requirement;
- Clarifies that CareerSource shall administer the QRT Program in conjunction with the DEO, rather than the Department of Education and EFI; and
- Includes the president of CareerSource as a member of EFI's board of directors **(Section 30)**.

Qualified Job Training Organizations / Self-Insurance Funds

Current Situation

Qualified Job Training Organizations

A "qualified job training organization" is an organization that meets all of the following criteria:

- Is accredited by the Commission for Accreditation of Rehabilitation Facilities.
- Collects Florida state sales tax.
- Operates statewide and has more than 100 locations within the state.

[28] *Supra* note 25 at 41.
[29] Section 445.004(5)(a), F.S. Prior to 2014, CareerSource Florida, Inc., was known as Workforce Florida, Inc.
[30] Section 445.003(2), F.S., and *see* s. 445.004, F.S.
[31] Section 288.901(5)(a)5., F.S.

- Is exempt from income taxation under s. 501(c)(3) or (4) of the Internal Revenue Code of 1986, as amended.
- Specializes in the retail sale of donated items.
- Provides job training and employment services to individuals who have workplace disadvantages and disabilities.
- Uses a majority of its revenues for job training and placement programs that create jobs and foster economic development.[32]

Regulation of Self-Insurance Funds

The Office of Insurance Regulation (OIR) regulates the activities of insurers and other risk-bearing entities.[33] As an alternative to traditional insurance from a licensed insurance company, the Legislature has created various self-insurance funds to cover specific liabilities for specific groups or purposes.[34] The self-insurance funds may be classified as a commercial self-insurance fund, which may cover commercial property, casualty risk, or surety insurance liabilities;[35] a group self-insurance fund, which may cover worker's compensation liabilities;[36] or a specific purpose self-insurance fund that is created to address the needs of a specific group, e.g. local governments or not for profit corporations. While the types of insurance provided and membership eligibility requirements vary among the different types of self-insurance funds, all members of self-insurance funds share the common characteristic that they agree by virtue of their membership in a self-insurance fund to assume the risk of loss among themselves, rather than transferring the risk in its entirety to an insurance company.[37] Therefore, members generally see a lower annual cost for insurance in a self-insurance fund, but have a risk of higher assessment or cost in the case of a loss experienced either by themselves or a fellow member.

Not For Profit Self-Insurance Funds

Section 624.4625, F.S., governs not for profit self-insurance funds, and provides that two or more not for profit corporations[38] located in Florida and organized under Florida law may form a self-insurance fund with the purpose of pooling and spreading the property and casualty liabilities between its group members. The operating fund must:

- Have at least $5 million in annual normal premiums;
- Use a qualified actuary to determine an actuarially-sound rate, level of reserves, and loss adjustment expenses and submit annual certifications thereof to the OIR;

[32] Section 288.1097, F.S.
[33] Section 20.121(3)(a)1., F.S.
[34] *See* ss. 624.460-624.488, F.S.
[35] Section 624.462, F.S.
[36] Section 624.4621, F.S.
[37] The Commercial Self-Insurance Fund Act (ss. 624.460-624.488, F.S.), authorizes certain groups and associations to form a commercial self-insurance fund, subject to the approval of OIR. Under s. 624.4621, F.S., two or more employers may pool their workers' compensation liabilities and form a self-insurance fund for workers' compensation purposes, referred to as a group self-insurance fund. Such funds must comply with administrative rules adopted by the Financial Services Commission. Pursuant to s. 624.4622, F.S., any two local governments may enter into interlocal agreements to create a self-insurance fund for securing the payment of benefits under the workers' compensation law. Under s. 624.4623, F.S., any two or more independent non-profit colleges or universities may form a self-insurance fund for the purpose of pooling and spreading liabilities of its group members in any property or casualty risk or surety insurance or securing the payment of benefits under the workers' compensation law.
[38] Section 617.01401, F.S., defines the term, "corporation not for profit" to mean a corporation no part of the income or profit of which is distributable to its members, directors, or officers, except as otherwise provided under this chapter.

- Maintain excess insurance coverage and reserve evaluation;
- Submit to the OIR an annual audited fiscal year-end financial statement performed by an independent CPA;
- Have a governing body that consists of officers of its member not for profit corporations, which must submit an annual certification that the fund meets all statutory operating requirements;
- Be operated by Florida-licensed personnel who have at least 5 years' experience with commercial self-insurance funds or domestic insurers; and
- Use contracts that clearly delineate the fund's members' liabilities and obligations.

The members of a corporation not for profit self-insurance fund must receive at least 75 percent of their revenues from government funding.[39]

A corporation not for profit self-insurance fund may not participate in or be covered by any guaranty association established under ch. 631, F.S. Additionally, these funds are neither subject to rules and regulations promulgated by the Financial Services Commission under s. 624.4621, F.S., nor required to file any report with the Department of Financial Services under s. 440.38(2)(b), F.S.[40]

Florida Insurance Trust

The Florida Insurance Trust (FIT) is the only corporation not for profit self-insurance fund operating in Florida.[41] Created in 2007, the FIT provides property, general liability, professional liability, employment practice liability, workers compensation, health insurance, and commercial automobile coverage to its members. According to representatives of the FIT, 9,000 not for profit social service entities are eligible for FIT membership under current law, but only 175 are currently members.[42]

The FIT must ensure that all members are eligible pursuant to s. 624.4625, F.S. Potential members are required to submit a notarized certification, signed by the members' corporate officer, which states that at least 75 percent of its funding comes from governmental sources as required under s. 624.4625, F.S. Each member must submit a Form 990 for review and, if necessary, audited financial statements to confirm compliance with eligibility requirements.[43] Recently, the FIT noted during an OIR inquiry into eligibility of the FIT's members that four entities did not meet statutory eligibility requirements because they received less than 75 percent of their funding from government sources.[44] The FIT represents that these accounts have been nonrenewed. Based on the results of its inquiry, the OIR does not object to the FIT's eligibility review process.

[39] Section 624.4625(1)(b), F.S.
[40]
[41] Florida Insurance Trust, *SB 830: Regulation of Not For Profit Self-Insurance Funds* (March 30, 2015) (on file with the Senate Commerce and Tourism Committee).
[42] Florida Insurance Trust, *Florida Insurance Trust Current Membership Overview* (February 27, 2015) (on file with the Senate Commerce and Tourism Committee).
[43] Office of Insurance Regulation letter to the Florida Insurance Trust (July 25, 2014) (on file with the Senate Banking and Insurance Committee).
[44] *Id*.

In the event premiums fail to cover a loss, the trustees of the FIT, or an agency or court of competent jurisdiction, may assess members of the FIT for payment of the obligations of the FIT as necessary based proportionately on premiums earned from each member. If one or more members fail to pay the assessment, the other members are proportionately liable for an additional assessment.

Section 501(c)(3) Tax Exempt and Publicly Supported Organizations

Corporations not for profit, defined in s. 617.01401, F.S., as corporations that do not distribute any part of their income or profit to members, directors, or officers, are distinct from tax exempt organizations, and more specifically, publicly supported organizations.

To be tax-exempt under section 501(c)(3) of the Internal Revenue Code, an organization must be organized and operated exclusively for exempt purposes[45] set forth in section 501(c)(3), and none of its earnings may inure to any private shareholder or individual.[46] Only limited exceptions to this requirement for section 501(c)(3) organizations exist. Generally, exempt organizations described in section 501(c)(3) must file their annual information returns on Form 990 or 990-EZ, unless excepted from filing and must also complete Schedule A. Schedule A is used to report and substantiate information about an organization's public charity status and public support.

A publicly supported organization is a tax exempt organization that meets one of the following requirements:

- The organization receives a substantial part of its support in the form of contributions from publicly supported organizations, governmental units, or the general public; or
- The organization receives one-third or less of its support from gross investment income and more than one-third of its support from contributions, membership fees, and gross receipts from activities related to its exempt functions.[47]

Effect of Proposed Changes

Section 17 of the bill amends s. 288.1097, F.S., relating to qualified job training organizations, to provide that, notwithstanding s. 624.4625(1)(b), F.S.,[48] a qualified job training organization that

[45] The exempt purposes set forth in section 501(c)(3) are charitable, religious, educational, scientific, literary, testing for public safety, fostering national or international amateur sports competition, and preventing cruelty to children or animals. The term *charitable* is used in its generally accepted legal sense and includes relief of the poor, the distressed, or the underprivileged; advancement of religion; advancement of education or science; erecting or maintaining public buildings, monuments, or works; lessening the burdens of government; lessening neighborhood tensions; eliminating prejudice and discrimination; defending human and civil rights secured by law; and combating community deterioration and juvenile delinquency. *See* http://www.irs.gov/Charities-&-Non-Profits/Charitable-Organizations/Exempt-Purposes-Internal-Revenue-Code-Section-501(c)(3) (last accessed April 9, 2015).

[46] *See* Internal Revenue Service, *Frequently Asked Questions about Applying for Tax Exemption* accessible at*:* http://www.irs.gov/Charities-&-Non-Profits/Frequently-Asked-Questions-About-Applying-for-Tax-Exemption (last accessed April 9, 2015).

[47] Internal Revenue Service, *Publicly Supported Charities*, (March 31, 2015) *available at* http://www.irs.gov/Charities-%26-Non-Profits/Charitable-Organizations/Publicly-Supported-Charities, (last accessed April 9, 2015).

[48] Section 624.4625(1)(b), F.S., requires that each participating member must receive at least 75 percent of its revenues from local, state, or federal governmental sources or a combination of such sources.

has been certified is eligible to participate in a self-insurance fund authorized by s. 624.4625, F.S.

Florida Sports Foundation

Current Situation

The Florida Sports Foundation (FSF) was a direct-support organization of the Office of Tourism Trade and Economic Development, prior to the governmental reorganization that created the DEO and restructured EFI.[49] The FSF serves as the official sports promotion and development organization for the state and currently is housed within EFI as the Division of Sports Industry Development. The FSF's mission is to:

- Assist communities in the state with securing, hosting and retaining, sporting events that generate economic impact and sports-tourism for the state;
- Provide Floridians opportunities to participate in the Sunshine State Games and Florida Senior Games;
- Serve as the state's leading source for sports-tourism research and information;
- Assist in the promotion of targeted leisure sport industries in the state; and
- Assist national and state governing bodies to promote amateur sports development through the Sunshine State Games and hosting events in the state.

Effect of Proposed Changes

Section 21 revives, reenacts, and amends s. 288.1229, F.S., to house the FSF within the DEO. The DEO is directed to contract with the FSF by July 1, 2016.

The bill specifies that the foundation's board of directors must consist of 20 members appointed by the Governor, which include:

- Ten members representing Florida major league franchises of Major League Baseball, National Basketball Association, National Football League, Arena Football League, National Hockey League, and Major League Soccer teams domiciled in this state;
- A member representing Florida's Sports Commissions;
- A member representing the boating and fishing industries in Florida;
- A member representing the golf industry in Florida;
- A member representing Major League Baseball spring training;
- A member representing the auto racing industry in Florida; and
- Five members at-large.

The bill repeals or transfers all duties and responsibilities related to the sports industry from EFI. These repeals include the requirement for an individual with sports marketing expertise to serve on the EFI board of directors, requiring EFI to market the state for sports, and requiring a Division of Sports Industry Development within EFI (**Sections 40, 30, 42, 32, amending ss. 288.11621, 288.901, 288.9015, and 299.92, F.S., respectively**). Further, the bill amends s. 20.60, F.S., the statute which creates the DEO, to reflect DEO's responsibilities with respect to the FSF **(Section 1)**.

[49] Chapter 2011-142, L.O.F.

Section 35 transfers responsibilities and distributions related to sports-related specialty license plates in s. 320.08058, F.S., from EFI to the FSF. The affected specialty license plates are:

- Florida United States Olympic Committee license plate;
- Florida Professional Sports Team license plate;
- Florida Golf license plate;
- Florida NASCAR license plate; and
- Florida Tennis license plate.

Section 35 also removes the requirement that the FSF use proceeds from the Florida Professional Sports Team license plate to promote and develop education programs in state schools.

Sports Development Program

Current Situation

In 2014, the Legislature created the Sports Development Program which authorizes distributions of state sales and use tax revenue to fund professional sports franchise facilities, up to an annual cap of $13 million for all certified applicants. Applicants must be evaluated and recommended by the Department of Economic Opportunity (DEO) and distributions must be approved by the Legislature. Distributed funds may be used for the construction or improvement of a professional sports facility. The maximum annual distribution for a single facility is $3 million, and distributions can be made for up to 30 years for a potential maximum amount of $90 million per certified applicant.

Effect of Proposed Changes

Section 18 amends s. 288.11625, F.S., relating to the Sports Development Program, to remove the Legislature from the approval process. The DEO is required to evaluate applications, rank the applicants, and certify an applicant and its request for funding unless such certification would result in the total amount distributed exceeding $13 million in any fiscal year. The request for funding must be certified as an annual distribution amount, and the DEO must notify the Department of Revenue of the initial certification and distribution amount. This section is effective upon becoming law.

Section 19 provides that the amendments made to s. 288.11625, F.S., apply to applications received, evaluated, and recommended for approval by the DEO in the 2015-2016 fiscal year. The DEO reviewed three applications for funding under the Sports Development Program, determined that each application satisfied the statutory criteria for the program, and on February 1, 2016, transmitted the applications to the Legislature for further consideration.[50] The three applicants and the proposed annual distribution for each entity are: the City of Jacksonville (for the Jacksonville Jaguars) – $ 1 million; Daytona International Speedway, LLC - $3 million; and South Florida Stadium LLC (for the Miami Dolphins) - $3 million.[51]

[50] Letter from Cissy Proctor, Executive Director of the Department of Economic Opportunity to President Andy Gardiner, Florida Senate and Speaker Steve Crisafulli, Florida House of Representatives (February 1, 2016)(on file with the Senate Appropriations Subcommittee on Transportation, Tourism and Economic Development).
[51] Id.

Office of Film and Entertainment

Current Situation

The Office of Film and Entertainment (OFE) within the DEO develops, markets, promotes, and provides services to Florida's entertainment industry, including serving as a liaison between the industry and government entities and facilitating access to filming locations.[52] The Commissioner of Film and Entertainment is selected through a national search and must meet certain qualifications. The OFE is assisted by the Florida Film and Entertainment Advisory Council (council), which is composed of 17 members, of which seven members are appointed by the Governor, and five members each are appointed by the President of the Senate and the Speaker of the House of Representatives.[53]

The OFE gathers statistical information related to the state's entertainment industry; provides information and services to businesses, communities, organizations, and individuals engaged in entertainment industry activities; administers field offices outside the state; and coordinates with regional offices maintained by counties and regions of the state. The OFE is also required to develop a 5-year strategic plan to guide its activities, which is updated on an annual basis and aligns with the DEO's Strategic Plan for Economic Development. The OFE's mission is to build, support, and market the entertainment industry in Florida.

Effect of Proposed Changes

Section 23 renumbers and amends s. 288.1251, F.S., as s. 288.913, F.S., to rename the OFE as the Division of Film and Entertainment (division) and house it within EFI. The bill clarifies and revises the responsibilities of the division and requirements for the 5-year plan.

EFI's board of directors is required to annually review and approve the 5-year plan developed by the division. The bill requires the president of EFI to appoint a film and entertainment commissioner, who is subject to confirmation by the Senate. The commissioner is required to have a record of high-level involvement in production deals and contact with industry decision makers, among other criteria.

Section 25 renumbers and amends s. 288.1253, F.S., related to travel and entertainment expenses incurred by employees of the division, as s. 288.915, F.S. Additionally, the bill prohibits the division and its employees and representatives from accepting any complimentary travel, accommodations, meeting space, meals, equipment, transportation, or other goods and services from any entity, or employee, designee, or representative of such entity, which has received, applied to receive, or anticipates to receive, any funds from the Entertainment Action Fund created under s. 288.1256, F.S. Failure to abide by this prohibition is subject to the penalties provided for in s. 112.317, F.S.

Section 24 renumbers and amends s. 288.1552, F.S., as s. 288.914, F.S., to conform to changes made by the bill. Additionally, the bill reduces the number of members on the advisory council

[52] Section 288.1251, F.S. See also OFE website, available at http://www.filminflorida.com/about/vm.asp (last visited January 21, 2016).
[53] Section 288.1252, F.S.

from 17 to 11, with five members appointed by the Governor and three members each appointed by the President of the Senate and the Speaker of the House of Representatives. Current members may serve out the remainder of their terms, but upon vacancy or the conclusion of a term, members must be appointed in accordance with the section. The bill provides that the advisory council will review the administration of programs related to the strategic plan, make recommendations on state agency or local government actions that may have an impact on the entertainment industry, advise on the promulgation of rules related to the entertainment industry, and appear on its own behalf before boards, commissions, departments, or other government agencies.

Entertainment Action Fund

Effect of Proposed Changes

The bill creates s. 288.1256, F.S., as the Entertainment Action Fund **(Section 28)** and provides that the fund is created within the DEO in order to:

- Respond to extraordinary opportunities;
- Compete effectively to attract and retain production companies; and
- Provide favorable conditions for the growth of the entertainment industry in the state.

Production companies may submit applications to the division to receive funds. The division must set application periods and accept applications for at least 3 months of a period. There may be multiple application periods in a single fiscal year depending on the availability of funds. The DEO is directed to prescribe an application form with specific required information to aid in the review and evaluation of project criteria.

The division reviews and evaluates applications to identify competitive projects for approval. The evaluation criteria, listed in order of priority, are:

- The number of state residents to be employed in full and part-time positions related to the project and the average wages paid, with preference given to a project expected to pay higher than the statewide average wage;
- The amount of qualified, and unqualified, expenditures to be made in the state;
- Planned or executed contracts with production facilities or soundstages in the state and the percentage of principal photography or production activity that will occur at each location;
- The amount of capital investment, especially fixed capital, made directly by the production company in this state related to the project and the amount of any other capital investment to be made in this state related to the project;
- The duration of the project in this state;
- The amount and duration of principal photography or production activity that will occur in an underutilized county;
- The extent to which the state will be promoted by the production company;
- The employment of students enrolled full-time in an entertainment-related course of study at an in-state higher education institution or graduates from such an institution within 12 months after graduation;
- Plans to work with entertainment-related courses of study at in-state higher education institutions;
- Local support and any local financial commitment for the project;

- The project is about this state or shows this state in a positive light;
- A review of the production company's past activities in this state or other states;
- A productions company's number of productions already made and overall commitment to the state;
- Expected contributions to the state's economy; and
- The effect of any award on the viability of a project and the possibility of the project being undertaken in the state.

A production must have financing in place in order to qualify for an award. Any award cannot constitute more than 30 percent of qualified expenditures in the state and cannot be used for wages paid to nonresidents. No program requirements may be waived.

Similar to the proposed approval process for the HIPI, the Florida Enterprise Program, and the Innovation Incentive Program, as described above, the division and the DEO must make a recommendation to the Governor to approve or deny a project within 7 days of reviewing a complete application. Recommendations must include the performance conditions required to obtain any funds. The Governor may approve an award of less than $2 million without consulting the Legislature. The Governor must provide a written description and evaluation of the approved project to the presiding officers within one business day after approval. For a project recommended for approval for an award of $2 million or more, the Governor must provide a written description and evaluation of the project to the presiding officers at least 14 days before approving the award. If either of the presiding officers timely advises the Governor, in writing, that his or her planned or proposed action exceeds the delegated authority of the Governor or is contrary to legislative policy or intent, the Governor must direct the DEO to immediately suspend any planned or proposed action. A written description and evaluation of an amendment, modification, or extension of an executed agreement must be provided to the presiding officers within one business day after approval. An amendment, modification, or extension of an executed agreement may not be made if the award of state funds outlined in the agreement has not been reduced by a proportionate amount.

Upon approval, the DEO and the production company must enter into an agreement pursuant to s. 288.061, F.S., that also specifies;

- The performance conditions the production company must meet to obtain payment of moneys from the fund. Performance conditions must include the criteria considered in the review and evaluation of the application and must relate to activity that occurs in this state.
- That the DEO may review and verify a production company's records to ascertain compliance.
- That fund payments are contingent upon sufficient appropriation of funds by the Legislature.

Once the Governor has approved a project, agreements must be signed by all parties within 90 days and the production must start within 1 year. Production companies cannot receive an award from the fund and benefit from sales tax exemptions in s. 288.1258, F.S., for the same production.

The DEO cannot approve awards in excess of the amount, if any, appropriated in a fiscal year. For the first 6 months, the DEO will set aside 50 percent of any amount appropriated to the

program to be used for awarding applications received on or after January 1st of each fiscal year. The DEO cannot accept applications or conditionally commit awards in a period where there has been no appropriation. The bill provides for the reimbursement of costs and penalties associated with fraudulent claims.

The DEO must validate contractor performance and include such findings in an annual report required to be submitted on November 1st of each year.

This program expires on July 1, 2026. Agreements in existence on that date continue in accordance with their terms.

The bill does not provide a specific appropriation for the Entertainment Action Fund program; however, the bill does include the program as an incentive program authorized for funding from the Florida Enterprise Fund Account, subject to appropriation.

Other Entertainment Industry Incentive Programs

Current Situation

In 2003, the Legislature created the Entertainment Industry Financial Incentive Program,[54] which is a 6-year program that began July 1, 2010, and sunsets June 30, 2016. The program provides tax credits for qualified expenditures related to filming and production activities in Florida. These tax credits may be applied against the corporate income tax or sales and use taxes. Additionally these tax credits may be transferred or sold one time.[55]

Over the 6 year period, a total of $296 million in tax credits were authorized. Annual limitations for tax credits were set at:

- $53.5 million in Fiscal Year 2010-11;
- $74.5 million in Fiscal Year 2011-12; and
- $42 million in each Fiscal Year 2012-13, 2013-14, 2014-15, and 2015-16.[56]

The OFE reports that all of the tax credits authorized for the 6-year period have been certified (*allocated to certified productions*).[57]

Entertainment industry qualified production companies are eligible for several exemptions from taxes under ch. 212, F.S. A qualified production company can obtain a certificate to avoid paying tax at the point of sale, rather than claiming a refund after paying the tax.[58] Qualified production companies are exempt from paying sales tax for the following:

[54] Section 288.1254, F.S. See ch. 2003-81, L.O.F. In 2010, the incentive program was changed from a cash reimbursement type program to the current form. See ch. 2010-147, L.O.F.
[55] Also, tax credits may be relinquished to the Department of Revenue for 90 percent of the amount of the relinquished tax credit.
[56] Section 288.1254(7), F.S. In 2012, an additional year was added to the program. See s. 15, ch. 2012-32, L.O.F.
[57] Office of Economic and Demographic Research, The Florida Legislature, *Return on Investment for the Entertainment Industry Incentive Programs* (January, 2015).
[58] Section 288.1258, F.S. See also Department of Revenue, Film in Florida Sales Tax Exemption, available at http://dor.myflorida.com/dor/taxes/film_in_florida.html (last visited January 21, 2016).

- *Lease or rental of real property* that is used as an integral part of an activity or service performed directly in connection with the production of a qualified motion picture (the term "activity or service" includes photography, casting, location scouting, and designing sets).[59]
- *Fabrication labor* when a producer uses his or her own equipment and personnel to produce a qualified motion picture.[60]
- *Purchase or lease of motion picture and video equipment and sound recording equipment* used in Florida for motion picture or television production or for the production of master tapes or master records.[61]
- *Sale, lease, storage, or use of blank master tapes, records, films, and video tapes*.[62]

The OFE reviews and approves applications for the exemptions and the Department of Revenue (DOR) issues certificates of exemption to the production companies.

Effect of Proposed Changes

Section 27 amends s. 288.1254, F.S., the entertainment industry financial incentive program, to change the repeal date of the program from July 1, 2016 to April 1, 2016. The bill prohibits tax credits from being certified on or after April 1, 2016, and directs the Department of Revenue to deny any credit claimed on a tax return if the credit was certified on or after that date. Amendments to this section are effective upon becoming law.

Tax credits certified before April 1, 2016 may be awarded on or after April 1, 2016 if specified requirements are met, including:

- A qualified production must facilitate the submittal of all required information to the DEO by August 1, 2016. The deadline cannot be waived. A qualified production that does not meet this requirement will not be awarded tax credits.
- The DEO must complete the review of the accountant's submittal, report the final verified amount of actual qualified expenditures, and determine and approve the final tax credit award amount to each certified applicant based on the final verified amount of actual qualified expenditures by June 30, 2017. Tax credits will not be awarded to any qualified production if the determination and approval is not made by June 30, 2017, and the deadline cannot be waived.

The bill requires the DEO to publish a report on its website by May 30, 2016, providing the number of:

- Certified productions that submitted data substantiating each qualified expenditure;
- Certified productions currently under review by independent certified public accountants;
- Compliance audits submitted by the accountants and currently under review by the DEO; and
- Final tax credit award determinations and approvals made by the DEO.

The DEO must update the report on its website by September 1, 2016, and December 30, 2016.

[59] Section 212.031(1)(a)9., F.S.
[60] Section 212.06(1)(b), F.S., provides a definition of the term "qualified motion picture" for purposes of ch. 212, F.S.
[61] Section 212.08(5)(f), F.S.
[62] Section 212.08(12), F.S.

Section 29 amends s. 288.1258, F.S., to clarify that the sales tax exemption certificate exempts purchases made on or after the date that a completed application is filed with the DOR. The bill provides that production companies that receive a sales tax exemption certificate under s. 288.1258, F.S., may not also receive benefits from the newly created Entertainment Action Fund under s. 288.1256, F.S. The bill clarifies the renewal and reporting processes for the 1-year and 90-day certificates.

Additionally, the bill amends cross references in the definition of "entertainment industry" in s. 288.125, F.S., **(Section 22)** and in s. 477.0135, F.S. **(Section 43)**.

Defense Grant Programs

Present Situation

Section 288.980, F.S., establishes grant programs designed to aid defense-dependent communities throughout the state, administered by Enterprise Florida, Inc., (EFI) and the Department of Economic Opportunity (DEO). Among these programs are the Florida Defense Reinvestment Grant Program (DRG)[63] and the Defense Infrastructure Grant Program (DIG).[64]

The DIG program competitively funds local infrastructure projects deemed to have a positive impact on the military value of installations within the state. Authorized DIG projects include, but are not limited to, those relating to encroachment, transportation and access, utilities, communications, housing, environment, and security.

In 2004, the Legislature created the DIG program in s. 288.980(4), F.S, with a provision that the now-defunct Office of Tourism, Trade, and Economic Development (OTTED) *could require* a match by the county or local community grant applicants.[65] However, s. 288.980(2)(c)2., F.S., was added in 2004 to provide that OTTED *must require*, with one exception that a grant applicant agree to match at least 30 percent of any grant awarded.[66] This apparent conflict between the required grant match for DRG projects and permissive grant match for DIG projects has existed since 2004. According to EFI, in administering the two programs, the DEO and EFI require the 30 percent match for DRG projects only, and the 30 percent match requirement is appropriate for the DRG program, not the DIG program.

Effect of Proposed Changes

Section 33 of the bill amends s. 288.980, F.S., to remove the 30 percent match requirement for grants awarded under the Defense Infrastructure Grant Program. The bill clarifies that the 30 percent match requirement applies only to the Defense Reinvestment Grant Program for applicants that are defense-dependent counties and cities, and local economic development councils located in those communities.

[63] Section 288.980(4), F.S.
[64] Section 288.980(5), F.S.
[65] Chapter 2004-230, L.O.F.
[66] This 30 percent match requirement has remained in law since 2004, and is currently codified at s. 288.980(3)(c)2., F.S.

Miscellaneous Changes

Section 2 amends s. 177.031(18), F.S., the definition of "subdivision" for purposes of Part I (Platting) of ch. 177, F.S., relating to Land Boundaries, to provide that the term includes nonresidential divisions of land unless a governing body adopts an ordinance that authorizes nonresidential land divisions for unplatted lands.

Current law requires platting when land is divided into three or more lots, parcels, or tracts, which can be a time consuming and expensive process. For nonresidential projects, including office and industrial parks, the platting requirement can be difficult because acreage and site configuration needs can vary greatly depending on the end users. The platting requirement makes the property owner project what future end users will need with respect to lot sizes and configuration. In order to plat, the infrastructure must either already be in place or bonded. If the property owner's projections for the acreage and configuration needs are inaccurate, it is likely that redesigns and reconstruction of infrastructure may be needed as well as replatting.

The change in the "subdivision" definition will allow local governments to adopt a flexible and quicker approval process for the development of nonresidential projects, including office and industrial parks.

Section 3 amends s. 196.1995(5), F.S., relating to economic development ad valorem tax exemptions. That subsection authorizes county and municipal governing authorities to, by ordinance and following a referendum, provide an ad valorem tax exemption for up to 100 percent of the assessed value of: all improvements to real property made by, or for the use of, a new business; and of all tangible personal property of the new business. Any such exemption remains in effect for up to 10 years.

The bill amends s. 196.1995(5), F.S., to provide that: "Replacement or refreshment of datacenter equipment for a datacenter shall be considered to be part of a new business for a data center that qualifies for this exemption". This exemption shall remain in effect for "up to 20 years for a qualifying datacenter."

Section 34 amends s. 288.9377, F.S., relating the evaluation of microfinance programs. The state has two separate microfinance programs, the Microfinance Loan Program[67] and the Microfinance Guarantee Program.[68] The loan program is designed to make short-term, fixed-rate microloans for business management training, business development training, and technical assistance to entrepreneurs and newly established or growing small businesses for startup costs, working capital, and the acquisition of materials, supplies, furniture, fixtures, and equipment. The intent of the program is to enable entrepreneurs and small businesses to access private financing after completing the program. The guarantee program is intended to stimulate access to credit for entrepreneurs and small businesses by providing targeted guarantees to their loans. These programs are currently not included in the list of economic development programs that must be analyzed by EDR and OPPAGA.

[67] Section 288.9934, F.S.
[68] Section 288.9935, F.S.

The bill amends s. 288.9937, F.S., to require OPPAGA, in addition to EDR, to evaluate the Microfinance Loan Program and the Microfinance Guarantee Program. Because multiple reports (e.g., the EDR and OPPAGA reports described above) are due January 1, 2018, the bill changes the submission date for these reports to January 15, 2018. This report is not included in the recurring review cycle and s. 288.9937, F.S., expires January 31, 2018.

The bill repeals the following obsolete provisions:

- Provision in the CITC program allowing a waiver between July 1, 2011, and June 30, 2014, under certain circumstances **(Section 4)**.
- Provision in the Sports Development program allowing an application for state funding for new facilities or projects commenced before July 1, 2014 (**Section 18**, amending s. 288.11625, F.S.).
- The International Game Fish Association World Center, as all distributions to the International Game Fish Association have been made **(Sections 38, 56, and 20, amending ss. 212.20(6)(d)6.d., s. 288.0001(2)(b)4., and 288.1169, F.S., respectively).**

Additionally the bill makes clarifying, conforming, or technical changes in s. 288.076, F.S., related to the return on investment reporting for economic development programs **(Section 9)**; s. 288.1089, F.S., related to the Innovation Incentive Program **(Section 16)**; s. 288.11625, F.S., related to the sports development program **(Section 18)**; and s. 288.11631, F.S., related to the retention of MLB spring training baseball franchises program **(Section 41)**.

Effective Date

The bill provides an effective date of July 1, 2016, except as otherwise expressly provided for in the bill, as described above, and except for the effective date section, which takes effect upon becoming law **(Section 45)**.

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:

Under PCS/CS/SB 1646, the extension of the Qualified Defense Contractor and Space Flight tax refund program to allow the Department of Economic Opportunity (DEO) to certify

applications through June 30, 2018, will have a negative impact to state revenues. Funds to make payments for this refund program are appropriated in the General Appropriations Act each year.

B. Private Sector Impact:

The bill will have an indeterminate, but positive, fiscal impact to:

- Businesses that are certified to participate in the Qualified Defense Contractor and Space Flight tax refund program;
- Businesses that are replacing or refreshing datacenter equipment that receive an ad valorem tax exemption for up to 20 years (to the extent that the exemption is authorized by the local government granted authority to authorize exemption in a referendum);
- Qualified job-training organizations that are eligible to participate in a self-insurance fund;
- Developers of nonresidential projects, including office and industrial parks, that may benefit from a more flexible and a quicker approval process;
- Private colleges, universities and professional schools offering higher education degrees that address health care workforce demands that may be eligible to participate in the Qualified Target Industry Program Tax Refund Program; and
- Entities receiving annual distributions under the Sports Development Program[69].

C. Government Sector Impact:

The bill creates two accounts in the Economic Development Trust Fund:

- The Florida Enterprise Fund Account is created to hold funds to make payments for incentives contracts under the Local Government Distressed Area Matching Grant Program, the Qualified Defense Contractor and Space Flight Business Tax Refund Program, the Qualified Target Industry Program, the Brownfield Redevelopment Bonus Refunds Program, the High-Impact Performance Incentive Grant Program, the Innovation Incentive Program, the Florida Enterprise Program, and the Entertainment Action Fund Program.
- The Quick Action Closing Funds Escrow Account is created to hold and invest the funds that are escrowed to make payments for contracts under the former Quick Action Closing Fund Program and the Florida Enterprise Program.

The transfer of funds currently held in escrow by Enterprise Florida, Inc., to the Quick Action Closing Fund Escrow Account within the Economic Development Trust Fund will have an indeterminate, but positive, impact on the State Economic Enhancement and Development (SEED) Trust Fund. The bill requires the DEO to transfer interest earnings in the Florida Enterprise Fund and the Quick Action Closing Fund Escrow accounts to the SEED Trust Fund on a quarterly basis.

[69] The three applicants and the proposed annual distribution for each entity are: the City of Jacksonville (for the Jacksonville Jaguars) – $ 1 million; Daytona International Speedway, LLC - $3 million; and South Florida Stadium LLC (for the Miami Dolphins) - $3 million.

The DEO's certification of the three applicants for annual distributions under the Sports Development Program during Fiscal Year 2015-2016 may have a negative fiscal impact to the General Revenue Fund of up to $7 million per year.

The bill does not provide a specific appropriation for the Entertainment Action Fund program; however, the Entertainment Action Fund program is authorized to receive funding from the Florida Enterprise Account, subject to appropriation.

The bill will have an indeterminate, but positive, fiscal impact to public colleges, universities, and professional schools offering higher education degrees that address health care workforce demands that may be eligible to participate in the Qualified Target Industry Program Tax Refund Program.

The bill will have an indeterminate, but expected to be minimal, fiscal impact to the DEO and Enterprise Florida, Inc.; any additional costs are expected to be absorbed within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The term "datacenter" is not defined in ch. 196, F.S., relating to property tax exemptions.

The Department of Economic Opportunity is authorized to adopt rules to prescribe a form for economic development and other changes made in s. 288.061, F.S.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.60, 177.031, 189.033, 196.012, 196.1995, 212.20, 220.191, 220.196, 288.0001, 288.005, 288.047, 288.061, 288.076, 288.095, 288.1045, 288.106, 288.108, 288.1088, 288.1089, 288.1097, 288.11621, 288.11625, 288.11631, 288.125, 288.1254, 288.1258, 288.901, 288.9015, 288.907, 288.92, 288.9937, 288.980, 320.08058, and 477.0135.

This bill revives, re-enacts, and amends section 288.1229 of the Florida Statutes.

This bill substantially amends and renumbers the following sections of the Florida Statutes: 288.1251 as 288.913; 288.1252 as 288.914; and 288.1253 as 288.915.

This bill creates section 288.1256 of the Florida Statutes.

This bill repeals section 288.1169 of the Florida Statutes.

IX. Additional Information:

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

Recommended CS/CS by Appropriations Subcommittee on Transportation, Tourism, and Economic Development on February 11, 2016:
The committee substitute:

- Revises the definition of the term "subdivision" to include nonresidential divisions of land unless local ordinances allow nonresidential land divisions of unplatted lands.
- Specifies that replacement or refreshment of datacenter equipment for a datacenter must be considered part of a new business for a datacenter that qualifies for locally authorized ad valorem tax exemptions for new businesses, and provides that the exemption may be effective for up to 20 years.
- Clarifies provisions of the Quick Response Training Program administered by CareerSource Florida and authorizes CareerSource to execute contracts that obligate reimbursement payments for up to $30 million for any given 24-month period.
- Standardizes economic development incentive award provisions relating to the application process, the evaluation of applications and required contractual provisions.
- Renames the "Florida Enterprise Fund" program as the "Florida Enterprise Program".
- Revises provisions related to the High-Impact Performance Incentive Grant Program, the Innovation Incentive Program, the Florida Enterprise Program, and the newly created Entertainment Action Fund Program to:
  - Require DEO to recommend approval or disapproval to the Governor and to provide specified information about the project.
  - Allow the Governor to approve a contract under $2 million without consulting the Legislature, but requires notice to the Legislature.
  - Require a 14-day Legislative consultation period for any contract for $2 million or more before the Governor approves the contract; if neither the President of the Senate President nor the Speaker of the House of Representatives objects, then the Governor can approve the project.
  - Require DEO to give the Legislature notice of amendments.
  - Prohibit amendments that would result in the project having a return on investment (ROI) of less than the statutorily required amount and amendments that do not also proportionately reduce the award amount.
  - Require contracts to include provisions that set timelines on when a business must submit proof of performance to DEO to receive payment.
- Requires businesses receiving an incentive to use Employ Florida Marketplace to advertise new job openings being created by the project.
- Requires DEO to confirm performance under the incentive contract before making a payment for any program.
- Creates two accounts in the Economic Development Trust Fund:
  - The Florida Enterprise Fund Account is created to hold funds to make payments for incentives contracts under the Local Government Distressed Area Matching Grant Program, the Qualified Defense Contractor and Space Flight Business Tax Refund Program, the Qualified Target Industry Program, the Brownfield

Redevelopment Bonus Refunds Program, the High-Impact Performance Incentive Grant Program, the Innovation Incentive Program, the Florida Enterprise Program, and the Entertainment Action Fund Program.
    - The Quick Action Closing Funds Escrow Account is created to hold and invest the funds that are escrowed to make payments for contracts under the Florida Enterprise Program; funds currently being held in escrow outside the state treasury for projects under the former Quick Action Closing Fund Program must be transferred to this account.
    - Any balance in either of these accounts at the end of a fiscal year remains in the account and is available for carrying out the purposes of that account.
- Revises provisions related to DEO's incentive portal to require DEO to
    - Publish a summary document for active projects and to publish for each project a schedule of the performance required and payments.
    - Update portal information when contracts are amended, and
    - Report on amendments in the Annual Incentives Report.
- Revises the Florida Enterprise Program, the Qualified Defense and Space Contractors Program, the Qualified Target Industry Program, and the Innovation Incentive Program to provide for a waiver or elimination of the local financial support provisions. A "waiver" reduces the required local financial support from 20 percent to 10 percent of the incentive and "elimination" of the local financial support is limited to Rural Areas of Opportunity (RAO).
- Provides that for Florida Enterprise Program projects located in a RAO, the average annual wage must be at least 100 percent, rather than 125 percent, of the average private sector wage in the area
- Allows colleges, universities and professional schools offering higher education degrees that address health care workforce demand to be eligible for the Qualified Target Industry Program if EFI and the local community determine that there will be certain economic benefits from the business locating in the community.
- Requires an ROI of at least 2.5 to 1 for Florida Enterprise Program projects; and an ROI of at least 1 to 1 for High-Impact Performance Incentive Grant Program projects.
- Permits a qualified job-training organization that has been certified by the state to participate in a self-insurance fund, notwithstanding certain requirements.
- Removes the Legislature from the project approval process under the Sports Development Program; projects, including projects recommended for approval by DEO in the 2015-2016 fiscal year, would be certified and approved by DEO.
- Allows entertainment industry tax credits that were certified for a qualified production by the DEO's Office of Film and Entertainment prior to April 1, 2016, to be awarded through the 2016-2017 fiscal year; the final tax credit award amount for each certified applicant must be verified and approved no later than June 30, 2017.
- Requires DEO to publish a comprehensive report providing information on the entertainment industry tax credit program.
- Requires the president of CareerSource to serve on the EFI board.
- Requires an appointed member of the EFI board to be an expert in rural economic development.
- Corrects and conforms cross-references and reporting provisions; and repeals obsolete provisions.

CS by Commerce and Tourism on January 25, 2016:

- The CS renames the Quick Action Closing Fund as the "Florida Enterprise Fund," and makes the following changes to the fund:
  - Lowers the required return on investment (ROI) from 5 to 1, to 3 to 1.
  - Requires that projects create at least 10 jobs.
  - Requires that 20 percent of the award comes from local financial support.
- The bill requires that all state funds used to benefit a business be included in the ROI for calculating projects' economic benefits.
- For all incentive programs, the bill:
  - Clarifies that when calculating projects' economic benefits a business's capital investment does not include any public funds;
  - Requires capital investment made by a business to remain in the state for the duration of the incentives contract;
  - Limits the duration of contracts to 10 years; and
  - Requires the DEO to provide a notice to the Legislature of executed contracts.
- The bill extends certification for the QDSC program to June 30, 2018 and allows for late filings in 2014 to be claimed under certain conditions. The bill clarifies that the "tax refund" program is not a repayment of taxes but taxes paid operate as a limitation on the incentive award amount.
- The bill requires that the incentive project reports by the DEO, and the annual incentives report by EFI, include data on the number of jobs created and retained and the number of jobs created and retained that provide health benefits.
- The bill updates the board requirements for the Florida Sports Foundation to reflect their current board. The bill also removes the requirement that the foundation use proceeds from the Florida Professional Sports Team license plate to promote and develop education programs in state schools.

B. Amendments:

None.

658668

LEGISLATIVE ACTION

Senate . House

. . . . .

The Committee on Appropriations (Flores) recommended the following:

Senate Amendment (with title amendment)

Delete lines 3684 - 3838
and insert:
Section 35. Paragraph (a) of subsection (6), paragraphs (a) and (b) of subsection (9), paragraph (a) of subsection (35), subsection (60), and paragraph (b) of subsection (64) of section 320.08058, Florida Statutes, are amended, and subsection (84) is added to that section to read:
320.08058 Specialty license plates.—

658668

(6) FLORIDA UNITED STATES OLYMPIC COMMITTEE LICENSE PLATES.—

(a) Because the United States Olympic Committee has selected this state to participate in a combined fundraising program that provides for one-half of all money raised through volunteer giving to stay in this state and be administered by the Florida Sports Foundation ~~Enterprise Florida, Inc.,~~ to support amateur sports, and because the United States Olympic Committee and the Florida Sports Foundation ~~Enterprise Florida, Inc.,~~ are nonprofit organizations dedicated to providing athletes with support and training and preparing athletes of all ages and skill levels for sports competition, and because the Florida Sports Foundation ~~Enterprise Florida, Inc.,~~ assists in the bidding for sports competitions that provide significant impact to the economy of this state, and the Legislature supports the efforts of the United States Olympic Committee and the Florida Sports Foundation ~~Enterprise Florida, Inc.~~, the Legislature establishes a Florida United States Olympic Committee license plate for the purpose of providing a continuous funding source to support this worthwhile effort. Florida United States Olympic Committee license plates must contain the official United States Olympic Committee logo and must bear a design and colors that are approved by the department. The word "Florida" must be centered at the top of the plate.

(9) FLORIDA PROFESSIONAL SPORTS TEAM LICENSE PLATES.—

(a) The Department of Highway Safety and Motor Vehicles shall develop a Florida Professional Sports Team license plate as provided in this section for Major League Baseball, National

Basketball Association, National Football League, Arena Football League, National Hockey League, ~~and~~ Major League Soccer, and North American Soccer League teams domiciled in this state. However, any Florida Professional Sports Team license plate created or established after January 1, 1997, must comply with the requirements of s. 320.08053 and be specifically authorized by an act of the Legislature. Florida Professional Sports Team license plates must bear the colors and design approved by the department and must include the official league or team logo, or both, as appropriate for each team. The word "Florida" must appear at the top of the plate.

(b) The license plate annual use fees are to be annually distributed as follows:

1. Fifty-five percent of the proceeds from the Florida Professional Sports Team plate must be deposited into the Professional Sports Development Trust Fund within the Department of Economic Opportunity. These funds must be used solely to attract and support major sports events in this state. As used in this subparagraph, the term "major sports events" means, but is not limited to, championship or all-star contests of Major League Baseball, the National Basketball Association, the National Football League, the National Hockey League, Major League Soccer, North American Soccer League, the men's and women's National Collegiate Athletic Association championships ~~Final Four basketball championship~~, or a horseracing or dogracing Breeders' Cup. All funds must be used to support and promote major sporting events, and the uses must be approved by the Department of Economic Opportunity.

2. The remaining proceeds of the Florida Professional

Sports Team license plate must be allocated to the Florida Sports Foundation ~~Enterprise Florida, Inc~~. These funds must be deposited into the Professional Sports Development Trust Fund within the Department of Economic Opportunity. These funds must be used by the Florida Sports Foundation ~~Enterprise Florida, Inc.,~~ to promote the economic development of the sports industry; to distribute licensing and royalty fees to participating professional sports teams; ~~to promote education programs in Florida schools that provide an awareness of the benefits of physical activity and nutrition standards; to partner with the Department of Education and the Department of Health to develop a program that recognizes schools whose students demonstrate excellent physical fitness or fitness improvement;~~ to institute a grant program for communities bidding on minor sporting events that create an economic impact for the state; to distribute funds to Florida-based charities designated by the Florida Sports Foundation ~~Enterprise Florida, Inc.,~~ and the participating professional sports teams; and to fulfill the sports promotion responsibilities of the Department of Economic Opportunity.

3. The Florida Sports Foundation ~~Enterprise Florida, Inc.,~~ shall provide an annual financial audit in accordance with s. 215.981 of its financial accounts and records by an independent certified public accountant pursuant to the contract established by the Department of Economic Opportunity as specified in s. 288.1229(5). The auditor shall submit the audit report to the Department of Economic Opportunity for review and approval. If the audit report is approved, the Department of Economic Opportunity shall certify the audit report to the Auditor

General for review.

4. Notwithstanding the provisions of subparagraphs 1. and 2., proceeds from the Professional Sports Development Trust Fund may also be used for operational expenses of the Florida Sports Foundation ~~Enterprise Florida, Inc.,~~ and financial support of the Sunshine State Games and Florida Senior Games.

(35) FLORIDA GOLF LICENSE PLATES.—

(a) The Department of Highway Safety and Motor Vehicles shall develop a Florida Golf license plate as provided in this section. The word "Florida" must appear at the bottom of the plate. The Dade Amateur Golf Association, following consultation with the PGA TOUR, the Florida Sports Foundation ~~Enterprise Florida, Inc.~~, the LPGA, and the PGA of America may submit a revised sample plate for consideration by the department.

(60) FLORIDA NASCAR LICENSE PLATES.—

(a) The department shall develop a Florida NASCAR license plate as provided in this section. Florida NASCAR license plates must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the term "NASCAR" must appear at the bottom of the plate. The National Association for Stock Car Auto Racing, following consultation with the Florida Sports Foundation ~~Enterprise Florida, Inc.~~, may submit a sample plate for consideration by the department.

(b) The license plate annual use fees shall be distributed to the Florida Sports Foundation ~~Enterprise Florida, Inc~~. The license plate annual use fees shall be annually allocated as follows:

1. Up to 5 percent of the proceeds from the annual use fees may be used by the Florida Sports Foundation ~~Enterprise Florida,~~


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~~Inc.,~~ for the administration of the NASCAR license plate program.

2. The National Association for Stock Car Auto Racing shall receive up to $60,000 in proceeds from the annual use fees to be used to pay startup costs, including costs incurred in developing and issuing the plates. Thereafter, 10 percent of the proceeds from the annual use fees shall be provided to the association for the royalty rights for the use of its marks.

3. The remaining proceeds from the annual use fees shall be distributed to the Florida Sports Foundation ~~Enterprise Florida, Inc~~. The Florida Sports Foundation ~~Enterprise Florida, Inc.,~~ will retain 15 percent to support its regional grant program, attracting sporting events to Florida; 20 percent to support the marketing of motorsports-related tourism in the state; and 50 percent to be paid to the NASCAR Foundation, a s. 501(c)(3) charitable organization, to support Florida-based charitable organizations.

(c) The Florida Sports Foundation ~~Enterprise Florida, Inc.,~~ shall provide an annual financial audit in accordance with s. 215.981 of its financial accounts and records by an independent certified public accountant pursuant to the contract established by the Department of Economic Opportunity as specified in s. 288.1229(5). The auditor shall submit the audit report to the Department of Economic Opportunity for review and approval. If the audit report is approved, the Department of Economic Opportunity shall certify the audit report to the Auditor General for review.

(64) FLORIDA TENNIS LICENSE PLATES.—

(b) The department shall distribute the annual use fees to

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the Florida Sports Foundation ~~Enterprise Florida, Inc~~. The license plate annual use fees shall be annually allocated as follows:

1. Up to 5 percent of the proceeds from the annual use fees may be used by the Florida Sports Foundation ~~Enterprise Florida, Inc.,~~ to administer the license plate program.

2. The United States Tennis Association Florida Section Foundation shall receive the first $60,000 in proceeds from the annual use fees to reimburse it for startup costs, administrative costs, and other costs it incurs in the development and approval process.

3. Up to 5 percent of the proceeds from the annual use fees may be used for promoting and marketing the license plates. The remaining proceeds shall be available for grants by the United States Tennis Association Florida Section Foundation to nonprofit organizations to operate youth tennis programs and adaptive tennis programs for special populations of all ages, and for building, renovating, and maintaining public tennis courts.

(84) JACKSONVILLE ARMADA FOOTBALL CLUB LICENSE PLATES.-The department shall develop a Jacksonville Armada Football Club license plate as provided in subsection (9).

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

And the title is amended as follows:

Delete lines 319 - 321

and insert:

provisions to changes made by the act; requiring the Department of Highway Safety and Motor Vehicles to

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develop a license plate for North American Soccer League teams; revising uses of the proceeds of the Florida Professional Sports Team license plate; requiring the department to develop a Jacksonville Armada Football Club license plate; amending ss. 189.033, 196.012,


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576-03405B-16

Proposed Committee Substitute by the Committee on Appropriations

A bill to be entitled

An act relating to economic development; amending s. 20.60, F.S.; requiring the Department of Economic Opportunity to contract with a direct-support organization to promote the sports industry and the participation of residents in certain athletic competitions in this state and to promote the state as a host for certain athletic competitions; amending s. 177.031, F.S.; revising the term "subdivision"; amending s. 196.1995, F.S.; providing that replacement or refreshment of datacenter equipment is exempt from ad valorem taxation under certain circumstances; amending s. 220.191, F.S.; revising the definition of the term "cumulative capital investment"; deleting an obsolete provision; conforming a cross-reference; amending s. 288.0001, F.S.; conforming cross-references; requiring the Office of Economic and Demographic Research and the Office of Program Policy Analysis and Government Accountability to provide a detailed analysis of the retention of Major League Baseball spring training baseball franchises; amending s. 288.005, F.S.; defining the term "average private sector wage in the area"; revising the definition of the term "economic benefits"; amending s. 288.047, F.S.; revising purposes of the Quick-Response Training Program; specifying requirements and limitations with respect to the approval of applications, the execution of agreements, and reimbursement amounts under the


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program; requiring the Department of Economic Opportunity to transfer funds to CareerSource Florida, Inc., if certain conditions exist; eliminating a required set aside of funds appropriated to the program; authorizing, rather than requiring, an educational institution receiving program funding to be included in the grant agreement prepared by CareerSource Florida, Inc.; authorizing certain matching contributions to be counted toward the private sector support of Enterprise Florida, Inc.; amending s. 288.061, F.S.; requiring the Department of Economic Opportunity to prescribe a specified application form; requiring the incentive application to include specified information; requiring the department to review such applications under certain circumstances; requiring the Office of Economic and Demographic Research to include certain guidelines for the calculation of economic benefits; providing requirements for an amended definition by the office; prohibiting the department from attributing to a business certain investments for specified purposes; requiring the department to consider certain investments for specified purposes; requiring the department's evaluation of the application to include specified information; requiring the executive director of the department to provide a recommendation to the Governor during a specified timeframe for certain projects; providing requirements for certain recommendations; requiring the department and the

applicant to enter into an agreement or a contract; providing requirements for the contract or agreement; prohibiting the department from entering into an agreement or a contract that has a term of longer than 10 years; authorizing the department to enter into a successive agreement or contract for a specified project under certain circumstances; providing applicability; requiring the department to provide specified notice to the Legislature upon the final execution of each contract or agreement; requiring the return of funds under certain circumstances; amending s. 288.076, F.S.; revising definitions; conforming cross-references; providing requirements for information that the department is required to publish on a certain website; amending s. 288.095, F.S.; conforming provisions to changes made by the act; providing that moneys credited to the Economic Development Trust Fund Account consist of specified funds; providing that any balance in the account at the end of the fiscal year remains in the account and are available for carrying out the purposes of the account; creating the Florida Enterprise Fund Account; providing that moneys credited to the Florida Enterprise Fund Account consist of specified funds; providing that any balance in the account at the end of the fiscal year remains in the account and are available for carrying out the purposes of the account; requiring the department to submit certain information to the Legislature; creating the Quick

Action Closing Fund Escrow Account; providing the composition of the account; restricting the usage of moneys in the escrow account to specified payments; requiring specified funds to be deposited by the department in the State Economic Enhancement and Development Trust Funds within a specified period; requiring funds in the escrow account to be managed under specified investment practices; requiring that the funds be made available to make specified payments; requiring the department to transfer interest earnings on a quarterly basis to the State Economic Enhancement and Development Trust Fund; amending s. 288.1045, F.S.; deleting the definition of the term “average wage in the area”; revising the application process for the qualified defense contractor and space flight business tax refund program; authorizing a business to receive an approved refund if the business fails to submit certain documentation under certain circumstances; extending an expiration date; conforming provisions to changes made by the act; amending s. 288.106, F.S.; deleting the definition of the term “average private sector wage in the area”; revising terms; revising the application process for the tax refund program for qualified target industry businesses; removing provisions regarding economic recovery extensions of certain tax refund agreements; making technical changes; providing that certain incentive payments are not repayment of actual taxes paid; providing that

actual taxes paid limit the amount of incentive payments a business may receive; amending s. 288.108, F.S.; revising definitions; requiring a certain economic benefit ratio; authorizing the Governor to approve certain grants without consulting the Legislature; requiring the Governor to provide written descriptions and evaluations to the Legislature under certain circumstances; requiring the Executive Office of the Governor to take certain action upon the Legislature's timely advice; providing requirements for amendments, modifications, or extensions of certain contracts; requiring the department to validate certain performance and to report such validation; requiring the agreement to include certain information; conforming provisions to changes made by the act; amending s. 288.1088, F.S.; renaming the Quick Action Closing Fund as the Florida Enterprise Program; revising the requirements for projects eligible for receipt of funds from the fund; requiring local financial support; defining a term; requiring a certain waiver request to be transmitted in writing to the department with an explanation of the specific justification for the request; requiring the Governor to provide written descriptions and evaluations to the Legislature under certain circumstances; requiring the Executive Office of the Governor to take certain action upon the Legislature's timely advice; providing requirements for amendments, modifications, or extensions of certain contracts; prohibiting the

payment of moneys from the fund to a business until the scheduled goals have been achieved; revising the information that must be included in a contract that sets forth the conditions for payments of moneys from the fund; conforming provisions to changes made by the act; amending s. 288.1089, F.S.; deleting the definition of the term "average private sector wage"; conforming provisions to changes made by the act; providing requirements for the waiver of certain requirements for research and development projects, innovation business projects, and alternative and renewable energy projects; requiring the department to provide certain recommendations to the Governor; authorizing the Governor to approve certain grants without consulting the Legislature; requiring the Governor to provide written descriptions and evaluations to the Legislature under certain circumstances; requiring the Executive Office of the Governor to take certain action upon the Legislature's timely advice; providing requirements for amendments, modifications, or extensions of certain contracts; revising the information that must be included in a contract that sets forth the conditions for payments of moneys from the fund; conforming provisions to changes made by the act; amending s. 288.1097, F.S.; authorizing a qualified job training organization to participate in a self-insurance fund; amending s. 288.11625, F.S.; requiring applications to be certified by the department for distributions, rather

than approved by the Legislature; conforming provisions to changes made by the act; deleting obsolete provisions; providing applicability; repealing s. 288.1169, F.S., relating to state agency funding of the International Game Fish Association World Center facility; reviving, reenacting, and amending s. 288.1229, F.S., relating to the promotion and development of sports-related industries and amateur athletics; requiring the department to create a direct-support organization to assist the department in certain promotion and development; naming the direct support organization the Florida Sports Foundation; specifying the purpose of the foundation; specifying requirements for the foundation, including appointment of a governing board; requiring that the foundation operate under written contract with the department; specifying provisions that must be included in the contract; providing that the department may allow the foundation to use certain facilities, personnel, and services if it complies with certain provisions; requiring an annual financial audit of the foundation; specifying duties of the foundation; deleting residency requirements for participants of the Sunshine State Games and Florida Senior Games; deleting certain competition requirements; conforming provisions to changes made by the act; amending s. 288.125, F.S.; revising the applicability of the term “entertainment industry”; renumbering and amending s. 288.1251, F.S.; renaming

the Office of Film and Entertainment within the department as the Division of Film and Entertainment within Enterprise Florida, Inc.; requiring the division to serve as a liaison between the entertainment industry and other agencies, commissions, and organizations; requiring the president of Enterprise Florida, Inc., to appoint the film and entertainment commissioner within a specified period of time; revising the requirements of the division’s strategic plan; renumbering and amending s. 288.1252, F.S.; revising the powers and duties of the Florida Film and Entertainment Advisory Council; revising council membership; conforming provisions to changes made by the act; renumbering and amending s. 288.1253, F.S.; prohibiting the division and its employees and representatives from accepting specified accommodations, goods, or services from specified parties; providing that a person who accepts any such goods or services is subject to specified penalties; conforming provisions to changes made by the act; amending s. 288.1254, F.S.; revising the date of repeal; authorizing, an award of credits after April 1, 2016, under certain conditions; requiring the department to make a determination by a date certain; requiring the department to publish periodic reports; prohibiting the award of tax credits after July 1, 2017; requiring the Department of Revenue to deny certain credits received on or after certain dates; creating s. 288.1256, F.S.; creating the Entertainment

Action Fund within the Department of Economic Opportunity; defining terms; authorizing a production company to apply for funds from the Entertainment Action Fund in certain circumstances; requiring the division to review and evaluate applications to determine the eligibility of each project; requiring the division to select projects that maximize the return to the state; requiring certain criteria to be considered by the division; requiring a production company to have financing for a project before it applies for action funds; requiring the department to prescribe a form for an application with specified information; requiring that the division and the department make a recommendation to the Governor to approve or deny an award within a specified timeframe after the completion of the review and evaluation; providing that an award of funds may not constitute more than a specified percentage of qualified expenditures in this state; prohibiting the use of such funds to pay wages to nonresidents; requiring a production to start within a specified period after it is approved by the Governor; requiring that the recommendation include performance conditions that the project must meet to obtain funds; authorizing the Governor to approve certain awards without consulting the Legislature; requiring the Governor to provide written descriptions and evaluations to the Legislature under certain circumstances; requiring the Executive Office of the Governor to take certain

action upon the Legislature's timely advice; providing requirements for amendments, modifications, or extensions of certain contracts; revising the information that must be included in a contract that sets forth the conditions for payments of moneys from the fund; requiring the department and the production company to enter into a specified agreement after approval by the Governor; requiring that the agreement be finalized and signed by an authorized officer of the production company within a specified period after approval by the Governor; prohibiting an approved production company from simultaneously receiving specified benefits for the same production; requiring that the department validate contractor performance and report such validation in the annual report; prohibiting the department from approving awards in excess of the amount appropriated for a fiscal year; requiring the department to maintain a schedule of funds; prohibiting the department or division from accepting applications or conditionally committing funds under certain circumstances; providing that a production company that submits fraudulent information is liable for reimbursement of specified costs; providing a penalty; prohibiting the department or division from waiving any provision or providing an extension of time to meet specified requirements; providing an expiration date; amending s. 288.1258, F.S.; conforming provisions to changes made by the act; prohibiting an approved production company from

simultaneously receiving benefits under specified provisions for the same production; requiring the department to develop a standardized application form in cooperation with the division and other agencies; requiring the production company to submit aggregate data on specified topics; authorizing a production company to renew its certificate of exemption for a specified period; amending s. 288.901, F.S.; revising the members of the board of directors of Enterprise Florida, Inc.; amending s. 288.907 , F.S.; requiring reporting on the number of jobs that provide health benefits to employees; requiring reporting on amendments, modifications, or extensions of certain contracts; amending s. 288.92, F.S.; revising the required divisions within Enterprise Florida, Inc.; amending s. 288.980, F.S.; authorizing grant awards for activities that grow the economy of a defense-dependent community; making technical changes; amending s. 288.9937, F.S.; requiring the Office of Program Policy Analysis and Government Accountability to analyze and evaluate certain programs for a specified period; requiring the Office of Economic and Demographic Research to determine the economic benefits of certain programs; requiring the Office of Program Policy Analysis and Government Accountability to identify inefficiencies in certain programs and to recommend changes to such programs; revising the date by which each office must submit a report to certain persons; amending s. 320.08058, F.S.; conforming

provisions to changes made by the act; revising uses of the proceeds of the Florida Professional Sports Team license plate; amending ss. 189.033, 196.012, 212.20, 220.196, 288.11621, 288.11631, 288.9015, and 477.0135, F.S.; conforming provisions to changes made by the act; deleting obsolete provisions; reenacting s. 159.803(11), F.S., relating to the definition of the term "Florida First Business Project," to incorporate the amendment made to s. 288.106, F.S., in a reference thereto; providing effective dates.

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

Section 1. Paragraph (g) is added to subsection (4) of section 20.60, Florida Statutes, to read:

20.60 Department of Economic Opportunity; creation; powers and duties.—

(4) The purpose of the department is to assist the Governor in working with the Legislature, state agencies, business leaders, and economic development professionals to formulate and implement coherent and consistent policies and strategies designed to promote economic opportunities for all Floridians. To accomplish such purposes, the department shall:

(g) Notwithstanding part I of chapter 287, contract with the direct-support organization created under s. 288.1229 to guide, stimulate, and promote the sports industry in this state, to promote the participation of residents of this state in amateur athletic competition, and to promote this state as a host for national and international amateur athletic

competitions.

Section 2. Subsection (18) of section 177.031, Florida Statutes, is amended to read:

177.031 Definitions.—As used in this part:

(18) "Subdivision" means the division of land into three or more lots, parcels, tracts, tiers, blocks, sites, units, or any other division of land; and includes establishment of new streets and alleys, additions, and resubdivisions; and, when appropriate to the context, relates to the process of subdividing or to the lands or area subdivided. The term includes nonresidential divisions of land unless a governing body adopts an ordinance that authorizes nonresidential land divisions for unplatted lands.

Section 3. Subsection (5) of section 196.1995, Florida Statutes, is amended to read:

196.1995 Economic development ad valorem tax exemption.—

(5) Upon a majority vote in favor of such authority, the board of county commissioners or the governing authority of the municipality, at its discretion, by ordinance may exempt from ad valorem taxation up to 100 percent of the assessed value of all improvements to real property made by or for the use of a new business and of all tangible personal property of such new business, or up to 100 percent of the assessed value of all added improvements to real property made to facilitate the expansion of an existing business and of the net increase in all tangible personal property acquired to facilitate such expansion of an existing business. To qualify for this exemption, the improvements to real property must be made or the tangible personal property must be added or increased after approval by

motion or resolution of the local governing body, subject to ordinance adoption or on or after the day the ordinance is adopted. However, if the authority to grant exemptions is approved in a referendum in which the ballot question contained in subsection (3) appears on the ballot, the authority of the board of county commissioners or the governing authority of the municipality to grant exemptions is limited solely to new businesses and expansions of existing businesses that are located in an enterprise zone or brownfield area. Property acquired to replace existing property shall not be considered to facilitate a business expansion. Replacement or refreshment of datacenter equipment for a datacenter shall be considered to be part of a new business for a datacenter that qualifies for this exemption. The exemption applies only to taxes levied by the respective unit of government granting the exemption. The exemption does not apply, however, to taxes levied for the payment of bonds or to taxes authorized by a vote of the electors pursuant to s. 9(b) or s. 12, Art. VII of the State Constitution. Any such exemption shall remain in effect for up to 10 years with respect to any particular facility, or up to 20 years for a qualifying datacenter, regardless of any change in the authority of the county or municipality to grant such exemptions. The exemption shall not be prolonged or extended by granting exemptions from additional taxes or by virtue of any reorganization or sale of the business receiving the exemption.

Section 4. Paragraphs (b) and (g) of subsection (1) of section 220.191, Florida Statutes, are amended to read:

220.191 Capital investment tax credit.—

(1) DEFINITIONS.—For purposes of this section:

(b) "Cumulative capital investment" means the total capital investment in land, buildings, and equipment made by the qualifying business in connection with a qualifying project during the period from the beginning of construction of the project to the commencement of operations. The term does not include funds granted to or spent on behalf of the qualifying business by the state, a local government, or other governmental entity; funds appropriated in the General Appropriations Act; or funds otherwise provided to the qualifying business by a state agency, local government, or other governmental entity.

(g) "Qualifying project" means a facility in this state meeting one or more of the following criteria:

1. A new or expanding facility in this state which creates at least 100 new jobs in this state and is in one of the high-impact sectors identified by Enterprise Florida, Inc., and certified by the Department of Economic Opportunity pursuant to s. 288.108(6), including, but not limited to, aviation, aerospace, automotive, and silicon technology industries. ~~However, between July 1, 2011, and June 30, 2014, the requirement that a facility be in a high-impact sector is waived for any otherwise eligible business from another state which locates all or a portion of its business to a Disproportionally Affected County. For purposes of this section, the term "Disproportionally Affected County" means Bay County, Escambia County, Franklin County, Gulf County, Okaloosa County, Santa Rosa County, Walton County, or Wakulla County.~~

2. A new or expanded facility in this state which is engaged in a target industry designated pursuant to the procedure specified in s. 288.106(2) and which is induced by

this credit to create or retain at least 1,000 jobs in this state, provided that at least 100 of those jobs are new, pay an annual average wage of at least 130 percent of the average private sector wage in the area as defined in s. 288.005(1) ~~s. 288.106(2)~~, and make a cumulative capital investment of at least $100 million. Jobs may be considered retained only if there is significant evidence that the loss of jobs is imminent. Notwithstanding subsection (2), annual credits against the tax imposed by this chapter may not exceed 50 percent of the increased annual corporate income tax liability or the premium tax liability generated by or arising out of a project qualifying under this subparagraph. A facility that qualifies under this subparagraph for an annual credit against the tax imposed by this chapter may take the tax credit for a period not to exceed 5 years.

3. A new or expanded headquarters facility in this state which locates in an enterprise zone and brownfield area and is induced by this credit to create at least 1,500 jobs which on average pay at least 200 percent of the statewide average annual private sector wage, as published by the Department of Economic Opportunity, and which new or expanded headquarters facility makes a cumulative capital investment in this state of at least $250 million.

Section 5. Paragraphs (a), (b), and (e) of subsection (2) of section 288.0001, Florida Statutes, are amended to read:

288.0001 Economic Development Programs Evaluation.—The Office of Economic and Demographic Research and the Office of Program Policy Analysis and Government Accountability (OPPAGA) shall develop and present to the Governor, the President of the

Senate, the Speaker of the House of Representatives, and the chairs of the legislative appropriations committees the Economic Development Programs Evaluation.

(2) The Office of Economic and Demographic Research and OPPAGA shall provide a detailed analysis of economic development programs as provided in the following schedule:

(a) By January 1, 2014, and every 3 years thereafter, an analysis of the following:

1. The capital investment tax credit established under s. 220.191.

2. The qualified target industry tax refund established under s. 288.106.

3. The brownfield redevelopment bonus refund established under s. 288.107.

4. High-impact business performance grants established under s. 288.108.

5. The Florida Enterprise Program ~~Quick Action Closing Fund~~ established under s. 288.1088.

6. The Innovation Incentive Program established under s. 288.1089.

7. Enterprise Zone Program incentives established under ss. 212.08(5) and (15), 212.096, 220.181, and 220.182.

8. The New Markets Development Program established under ss. 288.991-288.9922.

(b) By January 1, 2015, and every 3 years thereafter, an analysis of the following:

1. The entertainment industry financial incentive program established under s. 288.1254.

2. The entertainment industry sales tax exemption program

established under s. 288.1258.

3. The Florida Tourism Industry Marketing Corporation ~~VISIT Florida~~ and its programs established or funded under ss. 288.122, 288.1226, 288.12265, and 288.124.

4. The Florida Sports Foundation and related programs established under ss. 288.1162, 288.11621, 288.1166, 288.1167, 288.1168, ~~288.1169,~~ and 288.1171.

(e) Beginning January 1, 2018, and every 3 years thereafter, an analysis of the Sports Development Program established under s. 288.11625 and the retention of Major League Baseball spring training baseball franchises under s. 288.11631.

Section 6. Present subsection (1) of section 288.005, Florida Statutes, is amended, and present subsections (3) through (6) of that section are redesignated as subsections (4) through (7), respectively, and a new subsection (1) is added to that section, to read:

288.005 Definitions.—As used in this chapter, the term:

(1) "Average private sector wage in the area" means the statewide average wage in the private sector or the average of all private sector wages in the county or in the standard metropolitan area in which the project is located, as determined by the department.

(3) ~~(1)~~ "Economic benefits" means the direct, indirect, and induced gains in state revenues as a percentage of the state's investment. The state's investment includes all state funds spent or foregone to benefit a business, including state funds appropriated to public and private entities, state grants, tax exemptions, tax refunds, tax credits, and other state incentives.

Section 7. Subsections (1), (3), (4), (5), (8), and (9) of section 288.047, Florida Statutes, are amended to read:

288.047 Quick-response training for economic development.—

(1) The Quick-Response Training Program is created to provide grants to meet the workforce-skill needs of existing, new, and expanding businesses and industries. The program shall be administered by CareerSource Florida, Inc., in conjunction with ~~Enterprise Florida, Inc., and~~ the Department of Economic Opportunity ~~Education~~. CareerSource Florida, Inc., shall adopt guidelines for the administration of this program, ~~shall~~ provide technical services, and ~~shall~~ identify businesses that seek services through the program. CareerSource Florida, Inc., shall ~~may contract with Enterprise Florida, Inc., or~~ administer this program ~~directly, if it is determined that such an arrangement maximizes the amount of the Quick Response grant going to direct services~~.

(3)(a) CareerSource Florida, Inc., may accept applications for grant requests for funding under the program. Requests for funding may be submitted ~~to the Quick-Response Training Program~~ by a specific business or industry, through a school district director of career education or community college occupational dean on behalf of a business or industry, or through official state or local economic development efforts. Priority for grants shall be given to businesses and industries in rural areas of opportunity and other rural areas; in distressed inner-city areas; in brownfield areas; or that seek to significantly upgrade employee skills or avoid a significant layoff. In allocating funds for the purposes of the program, CareerSource Florida, Inc., shall establish criteria for approval of requests

for funding and shall select the entity that provides the most efficient, cost-effective instruction meeting such criteria. Program funds may be allocated to a career center, community college, or state university. Program funds may be allocated to private postsecondary institutions only after a review that includes, but is not limited to, accreditation and licensure documentation and prior approval by CareerSource Florida, Inc.

(b) Instruction funded through the program must terminate when participants demonstrate competence at the level specified in the request; however, the grant term may not exceed 24 months. Costs and expenditures for the Quick-Response Training Program must be documented and separated from those incurred by the training provider. The grant agreement must provide for the payment of funds on a reimbursable basis.

(4) CareerSource Florida, Inc., may enter into grant agreements as provided under this section, but the total amount of obligations for payment may not exceed $30 million for any 24-month period. The total amount of reimbursements approved for payment by CareerSource Florida, Inc., must be based on actual performance under the grant agreement and may not exceed the amount appropriated to CareerSource Florida, Inc., for such purpose in a fiscal year. The department shall transfer funds to CareerSource Florida, Inc., as needed to make reimbursement payments. If sufficient funds are not provided in the General Appropriations Act to satisfy the reimbursements approved for payment by CareerSource Florida, Inc., in a fiscal year, CareerSource Florida, Inc., shall pay reimbursements from the appropriation for the following fiscal year. ~~For the first 6 months of each fiscal year, CareerSource Florida, Inc., shall~~

~~set aside 30 percent of the amount appropriated by the Legislature for the Quick-Response Training Program to fund instructional programs for businesses located in an enterprise zone or brownfield area. Any unencumbered funds remaining undisbursed from this set-aside at the end of the 6-month period may be used to provide funding for a program that qualifies for funding pursuant to this section.~~

(5) ~~Prior to the allocation of funds for a request made pursuant to this section,~~ CareerSource Florida, Inc., shall prepare a grant agreement with ~~between~~ the business or industry requesting funds~~, the educational institution receiving funding through the program, and CareerSource Florida, Inc~~. An educational institution providing administrative assistance or receiving grant funding under this section may be included as a party to the grant agreement. The ~~Such~~ agreement must include, but is not limited to:

(a) An identification of the personnel necessary to conduct the instructional program, the qualifications of such personnel, and the respective responsibilities of the parties for paying costs associated with the employment of such personnel.

(b) An identification of the estimated length of the instructional program.

(c) An identification of all direct, training-related costs, including tuition and fees, curriculum development, books and classroom materials, and overhead or indirect costs, not to exceed 5 percent of the grant amount.

(d) An identification of special program requirements that are not addressed otherwise in the agreement.

(e) Permission to access information specific to the wages

and performance of participants upon the completion of instruction for evaluation purposes. Information which, if released, would disclose the identity of the person to whom the information pertains or disclose the identity of the person's employer is confidential and exempt from ~~the provisions of~~ s. 119.07(1). The agreement must specify that any evaluations published subsequent to the instruction may not identify the employer or any individual participant.

(8) The Quick-Response Training Program may ~~is created to~~ provide assistance to participants in the welfare transition program. CareerSource Florida, Inc., may award quick-response training grants and develop applicable guidelines for the training of participants in the welfare transition program. In addition to a local economic development organization, grants must be endorsed by the applicable regional workforce board.

(a) Training funded pursuant to this subsection may not exceed 12 months, and may be provided by the local community college, school district, regional workforce board, or the business employing the participant, including on-the-job training. Training will provide entry-level skills to new workers, including those employed in retail, who are participants in the welfare transition program.

(b) Participants trained pursuant to this subsection must be employed at a job paying at least the state minimum wage ~~$6 per hour~~.

(c) Funds made available pursuant to this subsection may be expended in connection with the relocation of a business from one community to another if approved by CareerSource Florida, Inc.

(9) Notwithstanding any other provision of law, ~~eligible~~ matching contributions received during the fiscal year from a business or an industry participating in ~~under this section from~~ the Quick-Response Training Program may be counted toward the private sector support of Enterprise Florida, Inc., under s. 288.904.

Section 8. Section 288.061, Florida Statutes, is amended to read:

288.061 Economic development incentive application process; evaluation, approval, and contract requirements.—

(1) Beginning January 1, 2017, the department shall prescribe a form upon which an application for an incentive must be made. At a minimum, the incentive application must include all of the following:

(a) The applicant's federal employer identification number, reemployment assistance account number, and state sales tax registration number. If such numbers are not available at the time of application, they must be submitted to the department in writing before the disbursement of any economic incentive payments or the grant of any tax credits or refunds.

(b) The applicant's signature.

(c) The location in this state at which the project is or will be located.

(d) The anticipated commencement date and duration of the project.

(e) A description of the type of business activity, product, or research and development undertaken by the applicant, including the six-digit North American Industry Classification System code for all activities included in the

project.

(f) An attestation verifying that the information provided on the application is true and accurate.

(2) ~~(1)~~ Upon receiving a submitted economic development incentive application, the Division of Strategic Business Development of the department ~~of Economic Opportunity~~ and designated staff of Enterprise Florida, Inc., shall review the application to ensure that the application is complete, whether and what type of state and local permits may be necessary for the applicant's project, whether it is possible to waive such permits, and what state incentives and amounts of such incentives may be available to the applicant. The department shall recommend to the executive director to approve or disapprove an applicant business. If review of the application demonstrates that the application is incomplete, the executive director shall notify the applicant business within the first 5 business days after receiving the application.

(3)(a) ~~(2) Beginning July 1, 2013,~~ The department shall review and evaluate each economic development incentive application for the economic benefits of the proposed award of state incentives proposed for the project. Such review must occur before the department approves an economic development incentive application and each time an agreement or a contract is amended, modified, or extended by the department.

(b) As used in this subsection, the term "economic benefits" has the same meaning as in s. 288.005. The Office of Economic and Demographic Research shall establish the methodology and model used to calculate the economic benefits, including guidelines for the appropriate application of the

department's internal model. For purposes of this requirement, an amended definition of the term ~~"economic benefits"~~ may be developed by the Office of Economic and Demographic Research. However, the amended definition must reflect the requirement of s. 288.005 that the calculation of the state's investment include all state funds spent or foregone to benefit the business, including state funds appropriated to public and private entities, to the extent that those funds should reasonably be known to the department at the time of approval.

(c) For the purpose of calculating the economic benefits of the proposed award of state incentives for the project, the department may not attribute to the business any capital investment made by the business using state funds. However, for the purpose of evaluating an economic development incentive application, the department shall consider the cumulative capital investment, as defined in s. 220.191.

(4) The department's evaluation of the application also must include all of the following:

(a) A financial analysis of the company, including information regarding liens and pending or ongoing litigation, credit ratings, and regulatory filings.

(b) A review of any independent evaluations of the company.

(c) A review of the historical market performance of the company.

(d) A review of the latest audit of the company's financial statement and the related auditor management letter.

(e) A review of any other audits that are related to the internal controls or management of the company.

(f) A review of the corporate governance and management

structure of the company.

(g) A review of performance in connection with any incentives previously awarded by the state or a local government.

(h) Any other review deemed necessary by the department.

(5)(a) ~~(3)~~ Within 10 business days after the department receives a complete ~~the submitted~~ economic development incentive application, the executive director shall approve or disapprove the application. Except for ss. 288.108, 288.1088, 288.1089, and 288.1256, the executive director shall ~~and~~ issue a letter of certification to the applicant which includes a justification of that decision, unless the business requests an extension of ~~that~~ time.

(b) For ss. 288.108, 288.1088, 288.1089, and 288.1256, within 7 business days after the executive director approves or disapproves a complete economic development incentive application, the executive director shall recommend to the Governor approval or disapproval of the application. If the recommendation is for approval, the recommendation must include the total amount of the award; the anticipated project performance conditions, including, but not limited to, net new employment in the state, average salary, and total capital investment incurred by the business; a baseline of current service and a measure of enhanced capability; the methodology for validating performance; the schedule of performance grant payments; and sanctions for failure to meet performance conditions, including any clawback provisions.

(6)(a) Upon approval by the Governor or certification by the department, the department and the applicant shall enter

into an agreement or a contract. The ~~contract or~~ agreement or contract with the applicant must specify the total amount of the award~~;~~ the performance conditions that must be met to obtain the award, including, but not limited to, net new employment in the state, average salary, and total capital investment incurred by the business; the schedule for performance and payment; the methodology for validating performance and the date by which the business must submit proof of performance to the department; a process for amending, modifying, or extending the agreement or contract~~;~~ and sanctions that would apply for failure to meet performance conditions. Any agreement or contract with the applicant must require that the applicant use the workforce information systems implemented under s. 445.011 to advertise job openings created as a result of the state incentive agreement or contract. Any agreement or contract that requires the business to make a capital investment must also require that such investment remain in this state for the duration of the agreement or contract, with the exception of an investment made in transportation-related assets specifically used for the purpose of transporting goods or employees. The department may enter into one agreement or contract covering all of the state incentives that are being provided to the applicant. The agreement or contract must provide that release of funds is contingent upon sufficient appropriation of funds by the Legislature.

(b) The department may not enter into an agreement or a contract that has a term of more than 10 years. However, the department may enter into a successive agreement or contract for a specific project to extend the initial 10-year term if each

successive agreement or contract is contingent upon the successful completion of the previous agreement or contract. This paragraph does not apply to an agreement or a contract for a project receiving a capital investment tax credit under s. 220.191 or an Innovation Incentive Program award under s. 288.1089.

(c) The department shall provide a notice, including an updated description and evaluation, to the Legislature upon the final execution of each agreement or contract. Any agreement or contract executed by the department for a project under s. 288.108, s. 288.1088, or s. 288.1089 must embody performance conditions and timelines that were in the written description and evaluation submitted to the Legislature.

(7) ~~(b)~~ The release of funds for the incentive or incentives awarded to the applicant depends upon the statutory requirements of the particular incentive program. The department may only make a payment to a business after the department verifies that the business has met the required project performance conditions and statutory requirements, and only in the year in which the payment is scheduled to be paid pursuant to the agreement or contract. The department may not transfer outside of the state treasury any funds appropriated by the Legislature for incentive programs except as expressly provided in the General Appropriations Act or to make a payment as scheduled in an agreement or contract.

(8) ~~(4)~~ The department shall validate contractor performance and report such validation in the annual incentives report required under s. 288.907.

(9) ~~(5)~~ (a) The executive director may not approve an

economic development incentive application unless the application includes a signed written declaration by the applicant which states that the applicant has read the information in the application and that the information is true, correct, and complete to the best of the applicant's knowledge and belief.

(b) After an economic development incentive application is approved, the awardee shall provide, in each year that the department is required to validate contractor performance, a signed written declaration. The written declaration must state that the awardee has reviewed the information and that the information is true, correct, and complete to the best of the awardee's knowledge and belief.

(10)~~(6)~~ The department is authorized to adopt rules to implement this section.

Section 9. Paragraphs (a), (c), and (e) of subsection (1), subsection (2), paragraph (e) of subsection (3), subsection (6), and paragraph (a) of subsection (7) of section 288.076, Florida Statutes, are amended to read:

288.076 Return on investment reporting for economic development programs.—

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

(a) "Jobs" has the same meaning as provided in s. 288.106(2) ~~s. 288.106(2)(i)~~.

(c) "Project" has the same meaning as provided in s. 288.106(2) ~~s. 288.106(2)(m)~~.

(e) "State investment" means all state funds spent or foregone to benefit a business, including state funds appropriated to public and private entities, ~~any~~ state grants,

tax exemptions, tax refunds, tax credits, and any other source of state funds which should reasonably be known to the department at the time of approval ~~or other state incentives provided to a business under a program administered by the department~~, including the capital investment tax credit under s. 220.191.

(2)(a) The department shall maintain a website for the purpose of publishing the information described in this section. The information required to be published under this section must be provided in a format accessible to the public which enables users to search for and sort specific data and to easily view and retrieve all data at once.

(b) The department must publish a summary document that provides for all active contracts the information required under subparagraphs (3)(b)1. and 2. and paragraphs (3)(e) and (f), including verified results. The summary document must be updated quarterly and easily accessible on the website.

(3) Within 48 hours after expiration of the period of confidentiality for project information deemed confidential and exempt pursuant to s. 288.075, the department shall publish the following information pertaining to each project:

(e) *Project performance goals.*—

1. The incremental direct jobs attributable to the project, identifying the number of jobs generated and the number of jobs retained.

2. The number of jobs generated and the number of jobs retained by the project, and for projects commencing after October 1, 2013, the average annual wage of persons holding such jobs and the number of jobs generated and the number of jobs

retained which provide health benefits for the employee.

3. The incremental direct capital investment in the state generated by the project.

4. The schedule of performance that the business is required to meet and the schedule of payments by the state under the terms of the contract. If a schedule is changed due to a contract amendment, modification, or extension, such change shall be noted.

(6) Annually, the department shall publish information relating to the progress of Florida Enterprise Program ~~Quick Action Closing Fund~~ projects, including the average number of days between the date the department receives a completed application and the date on which the application is approved.

(7)(a) Within 48 hours after expiration of the period of confidentiality provided under s. 288.075, the department shall publish the contract or agreement described in s. 288.061, redacted to protect the participant business from disclosure of information that remains confidential or exempt by law. Within 48 hours after approval, the department shall publish any amendment, modification, or extension to a contract or agreement, redacted to protect the participant business from disclosure of information that remains confidential or exempt by law.

Section 10. Subsection (2) and paragraph (c) of subsection (3) of section 288.095, Florida Statutes, are amended, and subsections (4) and (5) are added to that section, to read:

288.095 Economic Development Trust Fund.—

(2) There is created, within the Economic Development Trust Fund, the Economic Development Incentives Account. The Economic

Development Incentives Account consists of moneys appropriated to the account for purposes of the tax incentives programs authorized under ss. 288.1045 and 288.106, and transferred from local governments for the purposes of the local financial support provided under ss. 288.1045, ~~and~~ 288.106, and 288.1088. Moneys in the Economic Development Incentives Account may only be expended pursuant to Legislative appropriation or an approved amendment to the department's operating budget pursuant to chapter 216 ~~shall be subject to the provisions of s. 216.301(1)(a)~~. Notwithstanding s. 216.301, and pursuant to s. 216.351, any balance in the account at the end of a fiscal year remains in the account and is available for carrying out the purposes of the account.

(3)

(c) Moneys in the Economic Development Incentives Account may be used only to pay tax refunds and make other payments authorized under s. 288.1045, s. 288.106, ~~or~~ s. 288.107, or s. 288.1088.

(4) There is created, within the Economic Development Trust Fund, the Florida Enterprise Fund Account. The Florida Enterprise Fund Account consists of moneys appropriated to the account for purposes of the incentives programs authorized under ss. 288.0659, 288.1045, 288.106, 288.107, 288.108, 288.1088, 288.1089, and 288.1256. Moneys in the Florida Enterprise Fund Account may be expended only pursuant to legislative appropriation or an approved amendment to the department's operating budget pursuant to chapter 216. Notwithstanding s. 216.301, and pursuant to s. 216.351, any balance in the account at the end of a fiscal year remains in the account and is

available for carrying out the purposes of the account. Notwithstanding s. 17.61(3)(c), the department shall transfer interest earnings on a quarterly basis to the State Economic Enhancement and Development Trust Fund.

(a) By January 2 of each year, the department shall provide to the Legislature a list of potential claims for payment which may be filed in the following fiscal year under ss. 288.0659, 288.1045, 288.106, 288.107, 288.108, 288.1088, 288.1089, 288.1256.

(b) By March 1 of each year, the department shall provide to the Legislature a list of actual claims for payment filed in the following fiscal year under ss. 288.0659, 288.1045, 288.106, 288.107, 288.108, 288.1088, 288.1089, and 288.1256.

(5)(a) There is created, within the Economic Development Trust Fund, the Quick Action Closing Fund Escrow Account. The Quick Action Closing Fund Escrow Account consists of moneys transferred from Enterprise Florida, Inc., which were held in an escrow account on June 30, 2016, for approved contracts or agreements under s. 288.1088 and moneys for contracts or agreements under s. 288.1088 approved on or after July 1, 2016.

(b) Moneys in the account are appropriated to make payments pursuant to agreements or contracts for projects authorized under s. 288.1088, or to make the transfers required pursuant to paragraph (d) or paragraph (e). Notwithstanding s. 216.301, and pursuant to s. 216.351, any balance in the account at the end of a fiscal year remains in the account and is available for carrying out the purposes of the account.

(c) The department may make a payment from the account after an independent third party has verified that an applicant

has satisfied all of the requirements of the agreement or contract and the department has determined that an applicant meets the required project performance criteria and that a payment is due.

(d) The department shall determine, within 15 days after the end of each calendar quarter, whether moneys are in the account which are associated with an agreement or contract entered into pursuant to s. 288.1088 that the department has terminated, that has otherwise expired, or for which a business has not met performance conditions required by the agreement or contract. Any such funds held in the account must be returned to the State Economic Enhancement and Development Trust Fund within 10 days after the determination.

(e) Moneys in the account shall be managed and invested to generate the maximum amount of interest earnings, consistent with the requirement that the moneys be available to make payments as required pursuant to Quick Action Closing Fund contracts or agreements. Notwithstanding s. 17.61(3)(c), the department shall transfer interest earnings on a quarterly basis to the State Economic Enhancement and Development Trust Fund.

Section 11. By July 10, 2016, Enterprise Florida, Inc., shall transfer any funds held in an escrow account on June 30, 2016, for approved Quick Action Closing Fund agreements or contracts to the Department of Economic Opportunity for deposit in the Quick Action Closing Fund Escrow Account within the Economic Development Trust Fund.

Section 12. Paragraphs (b), (j), and (k) of subsection (1) and paragraphs (b), (c), (d), (e), and (j) of subsection (3) of section 288.1045, Florida Statutes, are amended, paragraph (i)

is added to subsection (5) of that section, and subsection (7) of that section is amended, to read:

288.1045 Qualified defense contractor and space flight business tax refund program.—

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

~~(b) "Average wage in the area" means the average of all wages and salaries in the state, the county, or in the standard metropolitan area in which the business unit is located.~~

(i)~~(j)~~ "Local financial support" means funding from local sources, public or private, which is paid to the Economic Development Trust Fund and which is equal to 20 percent of the annual tax refund for a qualified applicant.

1. Local financial support may include excess payments made to a utility company under a designated program to allow decreases in service by the utility company under conditions, regardless of when application is made.

2. A qualified applicant may not provide, directly or indirectly, more than 5 percent of such funding in any fiscal year. The sources of such funding may not include, directly or indirectly, state funds appropriated from the General Revenue Fund or any state trust fund, excluding tax revenues shared with local governments pursuant to law.

3. A qualified applicant may not receive more than 80 percent of its total tax refunds from state funds that are allowed the applicant under this section.

4. The department may grant a waiver to a local government that reduces the required amount of local financial support for a project to 10 percent of the annual tax refund award or that eliminates the required amount of local financial support for a

project located in an area designated by the Governor as a rural area of opportunity pursuant to s. 288.0656. To be eligible to receive a waiver that reduces or eliminates the required amount of local financial support, a local government must provide the department with:

a. A resolution adopted by the governing body of the county or municipality in whose jurisdiction the project will be located, requesting that the applicant's project be waived from the local financial support requirement.

b. A statement prepared by a certified public accountant, as that term is defined in s. 473.302, which describes the financial constraints preventing the local government from providing the local financial support required by this section. This sub-subparagraph does not apply to a county considered to be fiscally constrained pursuant to s. 218.67(1).

~~(k) "Local financial support exemption option" means the option to exercise an exemption from the local financial support requirement available to any applicant whose project is located in a county designated by the Rural Economic Development Initiative, if the county commissioners of the county in which the project will be located adopt a resolution requesting that the applicant's project be exempt from the local financial support requirement. Any applicant that exercises this option is not eligible for more than 80 percent of the total tax refunds allowed such applicant under this section.~~

(3) APPLICATION PROCESS; REQUIREMENTS; AGENCY DETERMINATION.—

(b) Applications for certification based on the consolidation of a Department of Defense contract or a new

Department of Defense contract must be submitted to the department as prescribed by the department and must include, but are not limited to, the following information:

1. The applicant's federal employer identification number, the applicant's Florida sales tax registration number, and a signature of an officer of the applicant.

2. The permanent location of the manufacturing, assembling, fabricating, research, development, or design facility in this state at which the project is or is to be located.

3. The Department of Defense contract numbers of the contract to be consolidated, the new Department of Defense contract number, or the "RFP" number of a proposed Department of Defense contract.

4. The date the contract was executed or is expected to be executed, and the date the contract is due to expire or is expected to expire.

5. The commencement date for project operations under the contract in this state.

6. The number of net new full-time equivalent Florida jobs included in the project as of December 31 of each year and the average wage of such jobs.

7. The total number of full-time equivalent employees employed by the applicant in this state.

8. The percentage of the applicant's gross receipts derived from Department of Defense contracts during the 5 taxable years immediately preceding the date the application is submitted.

9. The number of full-time equivalent jobs in this state to be retained by the project.

10. A brief statement concerning the applicant's need for

tax refunds, and the proposed uses of such refunds by the applicant.

11. A resolution adopted by the governing board of the county or municipality in which the project will be located, which recommends the applicant be approved as a qualified applicant, and which indicates that the necessary commitments of local financial support for the applicant exist. ~~Prior to the adoption of the resolution, the county commission may review the proposed public or private sources of such support and determine whether the proposed sources of local financial support can be provided or, for any applicant whose project is located in a county designated by the Rural Economic Development Initiative, a resolution adopted by the county commissioners of such county requesting that the applicant's project be exempt from the local financial support requirement.~~

12. Any additional information requested by the department.

(c) Applications for certification based on the conversion of defense production jobs to nondefense production jobs must be submitted to the department as prescribed by the department and must include, but are not limited to, the following information:

1. The applicant's federal employer identification number, the applicant's Florida sales tax registration number, and a signature of an officer of the applicant.

2. The permanent location of the manufacturing, assembling, fabricating, research, development, or design facility in this state at which the project is or is to be located.

3. The Department of Defense contract numbers of the contract under which the defense production jobs will be converted to nondefense production jobs.

4. The date the contract was executed, and the date the contract is due to expire or is expected to expire, or was canceled.

5. The commencement date for the nondefense production operations in this state.

6. The number of net new full-time equivalent Florida jobs included in the nondefense production project as of December 31 of each year and the average wage of such jobs.

7. The total number of full-time equivalent employees employed by the applicant in this state.

8. The percentage of the applicant's gross receipts derived from Department of Defense contracts during the 5 taxable years immediately preceding the date the application is submitted.

9. The number of full-time equivalent jobs in this state to be retained by the project.

10. A brief statement concerning the applicant's need for tax refunds, and the proposed uses of such refunds by the applicant.

11. A resolution adopted by the governing board of the county or municipality in which the project will be located, which recommends the applicant be approved as a qualified applicant, and which indicates that the necessary commitments of local financial support for the applicant exist. ~~Prior to the adoption of the resolution, the county commission may review the proposed public or private sources of such support and determine whether the proposed sources of local financial support can be provided or, for any applicant whose project is located in a county designated by the Rural Economic Development Initiative, a resolution adopted by the county commissioners of such county~~

~~requesting that the applicant's project be exempt from the local financial support requirement.~~

12. Any additional information requested by the department.

(d) Applications for certification based on a contract for reuse of a defense-related facility must be submitted to the department as prescribed by the department and must include, but are not limited to, the following information:

1. The applicant's Florida sales tax registration number and a signature of an officer of the applicant.

2. The permanent location of the manufacturing, assembling, fabricating, research, development, or design facility in this state at which the project is or is to be located.

3. The business entity holding a valid Department of Defense contract or branch of the Armed Forces of the United States that previously occupied the facility, and the date such entity last occupied the facility.

4. A copy of the contract to reuse the facility, or such alternative proof as may be prescribed by the department that the applicant is seeking to contract for the reuse of such facility.

5. The date the contract to reuse the facility was executed or is expected to be executed, and the date the contract is due to expire or is expected to expire.

6. The commencement date for project operations under the contract in this state.

7. The number of net new full-time equivalent Florida jobs included in the project as of December 31 of each year and the average wage of such jobs.

8. The total number of full-time equivalent employees

employed by the applicant in this state.

9. The number of full-time equivalent jobs in this state to be retained by the project.

10. A brief statement concerning the applicant's need for tax refunds, and the proposed uses of such refunds by the applicant.

11. A resolution adopted by the governing board of the county or municipality in which the project will be located, which recommends the applicant be approved as a qualified applicant, and which indicates that the necessary commitments of local financial support for the applicant exist. ~~Before the adoption of the resolution, the county commission may review the proposed public or private sources of such support and determine whether the proposed sources of local financial support can be provided or, for any applicant whose project is located in a county designated by the Rural Economic Development Initiative, a resolution adopted by the county commissioners of such county requesting that the applicant's project be exempt from the local financial support requirement.~~

12. Any additional information requested by the department.

(e) To qualify for review by the department, the application of an applicant must, at a minimum, establish the following to the satisfaction of the department:

1. The jobs proposed to be provided under the application, pursuant to subparagraph (b)6., subparagraph (c)6., or subparagraph (j)6., must pay an estimated annual average wage equaling at least 115 percent of the average <u>private sector</u> wage in the area where the project is to be located.

2. The consolidation of a Department of Defense contract

must result in a net increase of at least 25 percent in the number of jobs at the applicant's facilities in this state or the addition of at least 80 jobs at the applicant's facilities in this state.

3. The conversion of defense production jobs to nondefense production jobs must result in net increases in nondefense employment at the applicant's facilities in this state.

4. The Department of Defense contract or the space flight business contract <u>does not</u> ~~cannot~~ allow the business to include the costs of relocation or retooling in its base as allowable costs under a cost-plus, or similar, contract.

5. A business unit of the applicant must have derived not less than 60 percent of its gross receipts in this state from Department of Defense contracts or space flight business contracts over the applicant's last fiscal year, and must have derived not less than an average of 60 percent of its gross receipts in this state from Department of Defense contracts or space flight business contracts over the 5 years preceding the date an application is submitted pursuant to this section. This subparagraph does not apply to any application for certification based on a contract for reuse of a defense-related facility.

6. The reuse of a defense-related facility <u>will</u> ~~must~~ result in the creation of at least 100 jobs at such facility.

7. A new space flight business contract or the consolidation of a space flight business contract <u>will</u> ~~must~~ result in net increases in space flight business employment at the applicant's facilities in this state.

(j) Applications for certification based upon a new space flight business contract or the consolidation of a space flight

business contract must be submitted to the department as prescribed by the department and must include, but are not limited to, the following information:

1. The applicant's federal employer identification number, the applicant's Florida sales tax registration number, and a signature of an officer of the applicant.

2. The permanent location of the space flight business facility in this state where the project is or will be located.

3. The new space flight business contract number, the space flight business contract numbers of the contract to be consolidated, or the request-for-proposal number of a proposed space flight business contract.

4. The date the contract was executed and the date the contract is due to expire, is expected to expire, or was canceled.

5. The commencement date for project operations under the contract in this state.

6. The number of net new full-time equivalent Florida jobs included in the project as of December 31 of each year and the average wage of such jobs.

7. The total number of full-time equivalent employees employed by the applicant in this state.

8. The percentage of the applicant's gross receipts derived from space flight business contracts during the 5 taxable years immediately preceding the date the application is submitted.

9. The number of full-time equivalent jobs in this state to be retained by the project.

10. A brief statement concerning the applicant's need for tax refunds and the proposed uses of such refunds by the

applicant.

11. A resolution adopted by the governing board of the county or municipality in which the project will be located which recommends the applicant be approved as a qualified applicant and indicates that the necessary commitments of local financial support for the applicant exist. ~~Prior to the adoption of the resolution, the county commission may review the proposed public or private sources of such support and determine whether the proposed sources of local financial support can be provided or, for any applicant whose project is located in a county designated by the Rural Economic Development Initiative, a resolution adopted by the county commissioners of such county requesting that the applicant's project be exempt from the local financial support requirement.~~

12. Any additional information requested by the department.

(5) ANNUAL CLAIM FOR REFUND.—

(i)1. If a business fails to timely submit documentation requested by the department as required in the agreement between the business and the department and such failure results in the department withholding an otherwise approved refund, then the business may receive the approved refund if:

a. The business submits the documentation to the department.

b. The business provides a written statement to the department detailing the extenuating circumstances that resulted in the failure to timely submit the documentation required by the agreement.

c. Funds appropriated under this section remain available.

d. The business was scheduled under the terms of the

agreement to submit information to the department between January 1, 2014, and December 31, 2014.

e. The business has met all other requirements of the agreement.

2. This paragraph expires December 31, 2017.

(7) EXPIRATION.—An applicant may not be certified as qualified under this section after June 30, 2018 ~~2014~~. A tax refund agreement existing on that date shall continue in effect in accordance with its terms.

Section 13. Paragraphs (c), (j), (k), and (q) of subsection (2), paragraph (b) of subsection (4), paragraph (b) of subsection (5), subsection (8), and subsection (9) of section 288.106, Florida Statutes, are amended to read:

288.106 Tax refund program for qualified target industry businesses.—

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

~~(c) "Average private sector wage in the area" means the statewide private sector average wage or the average of all private sector wages and salaries in the county or in the standard metropolitan area in which the business is located.~~

(i) ~~(j)~~ "Local financial support" means funding from local sources, public or private, which ~~that~~ is paid to the Economic Development Trust Fund and which ~~that~~ is equal to 20 percent of the annual tax refund for a qualified target industry business.

1. A qualified target industry business may not provide, directly or indirectly, more than 5 percent of such funding in any fiscal year. The sources of such funding may not include, directly or indirectly, state funds appropriated from the General Revenue Fund or any state trust fund, excluding tax

revenues shared with local governments pursuant to law.

2. A qualified target industry business may not receive more than 80 percent of its total tax refunds from state funds that are allowed the business under this section.

3. The department may grant a waiver to a local government that reduces the required amount of local financial support for a project to 10 percent of the annual tax refund award or that eliminates the required amount of local financial support for a project located in an area designated by the Governor as a rural area of opportunity pursuant to s. 288.0656. To be eligible to receive a waiver that reduces or eliminates the required amount of local financial support, a local government must provide the department with:

a. A resolution adopted by the governing body of the county or municipality in whose jurisdiction the project will be located, requesting that the applicant's project be waived from the local financial support requirement.

b. A statement prepared by a certified public accountant, as that term is defined in s. 473.302, which describes the financial constraints preventing the local government from providing the local financial support required by this section. This sub-subparagraph does not apply to a county considered fiscally constrained pursuant to s. 218.67(1).

~~(k) "Local financial support exemption option" means the option to exercise an exemption from the local financial support requirement available to any applicant whose project is located in a brownfield area, a rural city, or a rural community. Any applicant that exercises this option is not eligible for more than 80 percent of the total tax refunds allowed such applicant~~

~~under this section.~~

(o) ~~(q)~~ "Target industry business" means a corporate headquarters business or any business that is engaged in one of the target industries identified pursuant to the following criteria developed by the department in consultation with Enterprise Florida, Inc.:

1. Future growth.—Industry forecasts should indicate strong expectation for future growth in both employment and output, according to the most recent available data. Special consideration should be given to businesses that export goods to, or provide services in, international markets and businesses that replace domestic and international imports of goods or services.

2. Stability.—The industry should not be subject to periodic layoffs, whether due to seasonality or sensitivity to volatile economic variables such as weather. The industry should also be relatively resistant to recession, so that the demand for products of this industry is not typically subject to decline during an economic downturn.

3. High wage.—The industry should pay relatively high wages compared to statewide or area averages.

4. Market and resource independent.—The location of industry businesses should not be dependent on Florida markets or resources as indicated by industry analysis, except for businesses in the renewable energy industry.

5. Industrial base diversification and strengthening.—The industry should contribute toward expanding or diversifying the state's or area's economic base, as indicated by analysis of employment and output shares compared to national and regional

trends. Special consideration should be given to industries that strengthen regional economies by adding value to basic products or building regional industrial clusters as indicated by industry analysis. Special consideration should also be given to the development of strong industrial clusters that include defense and homeland security businesses.

6. Positive economic impact.—The industry is expected to have strong positive economic impacts on or benefits to the state or regional economies. Special consideration should be given to industries that facilitate the development of the state as a hub for domestic and global trade and logistics.

The term does not include any business engaged in retail industry activities; any electrical utility company as defined in s. 366.02(2); any phosphate or other solid minerals severance, mining, or processing operation; any oil or gas exploration or production operation; or any business subject to regulation by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation. Any business within NAICS code 5611 or 5614, office administrative services and business support services, respectively, or any business within NAICS code 611310 which offers only baccalaureate or higher degree programs that address health care workforce demand may be considered a target industry business only after the local governing body and Enterprise Florida, Inc., make a determination that the community where the business may locate has conditions affecting the fiscal and economic viability of the local community or area, including but not limited to, factors such as low per capita income, high unemployment, high

underemployment, and a lack of year-round stable employment opportunities, and such conditions may be improved by the location of such a business to the community. By January 1 of every 3rd year, beginning January 1, 2011, the department, in consultation with Enterprise Florida, Inc., economic development organizations, the State University System, local governments, employee and employer organizations, market analysts, and economists, shall review and, as appropriate, revise the list of such target industries and submit the list to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(4) APPLICATION AND APPROVAL PROCESS.—

(b) To qualify for review by the department, the application of a target industry business must, at a minimum, establish the following to the satisfaction of the department:

1.a. The jobs proposed to be created under the application, pursuant to subparagraph (a)4., must pay an estimated annual average wage equaling at least 115 percent of the average private sector wage in the area where the business is to be located ~~or the statewide private sector average wage~~. The governing board of the local governmental entity providing the local financial support of the jurisdiction where the qualified target industry business is to be located shall notify the department and Enterprise Florida, Inc., which calculation of the average private sector wage in the area must be used as the basis for the business's wage commitment. In determining the average annual wage, the department shall include only new proposed jobs, and wages for existing jobs shall be excluded from this calculation.

b. The department may waive the average wage requirement at the request of the local governing body recommending the project and Enterprise Florida, Inc. The department may waive the wage requirement for a project located in a brownfield area designated under s. 376.80, in a rural city, in a rural community, in an enterprise zone, or for a manufacturing project at any location in the state if the jobs proposed to be created pay an estimated annual average wage equaling at least 100 percent of the average private sector wage in the area where the business is to be located, only if the merits of the individual project or the specific circumstances in the community in relationship to the project warrant such action. If the local governing body and Enterprise Florida, Inc., make such a recommendation, it must be transmitted in writing and must include an explanation of~~, and~~ the specific justification for the waiver recommendation ~~must be explained~~. If the department elects to waive the wage requirement, the waiver must be stated in writing and must include an explanation of~~, and~~ the reasons for granting the waiver ~~must be explained~~.

2. The target industry business's project must result in the creation of at least 10 jobs at the project and, in the case of an expansion of an existing business, must result in a net increase in employment of at least 10 percent at the business. At the request of the local governing body recommending the project and Enterprise Florida, Inc., the department may waive this requirement for a business in a rural community or enterprise zone if the merits of the individual project or the specific circumstances in the community in relationship to the project warrant such action. If the local governing body and


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Enterprise Florida, Inc., make such a request, the request must be transmitted in writing and must include an explanation of~~,~~ ~~and~~ the specific justification for the request ~~must be explained~~. If the department elects to grant the request, the grant must be stated in writing~~,~~ and explain why the request was granted ~~the reason for granting the request must be explained~~.

3. The business activity or product for the applicant's project must be within an industry identified by the department as a target industry business that contributes to the economic growth of the state and the area in which the business is located, that produces a higher standard of living for residents of this state in the new global economy, or that can be shown to make an equivalent contribution to the area's and state's economic progress.

(5) TAX REFUND AGREEMENT.—

(b) Compliance with the terms and conditions of the agreement is a condition precedent for the receipt of a tax refund each year. The failure to comply with the terms and conditions of the tax refund agreement results in the loss of eligibility for receipt of all tax refunds previously authorized under this section and the revocation by the department of the certification of the business entity as a qualified target industry business, unless the business is eligible to receive and elects to accept a prorated refund under paragraph (6)(e) ~~or the department grants the business an economic recovery extension~~.

~~1. A qualified target industry business may submit a request to the department for an economic recovery extension. The request must provide quantitative evidence demonstrating how~~


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~~negative economic conditions in the business's industry, the effects of a named hurricane or tropical storm, or specific acts of terrorism affecting the qualified target industry business have prevented the business from complying with the terms and conditions of its tax refund agreement.~~

~~2. Upon receipt of a request under subparagraph 1., the department has 45 days to notify the requesting business, in writing, whether its extension has been granted or denied. In determining whether an extension should be granted, the department shall consider the extent to which negative economic conditions in the requesting business's industry have occurred in the state or the effects of a named hurricane or tropical storm or specific acts of terrorism affecting the qualified target industry business have prevented the business from complying with the terms and conditions of its tax refund agreement. The department shall consider current employment statistics for this state by industry, including whether the business's industry had substantial job loss during the prior year, when determining whether an extension shall be granted.~~

~~3. As a condition for receiving a prorated refund under paragraph (6)(c) or an economic recovery extension under this paragraph, a qualified target industry business must agree to renegotiate its tax refund agreement with the department to, at a minimum, ensure that the terms of the agreement comply with current law and the department's procedures governing application for and award of tax refunds. Upon approving the award of a prorated refund or granting an economic recovery extension, the department shall renegotiate the tax refund agreement with the business as required by this subparagraph.~~

~~When amending the agreement of a business receiving an economic recovery extension, the department may extend the duration of the agreement for a period not to exceed 2 years.~~

~~4. A qualified target industry business may submit a request for an economic recovery extension to the department in lieu of any tax refund claim scheduled to be submitted after January 1, 2009, but before July 1, 2012.~~

~~5. A qualified target industry business that receives an economic recovery extension may not receive a tax refund for the period covered by the extension.~~

~~(8) SPECIAL INCENTIVES. If the department determines it is in the best interest of the public for reasons of facilitating economic development, growth, or new employment opportunities within a Disproportionally Affected County, the department may, between July 1, 2011, and June 30, 2014, waive any or all wage or local financial support eligibility requirements and allow a qualified target industry business from another state which relocates all or a portion of its business to a Disproportionally Affected County to receive a tax refund payment of up to $6,000 multiplied by the number of jobs specified in the tax refund agreement under subparagraph (5)(a)1. over the term of the agreement. Prior to granting such waiver, the executive director of the department shall file with the Governor a written statement of the conditions and circumstances constituting the reason for the waiver. Such business shall be eligible for the additional tax refund payments specified in subparagraph (3)(b)4. if it meets the criteria. As used in this section, the term "Disproportionally Affected County" means Bay County, Escambia County, Franklin~~

~~County, Gulf County, Okaloosa County, Santa Rosa County, Walton County, or Wakulla County.~~

(9) INCENTIVE PAYMENTS.—The incentive payments made to a business pursuant to this section are not repayments of the actual taxes paid to the state or to a local government by the business. The amount of state and local government taxes paid by a business serve as a limitation on the amount of incentive payments a business may receive.

(10) EXPIRATION.—An applicant may not be certified as qualified under this section after June 30, 2020. A tax refund agreement existing on that date shall continue in effect in accordance with its terms.

Section 14. Paragraphs (b) and (c) of subsection (2) and subsection (5) of section 288.108, Florida Statutes, are amended to read:

288.108 High-impact business.—

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

(b) "Cumulative investment" means the total investment in buildings and equipment made by a qualified high-impact business since the beginning of construction of such facility. The term does not include funds granted to or spent on behalf of the qualifying business by the state, a local government, or other governmental entity; funds appropriated in the General Appropriations Act; or funds otherwise provided to the qualifying business by a state agency, local government, or other governmental entity.

(c) "Eligible high-impact business" means a business in one of the high-impact sectors identified by Enterprise Florida, Inc., ~~and certified by the department as provided in subsection~~

~~(5),~~ which is making a cumulative investment in the state of at least $50 million and creating at least 50 new full-time equivalent jobs in the state or a research and development facility making a cumulative investment of at least $25 million and creating at least 25 new full-time equivalent jobs. Such investment and employment must be achieved in a period not to exceed 3 years after the date the business enters into an agreement with the department as provided in subsection (5) ~~is certified as a qualified high-impact business~~.

(5) APPLICATIONS; REVIEW, APPROVAL, AND CERTIFICATION PROCESS; GRANT AGREEMENT.—

(a) The department shall review an application pursuant to s. 288.061 which is received from any eligible high-impact business, as defined in subsection (2), for consideration as a qualified high-impact business before the business has made a decision to locate or expand a facility in this state. The business must provide the following information:

1. A complete description of the type of facility, business operations, and product or service associated with the project.

2. The number of full-time equivalent jobs that will be created by the project and the average annual wage of those jobs.

3. The cumulative amount of investment to be dedicated to this project within 3 years.

4. A statement concerning any special impacts the facility is expected to stimulate in the sector, the state, or regional economy and in state universities and community colleges.

5. A statement concerning the role the grant will play in the decision of the applicant business to locate or expand in

this state.

6. Any additional information requested by the department.

(b)1. Applications shall be reviewed ~~and certified~~ pursuant to s. 288.061.

2. The project must have an economic benefit ratio of at least 1 to 1.

(c) The executive director of the department shall recommend to the Governor approval or disproval of a project pursuant to s. 288.061. The Governor may approve a high-impact business performance grant of less than $2 million without consulting the Legislature and shall provide a written description and evaluation of the approved project to the President of the Senate and the Speaker of the House of Representatives within 1 business day after approval.

(d) For any high-impact business performance grant awarded funding in the amount of $2 million or more, the Governor shall provide a written description and evaluation of the project to the President of the Senate and the Speaker of the House of Representatives at least 14 days before approving the project. If the President of the Senate or the Speaker of the House of Representatives timely advises the Governor, in writing, that his or her planned or proposed action exceeds the delegated authority of the Governor or is contrary to legislative policy or intent, the Governor shall instruct the department to immediately suspend any action planned or proposed.

(e) A written description and evaluation of an amendment, a modification, or an extension of an executed agreement which results in a 0.5-point or greater reduction in the economic benefit ratio of the project must be provided to the President

of the Senate and the Speaker of the House of Representatives within 1 business day after approval. An amendment, a modification, or an extension may not be made to an executed agreement if:

1. Such action would result in an economic benefit ratio less than 1 to 1.

2. The award of state funds outlined in the agreement has not been reduced by a proportionate amount.

(f) Upon the approval of the Governor, the department shall certify the applicant as a high-impact business and ~~the qualified high-impact business shall~~ enter into a performance grant agreement with the qualified high-impact business pursuant to s. 288.061 ~~setting forth the conditions for payment of the qualified high-impact business performance grant~~. ~~The agreement shall include the total amount of the qualified high-impact business facility performance grant award, the performance conditions that must be met to obtain the award, including the employment, average salary, investment, the methodology for determining if the conditions have been met, and the schedule of performance grant payments~~.

(g) The department shall validate contractor performance and report such validation in the annual incentives report required by s. 288.907. The agreement shall require the qualified high-impact business to submit proof of performance within a certain period of time from the required date of performance provided in the agreement, not to exceed 90 days.

Section 15. Section 288.1088, Florida Statutes, is amended to read:

288.1088 Florida Enterprise Program ~~Quick Action Closing~~

~~Fund~~.—

(1)(a) The Legislature finds that attracting, retaining, and providing favorable conditions for the growth of certain high-impact business facilities, privately developed critical rural infrastructure, or key facilities in economically distressed urban or rural communities which provide widespread economic benefits to the public through high-quality employment opportunities in such facilities or in related facilities attracted to the state, through the increased tax base provided by the high-impact facility and related businesses, through an enhanced entrepreneurial climate in the state and the resulting business and employment opportunities, and through the stimulation and enhancement of the state's universities and community colleges. In the global economy, there exists serious and fierce international competition for these facilities, and in most instances, when all available resources for economic development have been used, the state continues to encounter severe competitive disadvantages in vying for these business facilities. Florida's rural areas must provide a competitive environment for business in the information age. This often requires an incentive to make it feasible for private investors to provide infrastructure in those areas.

(b) The Legislature finds that the conclusion of the space shuttle program and the gap in civil human space flight will result in significant job losses that will negatively impact families, companies, the state and regional economies, and the capability level of this state's aerospace workforce. Thus, the Legislature also finds that this loss of jobs is a matter of state interest and great public importance. The Legislature

further finds that it is in the state's interest for provisions to be made in incentive programs for economic development to maximize the state's ability to mitigate these impacts and to develop a more diverse aerospace economy.

(c) The Legislature therefore declares that sufficient resources shall be available to respond to extraordinary economic opportunities and to compete effectively for these high-impact business facilities, critical private infrastructure in rural areas, and key businesses in economically distressed urban or rural communities, and that up to 20 percent of these resources may be used for projects to retain or create high-technology jobs that are directly associated with developing a more diverse aerospace economy in this state.

(2) There is created within the department the Florida Enterprise Program ~~Quick Action Closing Fund~~. Projects eligible for receipt of funds from the program must ~~Quick Action Closing Fund shall~~:

(a) Be in an industry identified as a target industry pursuant to the procedure specified ~~as referenced~~ in s. 288.106.

(b) Have a positive economic benefit ratio of at least 2.5 to 1 ~~5 to 1~~.

(c) Be an inducement to the project's location or expansion in the state.

(d) Pay an average annual wage of at least 125 percent of the average ~~areawide or statewide~~ private sector ~~average~~ wage in the area or, for a project to be located in an area designated as a rural area of opportunity, an average annual wage of at least 100 percent of the average private sector wage in the area.

(e) Be supported by the local community in which the project is to be located. Support must include a resolution adopted by the governing board of the county or municipality in which the project will be located, which resolution recommends that the project be approved and specifies that the commitments of local financial support necessary for the business exist. Before the passage of such resolution, the department may also accept an official letter from an authorized local economic development agency that endorses the proposed project and pledges that sources of local financial support for such project exist. For the purposes of making pledges of local financial support under this paragraph, the authorized local economic development agency shall be officially designated by the passage of a one-time resolution by the local governing board. For purposes of this section, the term "local financial support" means funding from local sources, public or private, which is paid to the Economic Development Trust Fund and which is equal to 20 percent of the Florida Enterprise Program award to a business.

1. A business may not provide, directly or indirectly, more than 5 percent of such funding in any fiscal year. The sources of such funding may not include, directly or indirectly, state funds appropriated from the General Revenue Fund or any state trust fund, excluding tax revenues shared with local governments pursuant to law.

2. A business may not receive more than 80 percent of its total award under this section from state funds.

3. The department may grant a waiver to a local government that reduces the required amount of local financial support for

a project to 10 percent of the award or that eliminates the required amount of local financial support for a project located in an area designated by the Governor as a rural area of opportunity pursuant to s. 288.0656. To be eligible to receive a waiver that reduces or eliminates the required amount of local financial support, a local government must provide the department with:

a. A resolution adopted by the governing body of the county or municipality in whose jurisdiction the project will be located, requesting that the applicant's project be waived from the local financial support requirement.

b. A statement prepared by a certified public accountant, as that term is defined in s. 473.302, which describes the financial constraints preventing the local government from providing the local financial support required by this section. This sub-subparagraph does not apply to a county considered fiscally constrained pursuant to s. 218.67(1).

(f) Create at least 10 new jobs.

(3) ~~(a)~~ The department and Enterprise Florida, Inc., shall jointly review applications pursuant to s. 288.061 and determine the eligibility of each project consistent with the criteria in subsection (2). Waiver of the criteria in subsection (2) ~~these criteria~~ may not be considered except as provided in paragraph (2)(e) ~~under the following criteria:~~

~~1. Based on extraordinary circumstances;~~

~~2. In order to mitigate the impact of the conclusion of the space shuttle program; or~~

~~3. In rural areas of opportunity if the project would significantly benefit the local or regional economy~~.

(4) ~~(b)~~ The department shall evaluate individual proposals for high-impact business facilities. Such evaluation must include, but need not be limited to:

(a) ~~1.~~ A description of the type of facility or infrastructure, its operations, and the associated product or service associated with the facility.

(b) ~~2.~~ The number of full-time-equivalent jobs that will be created by the facility and the total estimated average annual wages of those jobs or, in the case of privately developed rural infrastructure, the types of business activities and jobs stimulated by the investment.

(c) ~~3.~~ The cumulative amount of investment to be dedicated to the facility within a specified period.

(d) ~~4.~~ A statement of any special impacts the facility is expected to stimulate in a particular business sector in the state or regional economy or in the state's universities and community colleges.

(e) ~~5.~~ A statement of the role the incentive is expected to play in the decision of the applicant business to locate or expand in this state or for the private investor to provide critical rural infrastructure.

(f) ~~6.~~ A report evaluating the quality and value of the company submitting a proposal. The report must include:

1. ~~a.~~ A financial analysis of the company, including an evaluation of the company's short-term liquidity ratio as measured by its assets to liabilities ~~liability~~, the company's profitability ratio, and the company's long-term solvency as measured by its debt-to-equity ratio;

2. ~~b.~~ The historical market performance of the company;

3.~~c.~~ A review of any independent evaluations of the company;

4.~~d.~~ A review of the latest audit of the company's financial statement and the related auditor's management letter; and

5.~~e.~~ A review of any other types of audits that are related to the internal and management controls of the company.

(g) The amount of local financial support for the project.

(5)(a)~~(c)1. Within 7 business days after evaluating a project,~~ The executive director of the department shall recommend to the Governor approval or disapproval of a project pursuant to s. 288.061 ~~for receipt of funds from the Quick Action Closing Fund~~. ~~In recommending a project, the department shall include proposed performance conditions that the project must meet to obtain incentive funds.~~

~~2.~~ The Governor may approve a project ~~projects~~ without consulting the Legislature for a project awarded ~~projects requiring~~ less than $2 million in funding and shall provide a written description and evaluation of the approved project to the President of the Senate and the Speaker of the House of Representatives within 1 business day after approval.

(b) For a project recommended for approval for an award of $2 million or more, the Governor shall provide a written description and evaluation of the project to the President of the Senate and the Speaker of the House of Representatives at least 14 days before approving an award. If the President of the Senate or the Speaker of the House of Representatives timely advises the Governor, in writing, that his or her planned or proposed action exceeds the delegated authority of the Governor

or is contrary to legislative policy or intent, the Governor shall instruct the department to immediately suspend any action planned or proposed.

~~3. For projects requiring funding in the amount of $2 million to $5 million, the Governor shall provide a written description and evaluation of a project recommended for approval to the chair and vice chair of the Legislative Budget Commission at least 10 days prior to giving final approval for a project. The recommendation must include proposed performance conditions that the project must meet in order to obtain funds.~~

~~4. If the chair or vice chair of the Legislative Budget Commission or the President of the Senate or the Speaker of the House of Representatives timely advises the Executive Office of the Governor, in writing, that such action or proposed action exceeds the delegated authority of the Executive Office of the Governor or is contrary to legislative policy or intent, the Executive Office of the Governor shall void the release of funds and instruct the department to immediately change such action or proposed action until the Legislative Budget Commission or the Legislature addresses the issue. Notwithstanding such requirement, any project exceeding $5 million must be approved by the Legislative Budget Commission prior to the funds being released.~~

(c) A written description and evaluation of an amendment, a modification, or an extension of an executed contract which results in a 0.5-point or greater reduction in the economic benefit ratio of the project must be provided to the President of the Senate and the Speaker of the House of Representatives within 1 business day after approval. An amendment, a

modification, or an extension may not be made to an executed contract if:

1. Such action would result in an economic benefit ratio less than 2.5 to 1.

2. The award of state funds outlined in the contract has not been reduced by a proportionate amount.

(6) ~~(d)~~ Upon the approval of the Governor, the department and the business shall enter into a contract pursuant to s. 288.061 ~~that sets forth the conditions for payment of moneys from the fund~~. Such payment may not be made to the business until the scheduled performance conditions have been achieved. The contract must also include the minimum and maximum amount of funds that may be awarded, if applicable ~~the total amount of funds awarded~~; the performance conditions related to the minimum and maximum number of jobs that will be created, if applicable ~~that must be met to obtain the award, including, but not limited to, net new employment in the state, average salary, and total capital investment~~; a demonstration of ~~demonstrate~~ a baseline of current service and a measure of enhanced capability; and the amount of local financial support that will be annually available and that will be paid into the Economic Development Trust Fund ~~the methodology for validating performance; the schedule of payments from the fund; and sanctions for failure to meet performance conditions~~. The contract must provide that payment of moneys from the fund is contingent upon sufficient appropriation of funds by the Legislature. The department may not enter into a contract with a business if the local financial support resolution is not passed by the local governing body within 90 days after the Governor has approved the award.

(7) ~~(c)~~ The department shall validate contractor performance and report such validation in the annual incentives report required under s. 288.907. The contract shall require the business to submit proof of performance within a certain period of time from the required date of performance provided in the contract, not to exceed 90 days.

(8)(a) ~~(4)~~ Funds appropriated by the Legislature for purposes of implementing this section shall be placed in reserve and may only be released pursuant to the legislative consultation and review requirements set forth in this section.

(b) A scheduled payment from the fund may not be approved for a business unless the required local financial support has been paid into the account for that project. Funding from local sources includes any tax abatement granted to that business under s. 196.1995 or the appraised market value of municipal or county land conveyed or provided at a discount to that business. The amount of any scheduled payment from the fund to such business approved under this section must be reduced by the amount of any such tax abatement granted or the value of the land granted. A report listing all sources of the local financial support shall be provided to the department when such support is paid to the account.

Section 16. Paragraph (b) of subsection (2) and subsections (4), (7), (8), and (9) of section 288.1089, Florida Statutes, are amended to read:

288.1089 Innovation Incentive Program.—

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

~~(b) "Average private sector wage" means the statewide average wage in the private sector or the average of all private~~

~~sector wages in the county or in the standard metropolitan area in which the project is located as determined by the department.~~

(4) To qualify for review by the department, the applicant must, at a minimum, establish the following to the satisfaction of the department:

(a) The jobs created by the project must pay an estimated annual average wage equaling at least 130 percent of the average private sector wage in the area. The department may waive this average wage requirement at the request of Enterprise Florida, Inc., for a project located in a rural area, a brownfield area, or an enterprise zone, when the merits of the individual project or the specific circumstances in the community in relationship to the project warrant such action. A recommendation for waiver by Enterprise Florida, Inc., must include a specific justification for the waiver and be transmitted to the department in writing. If the department elects to waive the wage requirement, the waiver must be stated in writing and explain the reasons for granting the waiver ~~must be explained~~.

(b) A research and development project must:

1. Serve as a catalyst for an emerging or evolving technology cluster.

2. Demonstrate a plan for significant higher education collaboration.

3. Provide the state, at a minimum, a cumulative break-even economic benefit within a 20-year period.

4. Be provided with a one-to-one match from the local community. The match requirement may be reduced or waived in rural areas of opportunity or reduced in rural areas, brownfield areas, and enterprise zones. A local government that requests a

waiver that reduces or eliminates the one-to-one match shall provide the department with a statement prepared by a Florida certified public accountant, as defined in s. 473.302, which describes the financial constraints preventing the local government from meeting the local financial support requirement of this section. This subparagraph does not apply to a county considered fiscally constrained pursuant to s. 218.67(1).

(c) An innovation business project in this state, other than a research and development project, must:

1.a. Result in the creation of at least 1,000 direct, new jobs at the business; or

b. Result in the creation of at least 500 direct, new jobs if the project is located in a rural area, a brownfield area, or an enterprise zone.

2. Have an activity or product that is within an industry that is designated as a target industry business under s. 288.106 or a designated sector under s. 288.108.

3.a. Have a cumulative investment of at least $500 million within a 5-year period; or

b. Have a cumulative investment that exceeds $250 million within a 10-year period if the project is located in a rural area, brownfield area, or an enterprise zone.

4. Be provided with a one-to-one match from the local community. The match requirement may be reduced or waived in rural areas of opportunity or reduced in rural areas, brownfield areas, and enterprise zones. A local government that requests a waiver that reduces or eliminates the one-to-one match shall provide the department with a statement prepared by a Florida certified public accountant, as defined in s. 473.302, which

describes the financial constraints preventing the local government from meeting the local financial support requirement of this section. This subparagraph does not apply to a county considered fiscally constrained pursuant to s. 218.67(1).

(d) For an alternative and renewable energy project in this state, the project must:

1. Demonstrate a plan for significant collaboration with an institution of higher education.~~,~~

2. Provide the state, at a minimum, a cumulative break-even economic benefit within a 20-year period.~~,~~

3. Include matching funds provided by the applicant or other available sources. The match requirement may be reduced or waived in rural areas of opportunity or reduced in rural areas, brownfield areas, and enterprise zones.~~,~~

4. Be located in this state.~~; and~~

5. Provide at least 35 direct, new jobs that pay an estimated annual average wage that equals at least 130 percent of the average private sector wage in the area.

(7)(a) The executive director of the department shall recommend to the Governor approval or disproval of a project pursuant to s. 288.061. The Governor may approve a project awarded less than $2 million in funding without consulting the Legislature and shall provide a written description and evaluation of the approved project to the President of the Senate and the Speaker of the House of Representatives within 1 business day after approval. ~~Upon receipt of the evaluation and recommendation from the department, the Governor shall approve or deny an award. In recommending approval of an award, the department shall include proposed performance conditions that~~

~~the applicant must meet in order to obtain incentive funds and any other conditions that must be met before the receipt of any incentive funds. The Governor shall consult with the President of the Senate and the Speaker of the House of Representatives before giving approval for an award. Upon review and approval of an award by the Legislative Budget Commission, the Executive Office of the Governor shall release the funds.~~

(b) For a project recommended for approval for an award of $2 million or more, the Governor shall provide a written description and evaluation of the project to the President of the Senate and the Speaker of the House of Representatives at least 14 days before approving an award. If the President of the Senate or the Speaker of the House of Representatives timely advises the Governor, in writing, that his or her planned or proposed action exceeds the delegated authority of the Governor or is contrary to legislative policy or intent, the Governor shall instruct the department to immediately suspend any action planned or proposed.

(c) A written description and evaluation of an amendment, a modification, or an extension of an executed agreement which results in a 0.5-point or greater reduction in the economic benefit ratio of the project must be provided to the President of the Senate and the Speaker of the House of Representatives within 1 business day after approval. An amendment, a modification, or an extension may not be made to an executed agreement if:

1. Such action would result in an economic benefit ratio less than 1 to 1.

2. The award of state funds outlined in the agreement has

not been reduced by a proportionate amount.

(8) ~~(a)~~ After the conditions set forth in subsection (7) have been met, ~~the department shall issue a letter certifying the applicant as qualified for an award.~~ the department and the award recipient shall enter into an agreement pursuant to s. 288.061 ~~that sets forth the conditions for payment of the incentive funds~~. The agreement must also include~~, at a minimum~~:

(a) ~~1.~~ ~~The total amount of funds awarded.~~

~~2. The performance conditions that must be met in order to obtain the award or portions of the award, including, but not limited to, net new employment in the state, average wage, and total cumulative investment.~~

~~3.~~ Demonstration of a baseline of current service and a measure of enhanced capability.

~~4. The methodology for validating performance.~~

~~5. The schedule of payments.~~

~~6. Sanctions for failure to meet performance conditions, including any clawback provisions.~~

~~(b) Additionally, agreements signed on or after July 1, 2009, must include the following provisions:~~

(b) ~~1.~~ Notwithstanding subsection (4), a requirement that the jobs created by the recipient of the incentive funds pay an annual average wage at least equal to the relevant industry's annual average wage or at least 130 percent of the average private sector wage in the area, whichever is greater.

(c) ~~2.~~ A reinvestment requirement. Each recipient of an award shall reinvest up to 15 percent of net royalty revenues, including revenues from spin-off companies and the revenues from the sale of stock it receives from the licensing or transfer of

inventions, methods, processes, and other patentable discoveries conceived or reduced to practice using its facilities in Florida or its Florida-based employees, in whole or in part, and to which the recipient of the grant becomes entitled during the 20 years following the effective date of its agreement with the department. Each recipient of an award also shall reinvest up to 15 percent of the gross revenues it receives from naming opportunities associated with any facility it builds in this state. Reinvestment payments shall commence no later than 6 months after the recipient of the grant has received the final disbursement under the contract and shall continue until the maximum reinvestment, as specified in the contract, has been paid. Reinvestment payments shall be remitted to the department for deposit in the Biomedical Research Trust Fund for companies specializing in biomedicine or life sciences, or in the Economic Development Trust Fund for companies specializing in fields other than biomedicine or the life sciences. If these trust funds no longer exist at the time of the reinvestment, the state's share of reinvestment shall be deposited in their successor trust funds as determined by law. Each recipient of an award shall annually submit a schedule of the shares of stock held by it as payment of the royalty required by this paragraph and report on any trades or activity concerning such stock. Each recipient's reinvestment obligations survive the expiration or termination of its agreement with the state.

(d) ~~3.~~ Requirements for the establishment of internship programs or other learning opportunities for educators and secondary, postsecondary, graduate, and doctoral students.

(e) ~~4.~~ A requirement that the recipient submit quarterly

reports and annual reports related to activities and performance to the department, according to standardized reporting periods.

(f)~~5.~~ A requirement for an annual accounting to the department of the expenditure of funds disbursed under this section.

~~6. A process for amending the agreement.~~

(9) The department shall validate the performance of an innovation business, a research and development facility, or an alternative and renewable energy business that has received an award. The agreement shall require the innovation business to submit proof of performance within a certain period of time from the required date of performance provided in the agreement, not to exceed 90 days. At the conclusion of the innovation incentive award agreement, or its earlier termination, the department shall include in the annual incentives report required under s. 288.907 a detailed description of whether the recipient of the innovation incentive grant achieved its specified outcomes.

Section 17. Subsection (5) is added to section 288.1097, Florida Statutes, to read:

288.1097 Qualified job training organizations; certification; duties.—

(5) Notwithstanding s. 624.4625(1)(b), a qualified job training organization that has been certified is eligible to participate in a self-insurance fund authorized by s. 624.4625.

Section 18. Effective upon becoming law, subsections (1), (3), and (4), paragraph (a) of subsection (5), paragraph (d) of subsection (6), subsections (7) and (9), and subsections (11) through (14) of section 288.11625, Florida Statutes, are amended to read:

288.11625 Sports development.—

(1) ADMINISTRATION.—The department shall serve as the state agency responsible for screening applicants for state funding under s. 212.20(6)(d)6.e. ~~s. 212.20(6)(d)6.f.~~

(3) PURPOSE.—The purpose of this section is to provide applicants state funding under s. 212.20(6)(d)6.e. ~~s. 212.20(6)(d)6.f.~~ for the public purpose of constructing, reconstructing, renovating, or improving a facility.

(4) APPLICATION AND CERTIFICATION ~~APPROVAL~~ PROCESS.—

(a) The department shall establish the procedures and application forms deemed necessary pursuant to the requirements of this section. The department may notify an applicant of any additional required or incomplete information necessary to evaluate an application.

(b) The annual application period is from June 1 through November 1.

(c) Within 60 days after receipt of a completed application, the department shall complete its evaluation of the application as provided under subsection (5) ~~and notify the applicant in writing of the department's decision to recommend approval of the applicant by the Legislature or to deny the application~~.

(d) By each February 1, the department shall rank the applicants ~~and provide to the Legislature the list of the recommended applicants~~ in ranked order of projects most likely to positively impact the state based on criteria established under this section. The list must include the department's evaluation of the applicant.

(e) ~~A recommended applicant's request for funding must be~~

~~approved by the Legislature, enacted by a general law or conforming bill approved by the Governor in the manner provided in s. 8, Art. III of the State Constitution. After enactment,~~ The department must certify an applicant and its ~~approved~~ request for funding, except as provided in paragraph (6)(f). The ~~approved~~ request for funding must be certified as an annual distribution amount, and the department must notify the Department of Revenue of the initial certification and the distribution amount.

1. An application by a unit of local government which is ~~approved by the Legislature and subsequently~~ certified by the department remains certified for the duration of the beneficiary's agreement with the applicant or for 30 years, whichever is less, provided the certified applicant has an agreement with a beneficiary at the time of initial certification by the department.

2. An application by a beneficiary or other applicant which is ~~approved by the Legislature and subsequently~~ certified by the department remains certified for the duration of the beneficiary's agreement with the unit of local government that owns the underlying property or for 30 years, whichever is less, provided the certified applicant has an agreement with the unit of local government at the time of initial certification by the department.

3. An applicant that is previously certified pursuant to this section does not need ~~legislative approval~~ certification each year to receive state funding.

(f) An applicant that is ~~recommended by the department but~~ not certified ~~approved by the Legislature~~ may reapply and shall

update any information in the original application as required by the department.

(g) The department may certify ~~recommend~~ no more than one distribution under this section for any applicant, facility, or beneficiary at a time. A facility or beneficiary may not be the subject of more than one distribution under s. 212.20 at any time for any state-administered sports-related program, including s. 288.1162, s. 288.11621, s. 288.11631, or this section. This limitation does not apply if the applicant demonstrates that the beneficiary that is the subject of the distribution under s. 212.20 no longer plays at the facility that is the subject of the application under this section.

(h) An application submitted either by a first-time applicant whose project exceeds $300 million and commenced on the facility's existing site before January 1, 2014, or by a beneficiary that has completed the terms of a previous agreement for distributions under chapter 212 for an existing facility shall be considered an application for a new facility for purposes that include, but are not limited to, incremental and baseline tax calculations.

(i) An application may be submitted to the department for evaluation and certification ~~recommendation~~ if the existing beneficiary has completed or will complete the terms of an existing distribution under chapter 212 for an existing facility before a distribution can be made.

(5) EVALUATION PROCESS.—

(a) Before certifying ~~recommending~~ an applicant to receive a state distribution under s. 212.20(6)(d)6.e. ~~s. 212.20(6)(d)6.f.~~, the department must verify that:

1. The applicant or beneficiary is responsible for the construction, reconstruction, renovation, or improvement of a facility and obtained at least three bids for the project.

2. If the applicant is not a unit of local government, a unit of local government holds title to the property on which the facility and project are, or will be, located.

3. If the applicant is a unit of local government in whose jurisdiction the facility is, or will be, located, the unit of local government has an exclusive intent agreement to negotiate in this state with the beneficiary.

4. A unit of local government in whose jurisdiction the facility is, or will be, located supports the application for state funds. Such support must be verified by the adoption of a resolution, after a public hearing, that the project serves a public purpose.

5. The applicant or beneficiary has not previously defaulted or failed to meet any statutory requirements of a previous state-administered sports-related program under s. 288.1162, s. 288.11621, s. 288.11631, or this section. Additionally, the applicant or beneficiary is not currently receiving state distributions under s. 212.20 for the facility that is the subject of the application, unless the applicant demonstrates that the franchise that applied for a distribution under s. 212.20 no longer plays at the facility that is the subject of the application.

6. The applicant or beneficiary has sufficiently demonstrated a commitment to employ residents of this state, contract with Florida-based firms, and purchase locally available building materials to the greatest extent possible.

7. If the applicant is a unit of local government, the applicant has a certified copy of a signed agreement with a beneficiary for the use of the facility. If the applicant is a beneficiary, the beneficiary must enter into an agreement with the department. The applicant's or beneficiary's agreement must also require the following:

a. The beneficiary must reimburse the state for state funds that will be distributed if the beneficiary relocates or no longer occupies or uses the facility as the facility's primary tenant before the agreement expires. Reimbursements must be sent to the Department of Revenue for deposit into the General Revenue Fund.

b. The beneficiary must pay for signage or advertising within the facility. The signage or advertising must be placed in a prominent location as close to the field of play or competition as is practicable, must be displayed consistent with signage or advertising in the same location and of like value, and must feature Florida advertising approved by the Florida Tourism Industry Marketing Corporation.

8. The project will commence within 12 months after receiving state funds or did not commence before January 1, 2013.

(6) DISTRIBUTION.—

(d) The department shall notify the Department of Revenue of the applicant's initial certification, and the Department of Revenue shall begin distributions within 45 days after such notification or upon a date specified by the department as requested by the ~~approved~~ applicant, whichever is later.

(7) CONTRACT.—An applicant ~~approved by the Legislature and~~

certified by the department must enter into a contract with the department which:

(a) Specifies the terms of the state's investment.

(b) States the criteria that the certified applicant must meet in order to remain certified.

(c) Requires the applicant to submit the independent analysis required under subsection (6) and an annual independent analysis.

1. The applicant must agree to submit to the department, beginning 12 months after completion of a project or 12 months after the first four annual distributions, whichever is earlier, an annual analysis by an independent certified public accountant demonstrating the actual amount of new incremental state sales taxes generated by sales at the facility during the previous 12-month period. The applicant shall certify to the department a comparison of the actual amount of state sales taxes generated by sales at the facility during the previous 12-month period to the baseline under paragraph (6)(b).

2. The applicant must submit the certification within 90 days after the end of the previous 12-month period. The department shall verify the analysis.

(d) Specifies information that the certified applicant must report to the department.

(e) Requires the applicant to reimburse the state by electing to do one of the following:

1. After all distributions have been made, reimburse at the end of the contract term any amount by which the total distributions made under s. 212.20(6)(d)6.e. ~~s. 212.20(6)(d)6.f.~~ exceed actual new incremental state sales taxes generated by

sales at the facility during the contract, plus a 5 percent penalty on that amount.

2. After the applicant begins to submit the independent analysis under paragraph (c), reimburse each year any amount by which the previous year's annual distribution exceeds 75 percent of the actual new incremental state sales taxes generated by sales at the facility.

Any reimbursement due to the state must be made within 90 days after the applicable distribution under this paragraph. If the applicant is unable or unwilling to reimburse the state for such amount, the department may place a lien on the applicant's facility. If the applicant is a municipality or county, it may reimburse the state from its half-cent sales tax allocation, as provided in s. 218.64(3). Reimbursements must be sent to the Department of Revenue for deposit into the General Revenue Fund.

(f) Includes any provisions deemed prudent by the department.

(9) REPORTS.—

(a) On or before November 1 of each year, an applicant certified under this section ~~and approved~~ to receive state funds must submit to the department any information required by the department. The department shall summarize this information for inclusion in an ~~its~~ annual report to the Legislature ~~under paragraph (4)(d)~~.

(b) Every 5 years after an applicant receives its first monthly distribution, the department must verify that the applicant is meeting the program requirements. If the applicant fails to meet these requirements, the department shall notify

the Governor and the Legislature in its next annual report ~~under paragraph (4)(d)~~ that the requirements are not being met and recommend future action. The department shall take into consideration extenuating circumstances that may have prevented the applicant from meeting the program requirements, such as force majeure events or a significant economic downturn.

~~(11) APPLICATION RELATED TO NEW FACILITIES OR PROJECTS COMMENCED BEFORE JULY 1, 2014.—Notwithstanding paragraph (4)(c), the Legislative Budget Commission may approve an application for state funds by an applicant for a new facility or a project commenced between March 1, 2013, and July 1, 2014. Such an application may be submitted after May 1, 2014. The department must review the application and recommend approval to the Legislature or deny the application. The Legislative Budget Commission may approve applications on or after January 1, 2015. The department must certify the applicant within 45 days of approval by the Legislative Budget Commission. State funds may not be distributed until the department notifies the Department of Revenue that the applicant was approved by the Legislative Budget Commission and certified by the department. An applicant certified under this subsection is subject to the provisions and requirements of this section. An applicant that fails to meet the conditions of this subsection may reapply during future application periods.~~

(11)~~(12)~~ REPAYMENT OF DISTRIBUTIONS.—An applicant that is certified under this section may be subject to repayment of distributions upon the occurrence of any of the following:

(a) An applicant's beneficiary has broken the terms of its agreement with the applicant and relocated from the facility or

no longer occupies or uses the facility as the facility's primary tenant. The beneficiary must reimburse the state for state funds that will be distributed, plus a 5 percent penalty on that amount, if the beneficiary relocates before the agreement expires.

(b) A determination by the department that an applicant has submitted information or made a representation that is determined to be false, misleading, deceptive, or otherwise untrue. The applicant must reimburse the state for state funds that have been and will be distributed, plus a 5 percent penalty on that amount, if such determination is made. If the applicant is a municipality or county, it may reimburse the state from its half-cent sales tax allocation, as provided in s. 218.64(3).

(c) Repayment of distributions must be sent to the Department of Revenue for deposit into the General Revenue Fund.

(12)~~(13)~~ HALTING OF PAYMENTS.—The applicant may request in writing at least 20 days before the next monthly distribution that the department halt future payments. The department shall immediately notify the Department of Revenue to halt future payments.

(13)~~(14)~~ RULEMAKING.—The department may adopt rules to implement this section.

Section 19. The amendments made to s. 288.11625, Florida Statutes, apply to applications received, evaluated, and recommended for approval by the Department of Economic Opportunity in the 2015-2016 fiscal year.

Section 20. Effective upon becoming law, section 288.1169, Florida Statutes, is repealed.

Section 21. Notwithstanding the repeal of section 288.1229,

Florida Statutes, in s. 485, chapter 2011-142, Laws of Florida, section 288.1229, Florida Statutes, is revived, reenacted, and amended to read:

288.1229 Promotion and development of sports-related industries and amateur athletics; direct-support organization established; powers and duties.—

(1) The Department of Economic Opportunity shall establish a direct-support organization known as the Florida Sports Foundation. The foundation shall ~~The Office of Tourism, Trade, and Economic Development may authorize a direct-support organization to~~ assist the department ~~office~~ in:

(a) The promotion and development of the sports industry and related industries for the purpose of improving the economic presence of these industries in Florida.

(b) The promotion of amateur athletic participation for the citizens of Florida and the promotion of Florida as a host for national and international amateur athletic competitions for the purpose of encouraging and increasing the direct and ancillary economic benefits of amateur athletic events and competitions.

(c) The retention of professional sports franchises, including the spring training operations of Major League Baseball.

(2) The Florida Sports Foundation ~~To be authorized as a direct-support organization, an organization~~ must:

(a) Be incorporated as a corporation not for profit pursuant to chapter 617.

(b)1. Be governed by a board of directors, which must consist of 20 ~~up to 15~~ members appointed by the Governor, which include:

a. Ten members representing Florida major league franchises of Major League Baseball, National Basketball Association, National Football League, National Hockey League, and Major League Soccer teams domiciled in this state.

b. A member representing Florida Sports Commissions.

c. A member representing the boating and fishing industries in Florida.

d. A member representing the golf industry in Florida.

e. A member representing Major League Baseball spring training.

f. A member representing the auto racing industry in Florida.

g. Five members at-large ~~and up to 15 members appointed by the existing board of directors~~. In making at-large appointments, the governor ~~board~~ must consider a potential member's background in community service and sports activism in, and financial support of, the sports industry, professional sports, or organized amateur athletics. Members must be residents of the state and highly knowledgeable about or active in professional or organized amateur sports.

2. The board must contain representatives of all geographical regions of the state and must represent ethnic and gender diversity. The terms of office of the members shall be 4 years. No member may serve more than two consecutive terms. The Governor may remove any member for cause and shall fill all vacancies that occur.

(c) Have as its purpose, as stated in its articles of incorporation, to receive, hold, invest, and administer property; to raise funds and receive gifts; and to promote and

develop the sports industry and related industries for the purpose of increasing the economic presence of these industries in Florida.

(d) Have a prior determination by the department ~~Office of Tourism, Trade, and Economic Development~~ that the organization will benefit the department ~~office~~ and act in the best interests of the state as a direct-support organization to the department ~~office~~.

(3) The Florida Sports Foundation shall operate under contract with the department. The department shall enter into a contract with the foundation by July 1, 2016. The contract must provide ~~Office of Tourism, Trade, and Economic Development shall contract with the organization and shall include in the contract~~ that:

(a) The department ~~office~~ may review the foundation's ~~organization's~~ articles of incorporation.

(b) The foundation ~~organization~~ shall submit an annual budget proposal to the department ~~office~~, on a form provided by the department ~~office~~, in accordance with department ~~office~~ procedures for filing budget proposals based upon the recommendation of the department ~~office~~.

(c) Any funds that the foundation ~~organization~~ holds in trust will revert to the state upon the expiration or cancellation of the contract.

(d) The foundation ~~organization~~ is subject to an annual financial and performance review by the department ~~office~~ to determine whether the foundation ~~organization~~ is complying with the terms of the contract and whether it is acting in a manner consistent with the goals of the department ~~office~~ and in the

best interests of the state.

(e) The fiscal year of the foundation begins ~~organization will begin~~ July 1 of each year and ends ~~end~~ June 30 of the next ensuing year.

(4) The department ~~Office of Tourism, Trade, and Economic Development~~ may allow the foundation ~~organization~~ to use the property, facilities, personnel, and services of the department ~~office~~ if the foundation ~~organization~~ provides equal employment opportunities to all persons regardless of race, color, religion, sex, age, or national origin, subject to the approval of the executive director of the department ~~office~~.

(5) The foundation ~~organization~~ shall provide for an annual financial audit in accordance with s. 215.981.

(6) The foundation ~~organization~~ is not granted any taxing power.

~~(7) In exercising the power provided in this section, the Office of Tourism, Trade, and Economic Development may authorize and contract with the direct-support organization existing on June 30, 1996, and authorized by the former Florida Department of Commerce to promote sports-related industries. An appointed member of the board of directors of such direct-support organization as of June 30, 1996, may serve the remainder of his or her unexpired term.~~

(7)~~(8)~~ To promote amateur sports and physical fitness, the foundation ~~direct-support organization~~ shall:

(a) Develop, foster, and coordinate services and programs for amateur sports for the people of Florida.

(b) Sponsor amateur sports workshops, clinics, conferences, and other similar activities.

(c) Give recognition to outstanding developments and achievements in, and contributions to, amateur sports.

(d) Encourage, support, and assist local governments and communities in the development of or hosting of local amateur athletic events and competitions.

(e) Promote Florida as a host for national and international amateur athletic competitions.

(f) Develop ~~a~~ statewide programs ~~program~~ of amateur athletic competition to be known as the "Florida Senior Games" and the "Sunshine State Games."

(g) Continue the successful amateur sports programs previously conducted by the Florida Governor's Council on Physical Fitness and Amateur Sports created under former s. 14.22.

(h) Encourage and continue the use of volunteers in its amateur sports programs to the maximum extent possible.

(i) Develop, foster, and coordinate services and programs designed to encourage the participation of Florida's youth in Olympic sports activities and competitions.

(j) Foster and coordinate services and programs designed to contribute to the physical fitness of the citizens of Florida.

(8) ~~(9)~~ (a) The Sunshine State Games and Florida Senior Games shall both be patterned after the Summer Olympics with variations as necessitated by availability of facilities, equipment, and expertise. The games shall be designed to encourage the participation of athletes representing a broad range of age groups, skill levels, and Florida communities. ~~Participants shall be residents of this state. Regional competitions shall be held throughout the state, and the top~~

~~qualifiers in each sport shall proceed to the final competitions to be held at a site in the state with the necessary facilities and equipment for conducting the competitions.~~

(b) The department ~~Executive Office of the Governor~~ is authorized to permit the use of property, facilities, and personal services of or at any State University System facility or institution by the direct-support organization operating the Sunshine State Games and Florida Senior Games. For the purposes of this paragraph, personal services includes full-time or part-time personnel as well as payroll processing.

Section 22. Section 288.125, Florida Statutes, is amended to read:

288.125 Definition of term "entertainment industry."—For the purposes of ss. 288.1254, 288.1256, 288.1258, 288.913, 288.914, and 288.915 ~~ss. 288.1251-288.1258~~, the term "entertainment industry" means those persons or entities engaged in the operation of motion picture or television studios or recording studios; those persons or entities engaged in the preproduction, production, or postproduction of motion pictures, made-for-television movies, television programming, digital media projects, commercial advertising, music videos, or sound recordings; and those persons or entities providing products or services directly related to the preproduction, production, or postproduction of motion pictures, made-for-television movies, television programming, digital media projects, commercial advertising, music videos, or sound recordings, including, but not limited to, the broadcast industry.

Section 23. Section 288.1251, Florida Statutes, is renumbered as section 288.913, Florida Statutes, and amended to

read:

288.913 ~~288.1251~~ Promotion and development of entertainment industry; Division ~~Office~~ of Film and Entertainment; creation; purpose; powers and duties.—

(1) CREATION.—

~~(a)~~ The Division of Film and Entertainment ~~There~~ is ~~hereby~~ created within Enterprise Florida, Inc., ~~the department the Office of Film and Entertainment~~ for the purpose of developing, recruiting, marketing, promoting, and providing services to the state's entertainment industry. The division shall serve as a liaison between the entertainment industry and other state and local governmental agencies, local film commissions, and labor organizations.

(2)~~(b)~~ COMMISSIONER.—The president of Enterprise Florida, Inc., shall appoint the film and entertainment commissioner, who is subject to confirmation by the Senate, within 90 days after the effective date of this act ~~department shall conduct a national search for a qualified person to fill the position of Commissioner of Film and Entertainment when the position is vacant. The executive director of the department has the responsibility to hire the film commissioner~~. The commissioner is subject to the requirements of s. 288.901(1)(c). Qualifications for the film commissioner include, but are not limited to, the following:

(a)~~1.~~ At least 5 years' ~~A~~ working knowledge of and experience with the equipment, personnel, financial, and day-to-day production operations of the industries to be served by the division ~~Office of Film and Entertainment~~;

(b)~~2.~~ Marketing and promotion experience related to the

film and entertainment industries to be served;

(c)~~3.~~ Experience working with a variety of individuals representing large and small entertainment-related businesses, industry associations, local community entertainment industry liaisons, and labor organizations; ~~and~~

(d)~~4.~~ Experience working with a variety of state and local governmental agencies; and~~.~~

(e) A record of high-level involvement in production deals and contacts with industry decisionmakers.

(3)~~(2)~~ POWERS AND DUTIES.—

(a) In the performance of its duties, the Division ~~Office~~ of Film and Entertainment~~, in performance of its duties,~~ shall develop and periodically~~:~~

~~1. In consultation with the Florida Film and Entertainment Advisory Council,~~ update a 5-year ~~the~~ strategic plan ~~every 5 years~~ to guide the activities of the division ~~Office of Film and Entertainment~~ in the areas of entertainment industry development, marketing, promotion, liaison services, field office administration, and information. The plan must ~~shall:~~

~~a.~~ be annual in construction and ongoing in nature.

1. At a minimum, the plan must address the following:

a.~~b. Include recommendations relating to~~ The organizational structure of the division, including any field offices outside the state ~~office~~.

b. The coordination of the division with local or regional offices maintained by counties and regions of the state, local film commissions, and labor organizations, and the coordination of such entities with each other to facilitate a working relationship.

c. Strategies to identify, solicit, and recruit entertainment production opportunities for the state, including implementation of programs for rural and urban areas designed to develop and promote the state's entertainment industry.

d.~~c.~~ ~~Include~~ An annual budget projection for the division ~~office~~ for each year of the plan.

~~d. Include an operational model for the office to use in implementing programs for rural and urban areas designed to:~~

~~(I) Develop and promote the state's entertainment industry.~~

~~(II) Have the office serve as a liaison between the entertainment industry and other state and local governmental agencies, local film commissions, and labor organizations.~~

~~(III) Gather statistical information related to the state's entertainment industry.~~

e.~~(IV)~~ Provision of ~~Provide~~ information and service to businesses, communities, organizations, and individuals engaged in entertainment industry activities.

~~(V) Administer field offices outside the state and coordinate with regional offices maintained by counties and regions of the state, as described in sub-sub-subparagraph (II), as necessary.~~

f.~~e.~~ ~~Include~~ Performance standards and measurable outcomes for the programs to be implemented by the division ~~office~~.

2. The plan shall be annually reviewed and approved by the board of directors of Enterprise Florida, Inc.

~~f. Include an assessment of, and make recommendations on, the feasibility of creating an alternative public-private partnership for the purpose of contracting with such a partnership for the administration of the state's entertainment~~

~~industry promotion, development, marketing, and service programs.~~

~~2. Develop, market, and facilitate a working relationship between state agencies and local governments in cooperation with local film commission offices for out-of-state and indigenous entertainment industry production entities.~~

~~3. Implement a structured methodology prescribed for coordinating activities of local offices with each other and the commissioner's office.~~

(b) The division shall also:

1.~~4.~~ Represent the state's indigenous entertainment industry to key decisionmakers within the national and international entertainment industry, and to state and local officials.

2.~~5.~~ Prepare an inventory and analysis of the state's entertainment industry, including, but not limited to, information on crew, related businesses, support services, job creation, talent, and economic impact and coordinate with local offices to develop an information tool for common use.

3.~~6.~~ Identify, solicit, and recruit entertainment production opportunities for the state.

4.~~7.~~ Assist rural communities and other small communities in the state in developing the expertise and capacity necessary for such communities to develop, market, promote, and provide services to the state's entertainment industry.

(c)~~(b)~~ The division ~~Office of Film and Entertainment~~, in the performance of its duties, may:

1. Conduct or contract for specific promotion and marketing functions, including, but not limited to, production of a

statewide directory, production and maintenance of a ~~an Internet~~ website, establishment and maintenance of a toll-free telephone number, organization of trade show participation, and appropriate cooperative marketing opportunities.

2. Conduct its affairs, carry on its operations, establish offices, and exercise the powers granted by this act in any state, territory, district, or possession of the United States.

3. Carry out any program of information, special events, or publicity designed to attract the entertainment industry to Florida.

4. Develop relationships and leverage resources with other public and private organizations or groups in their efforts to publicize to the entertainment industry in this state, other states, and other countries the depth of Florida's entertainment industry talent, crew, production companies, production equipment resources, related businesses, and support services, including the establishment of and expenditure for a program of cooperative advertising with these public and private organizations and groups in accordance with the provisions of chapter 120.

5. Provide and arrange for reasonable and necessary promotional items and services for such persons as the division ~~office~~ deems proper in connection with the performance of the promotional and other duties of the division ~~office~~.

6. Prepare an ~~annual~~ economic impact analysis on entertainment industry-related activities in the state.

7. Request or accept any grant, payment, or gift of funds or property made by this state, the United States, or any department or agency thereof, or by any individual, firm,

corporation, municipality, county, or organization, for ~~any or all of~~ the purposes of the division's ~~Office of Film and Entertainment's~~ 5-year strategic plan or those ~~permitted~~ activities authorized by ~~enumerated in~~ this paragraph. Such funds shall be deposited in a separate account with Enterprise Florida, Inc., ~~the Grants and Donations Trust Fund of the Executive Office of the Governor~~ for use by the division ~~Office of Film and Entertainment~~ in carrying out its responsibilities and duties ~~as delineated in law~~. The division ~~office~~ may expend such funds in accordance with the terms and conditions of any such grant, payment, or gift in the pursuit of its administration or in support of fulfilling its duties and responsibilities. The division ~~office~~ shall separately account for the public funds and the private funds deposited into the account ~~trust fund~~.

Section 24. Section 288.1252, Florida Statutes, is renumbered as section 288.914, Florida Statutes, and amended to read:

288.914 ~~288.1252~~ Florida Film and Entertainment Advisory Council; ~~creation;~~ purpose; membership; powers and duties.—

~~(1) CREATION.—There is created within the department, for administrative purposes only, the Florida Film and Entertainment Advisory Council.~~

(1)~~(2)~~ CREATION AND PURPOSE.—The Florida Film and Entertainment Advisory Council is created ~~purpose of the Council is~~ to serve as an advisory body to the Division of Film and Entertainment within Enterprise Florida, Inc., and ~~department and to the Office of Film and Entertainment~~ to provide ~~these offices with~~ industry insight and expertise related to

developing, marketing, and promoting~~, and providing service to~~ the state's entertainment industry.

(2)~~(3)~~ MEMBERSHIP.—

(a) The council shall consist of 11 ~~17~~ members, 5 ~~7~~ to be appointed by the Governor, 3 ~~5~~ to be appointed by the President of the Senate, and 3 ~~5~~ to be appointed by the Speaker of the House of Representatives.

(b) When making appointments to the council, the Governor, the President of the Senate, and the Speaker of the House of Representatives shall appoint persons who are residents of the state and who are highly knowledgeable of, active in, and recognized as leaders in Florida's motion picture, television, video, sound recording, or other entertainment industries. These persons must ~~shall~~ include, but need not be limited to, representatives of local film commissions, representatives of entertainment associations, a representative of the broadcast industry, representatives of labor organizations in the entertainment industry, and board chairs, presidents, chief executive officers, chief operating officers, or persons of comparable executive position or stature of leading or otherwise important entertainment industry businesses and offices. Council members must ~~shall~~ be appointed in such a manner as to equitably represent the broadest spectrum of the entertainment industry and geographic areas of the state.

(c) Council members shall serve for 4-year terms. A council member serving as of July 1, 2016, may serve the remainder of his or her term, but upon the conclusion of the term or upon vacancy, the appointment must be made in accordance with this section.

(d) Subsequent appointments shall be made by the official who appointed the council member whose expired term is to be filled.

(e) In addition to the 11 ~~17~~ appointed members ~~of the council~~, 1 representative from each of Enterprise Florida, Inc., CareerSource Florida, Inc., and VISIT Florida shall serve as ex officio, nonvoting members of the council.

(f) Absence from three consecutive meetings shall result in automatic removal from the council.

(g) A vacancy on the council shall be filled for the remainder of the unexpired term by the official who appointed the vacating member.

(h) No more than one member of the council may be an employee of any one company, organization, or association.

(i) Any member shall be eligible for reappointment but may not serve more than two consecutive terms.

(3)~~(4)~~ MEETINGS; ORGANIZATION.—

(a) The council shall meet at least ~~no less frequently than~~ once each quarter of the calendar year, and ~~but~~ may meet more often as determined necessary ~~set~~ by the council.

(b) The council shall annually elect from its appointed membership one member to serve as chair ~~of the council~~ and one member to serve as vice chair. The Division ~~Office~~ of Film and Entertainment shall provide staff assistance to the council, which must ~~shall~~ include, but need not be limited to, keeping records of the proceedings of the council~~,~~ and serving as custodian of all books, documents, and papers filed with the council.

(c) A majority of the members of the council constitutes

~~shall constitute~~ a quorum.

(d) Members of the council shall serve without compensation, but are ~~shall be~~ entitled to reimbursement for per diem and travel expenses in accordance with s. 112.061 while in performance of their duties.

(4)~~(5)~~ POWERS AND DUTIES.—The Florida Film and Entertainment Advisory Council has ~~shall have all~~ the power ~~powers necessary or convenient~~ to carry out ~~and effectuate the purposes and provisions of~~ this act, including, but not limited to, the power to:

(a) Adopt bylaws for the governance of its affairs and the conduct of its business.

(b) Advise the Division ~~and consult with the Office~~ of Film and Entertainment on the content, development, and implementation of the division's 5-year strategic plan ~~to guide the activities of the office~~.

(c) ~~Review the Commissioner of Film and Entertainment's administration of the programs related to the strategic plan, and~~ Advise the Division of Film and Entertainment ~~commissioner~~ on the division's programs and any changes that might be made to better meet the strategic plan.

(d) Consider and study the needs of the entertainment industry for the purpose of advising the Division of Film and Entertainment ~~film commissioner and the department~~.

(e) Identify ~~and make recommendations on~~ state ~~agency~~ and local government actions that may have an impact on the entertainment industry or that may appear to industry representatives as ~~an~~ official state or local actions ~~action~~ affecting production in the state, and advise the Division of

Film and Entertainment of such actions.

(f) Consider all matters submitted to it by the Division of Film and Entertainment ~~film commissioner and the department~~.

~~(g) Advise and consult with the film commissioner and the department, at their request or upon its own initiative, regarding the promulgation, administration, and enforcement of all laws and rules relating to the entertainment industry.~~

(g)~~(h)~~ Suggest policies and practices ~~for the conduct of business by the Office of Film and Entertainment or by the department~~ that will improve interaction with ~~internal operations affecting~~ the entertainment industry and will enhance related state ~~the~~ economic development initiatives ~~of the state for the industry~~.

~~(i) Appear on its own behalf before boards, commissions, departments, or other agencies of municipal, county, or state government, or the Federal Government.~~

Section 25. Section 288.1253, Florida Statutes, is renumbered as section 288.915, Florida Statutes, and amended to read:

288.915 ~~288.1253~~ Travel and entertainment expenses.—

(1) As used in this section, the term "travel expenses" means the actual, necessary, and reasonable costs of transportation, meals, lodging, and incidental expenses normally incurred by an employee of the Division ~~Office~~ of Film and Entertainment within Enterprise Florida, Inc., as ~~which costs are~~ defined and prescribed by ~~rules adopted by the~~ department rule, subject to approval by the Chief Financial Officer.

(2) Notwithstanding ~~the provisions of~~ s. 112.061, the department shall adopt rules by which the Division of Film and

Entertainment ~~it~~ may make expenditures by reimbursement to~~:~~ the Governor, the Lieutenant Governor, security staff of the Governor or Lieutenant Governor, the Commissioner of Film and Entertainment, or staff of the Division ~~Office~~ of Film and Entertainment for travel expenses or entertainment expenses incurred by such individuals solely and exclusively in connection with the performance of the statutory duties of the division ~~Office of Film and Entertainment~~. The rules are subject to approval by the Chief Financial Officer before adoption. The rules shall require the submission of paid receipts, or other proof of expenditure prescribed by the Chief Financial Officer, with any claim for reimbursement.

(3) The Division ~~Office~~ of Film and Entertainment shall include in the annual report for the entertainment industry ~~financial incentive~~ program required under s. 288.1256(10) ~~s. 288.1254(10)~~ a report of the division's ~~office's~~ expenditures for the previous fiscal year. The report must consist of a summary of all travel, entertainment, and incidental expenses incurred within the United States and all travel, entertainment, and incidental expenses incurred outside the United States, as well as a summary of all successful projects that developed from such travel.

(4) The Division ~~Office~~ of Film and Entertainment and its employees and representatives, when authorized, may accept and use complimentary travel, accommodations, meeting space, meals, equipment, transportation, and any other goods or services necessary for or beneficial to the performance of the division's ~~office's~~ duties and purposes, so long as such acceptance or use is not in conflict with part III of chapter 112. The department

shall, by rule, develop internal controls to ensure that such goods or services accepted or used pursuant to this subsection are limited to those that will assist solely and exclusively in the furtherance of the division's ~~office's~~ goals and are in compliance with part III of chapter 112. Notwithstanding this subsection, the division and its employees and representatives may not accept any complimentary travel, accommodations, meeting space, meals, equipment, transportation, or other goods or services from an entity or a party, including an employee, a designee, or a representative of such entity or party, which has received, has applied to receive, or anticipates that it will receive through an application, funds under s. 288.1256. If the division or its employee or representative accepts such goods or services, the division or its employee or representative is subject to the penalties provided in s. 112.317.

(5) A ~~Any~~ claim submitted under this section is not required to be sworn to before a notary public or other officer authorized to administer oaths, but a ~~any~~ claim authorized or required to be made under any provision of this section shall contain a statement that the expenses were actually incurred as necessary travel or entertainment expenses in the performance of official duties of the Division ~~Office~~ of Film and Entertainment and shall be verified by written declaration that it is true and correct as to every material matter. A ~~Any~~ person who willfully makes and subscribes to a ~~any~~ claim that ~~which~~ he or she does not believe to be true and correct as to every material matter or who willfully aids or assists in, procures, or counsels or advises with respect to, the preparation or presentation of a claim pursuant to this section which ~~that~~ is fraudulent or false

as to any material matter, whether such falsity or fraud is with the knowledge or consent of the person authorized or required to present the claim, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Whoever receives a reimbursement by means of a false claim is civilly liable, in the amount of the overpayment, for the reimbursement of the public fund from which the claim was paid.

Section 26. Paragraph (a) of subsection (5), paragraph (c) of subsection (9), and subsection (10) of section 288.1254, Florida Statutes, are amended to read:

288.1254 Entertainment industry financial incentive program.—

(5) TRANSFER OF TAX CREDITS.—

(a) *Authorization.*—Upon application to ~~the Office of Film and Entertainment~~ and approval by the department, a certified production company, or a partner or member that has received a distribution under paragraph (4)(g), may elect to transfer, in whole or in part, any unused credit amount granted under this section. An election to transfer any unused tax credit amount under chapter 212 or chapter 220 must be made no later than 5 years after the date the credit is awarded, after which period the credit expires and may not be used. The department shall notify the Department of Revenue of the election and transfer.

(9) AUDIT AUTHORITY; REVOCATION AND FORFEITURE OF TAX CREDITS; FRAUDULENT CLAIMS.—

(c) *Forfeiture of tax credits.*—A determination by the Department of Revenue, as a result of an audit pursuant to paragraph (a) or from information received from the department ~~Office of Film and Entertainment~~, that an applicant received tax

credits pursuant to this section to which the applicant was not entitled is grounds for forfeiture of previously claimed and received tax credits. The applicant is responsible for returning forfeited tax credits to the Department of Revenue, and such funds shall be paid into the General Revenue Fund of the state. Tax credits purchased in good faith are not subject to forfeiture unless the transferee submitted fraudulent information in the purchase or failed to meet the requirements in subsection (5).

(10) ANNUAL REPORT.—Each November 1, the department ~~Office of Film and Entertainment~~ shall submit an annual report for the previous fiscal year to the Governor, the President of the Senate, and the Speaker of the House of Representatives which outlines the incentive program's return on investment and economic benefits to the state. The report must also include an estimate of the full-time equivalent positions created by each production that received tax credits under this section and information relating to the distribution of productions receiving credits by geographic region and type of production. The report must also include the expenditures report required under s. 288.915(3) ~~s. 288.1253(3)~~ and the information describing the relationship between tax exemptions and incentives to industry growth required under s. 288.1258(5).

Section 27. Effective upon becoming law, subsection (11) of section 288.1254, Florida Statutes, is amended to read:

288.1254 Entertainment industry financial incentive program.—

(11) REPEAL.—This section is repealed April 1, 2016 ~~July 1, 2016~~, except that:

(a) Tax credits certified under paragraph (3)(d) before April 1, 2016 ~~July 1, 2016~~, may be awarded under paragraph (3)(f) on or after April 1, 2016 ~~July 1, 2016~~, if the other requirements of this section are met.

1. A qualified production must facilitate the submittal of all required information under subparagraph (3)(f)1. to the department by August 1, 2016. A qualified production that does not meet this requirement may not be awarded tax credits. A waiver of the deadline is not permitted.

2. The department must complete the review of the accountant's submittal, report the final verified amount of actual qualified expenditures, and determine and approve the final tax credit award amount to each certified applicant based on the final verified amount of actual qualified expenditures as required in subparagraph (3)(f)2. by June 30, 2017. Tax credits may not be awarded to any qualified production if the determination and approval is not made by June 30, 2017. A wavier of the deadline is not permitted.

3. The Department of Revenue shall deny any credit claimed on a tax return when that credit was awarded on or after July 1, 2017.

(b)1. The department must publish a report on its website by May 30, 2016, providing the number of:

a. Certified productions that submitted data substantiating each qualified expenditure as required under sub-subparagraph (3)(f)1.a.;

b. Certified productions currently under review by independent certified public accountants as required under sub-subparagraphs (3)(f)1.a. and b.;

c. Compliance audits submitted by the accountants and currently under review by the department as required under sub-subparagraph (3)(f)1.b.; and

d. Final tax credit award determinations and approvals that the department has made as required under sub-subparagraph (3)(f)1.a. and subparagraph (3)(f)2.

2. The department must update the report on its website by September 1, 2016, and December 30, 2016.

(c) Notwithstanding paragraph (7)(c), tax credits may not be certified on or after April 1, 2016, and the Department of Revenue shall deny any credit claimed on a tax return when that credit was certified under paragraph (3)(d) on or after April 1, 2016.

(d) ~~(b)~~ Tax credits carried forward under paragraph (4)(e) remain valid for the period specified.

(e) ~~(c)~~ Subsections (5), (8), and (9) shall remain in effect until July 1, 2021.

Section 28. Section 288.1256, Florida Statutes, is created to read:

288.1256 Entertainment Action Fund.—

(1) The Entertainment Action Fund is created within the department in order to respond to extraordinary opportunities and to compete effectively with other states to attract and retain production companies and to provide favorable conditions for the growth of the entertainment industry in this state.

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

(a) "Division" means the Division of Film and Entertainment within Enterprise Florida, Inc.

(b) "Principal photography" means the filming of major or

significant components of a project which involve lead actors.

(c) "Production" means a theatrical, direct-to-video, or direct-to-Internet motion picture; a made-for-television motion picture; visual effects or digital animation sequences produced in conjunction with a motion picture; a commercial; a music video; an industrial or educational film; an infomercial; a documentary film; a television pilot program; a presentation for a television pilot program; a television series, including, but not limited to, a drama, a reality show, a comedy, a soap opera, a telenovela, a game show, an awards show, or a miniseries production; a direct-to-Internet television series; or a digital media project by the entertainment industry. One season of a television series is considered one production. The term does not include a weather or market program; a sporting event or a sporting event broadcast; a gala; a production that solicits funds; a home shopping program; a political program; a political documentary; political advertising; a gambling-related project or production; a concert production; a local, a regional, or an Internet-distributed-only news show or current-events show; a sports news or a sports recap show; a pornographic production; or any production deemed obscene under chapter 847. A production may be produced on or by film, tape, or otherwise by means of a motion picture camera; an electronic camera or device; a tape device; a computer; any combination of the foregoing; or any other means, method, or device.

(d) "Production company" means a corporation, limited liability company, partnership, or other legal entity engaged in one or more productions in this state.

(e) "Production expenditures" means the costs of tangible

and intangible property used for, and services performed primarily and customarily in, production, including preproduction and postproduction, but excluding costs for development, marketing, and distribution. The term includes, but is not limited to:

1. Wages, salaries, or other compensation paid to legal residents of this state, including amounts paid through payroll service companies, for technical and production crews, directors, producers, and performers.

2. Net expenditures for sound stages, backlots, production editing, digital effects, sound recordings, sets, and set construction. As used in this paragraph, the term "net expenditures" means the actual amount of money a project spent for equipment or other tangible personal property, after subtracting any consideration received for reselling or transferring the item after the production ends, if applicable.

3. Net expenditures for rental equipment, including, but not limited to, cameras and grip or electrical equipment.

4. Up to $300,000 of the costs of newly purchased computer software and hardware unique to the project, including servers, data processing, and visualization technologies, which are located in and used exclusively in this state for the production of digital media.

5. Expenditures for meals, travel, and accommodations.

(f) "Project" means a production in this state meeting the requirements of this section. The term does not include a production:

1. In which less than 70 percent of the positions that make up its production cast and below-the-line production crew are

filled by legal residents of this state, whose residency is demonstrated by a valid Florida driver license or other state-issued identification confirming residency, or students enrolled full-time in an entertainment-related course of study at an institution of higher education in this state; or

2. That contains obscene content as defined in s. 847.001(10).

(g) "Qualified expenditures" means production expenditures incurred in this state by a production company for:

1. Goods purchased or leased from, or services, including, but not limited to, insurance costs and bonding, payroll services, and legal fees, which are provided by a vendor or supplier in this state which is registered with the Department of State or the Department of Revenue, has a physical location in this state, and employs one or more legal residents of this state. This does not include rebilled goods or services provided by an in-state company from out-of-state vendors or suppliers. If services provided by the vendor or supplier include personal services or labor, only personal services or labor provided by residents of this state, evidenced by the required documentation of residency in this state, qualify.

2. Payments to legal residents of this state in the form of salary, wages, or other compensation up to a maximum of $400,000 per resident. A completed declaration of residency in this state must accompany the documentation submitted to the department for reimbursement.

For a project involving an event, such as an awards show, the term does not include expenditures solely associated with the

event itself and not directly required by the production. The term does not include expenditures incurred before the agreement is signed. The production company may not include in the calculation for qualified expenditures the original purchase price for equipment or other tangible property that is later sold or transferred by the production company for consideration. In such cases, the qualified expenditure is the net of the original purchase price minus the consideration received upon sale or transfer.

(h) "Underutilized county" means a county in which less than $500,000 in qualified expenditures were made in the last 2 fiscal years.

(3) A production company may apply for funds from the Entertainment Action Fund for a production or successive seasons of a production. The division shall review and evaluate applications to determine the eligibility of each project consistent with the requirements of this section. The division shall leverage funds to select projects that maximize the return to the state. The division must accept applications for at least 3 months, and shall provide public notice of the application period. The division may allow multiple, nonoverlapping application periods in a fiscal year subject to the availability of funds. The division shall review and evaluate applications timely received during the application period to identify any competitive projects to recommend for approval as provided in this section. The division may determine that no applications were submitted which meet the requirements of this section and maximize the return to the state.

(4) The division, in its review and evaluation of

applications, must consider the following criteria, which are listed in order of priority, with the highest priority given to paragraph (a):

(a) The number of state residents who will be employed in full-time equivalent and part-time positions related to the project, the duration of such employment, and the average wages paid to such residents. Preference shall be given to a project that expects to pay higher than the statewide average wage.

(b) The amount of qualified and nonqualified expenditures that will be made in this state.

(c) Planned or executed contracts with production facilities or soundstages in this state and the percentage of principal photography or production activity that will occur at each location.

(d) Planned preproduction and postproduction to occur in this state.

(e) The amount of capital investment, especially fixed capital investment, to be made directly by the production company in this state related to the project and the amount of any other capital investment to be made in this state related to the project.

(f) The duration of the project in this state.

(g) The amount and duration of principal photography or production activity that will occur in an underutilized county.

(h) The extent to which the production company will promote Florida, including the production of marketing materials promoting this state as a tourist destination or a film and entertainment production destination; placement of state agency logos in the production and credits; authorized use of

production assets, characters, and themes by this state; promotional videos for this state included on optical disc formats; and other marketing integration.

(i) The employment of students enrolled full-time in an entertainment-related course of study at an institution of higher education in this state or of graduates from such an institution within 12 months after graduation.

(j) Plans to work with entertainment industry-related courses of study at an institution of higher education in this state.

(k) Local support and any local financial commitment for the project.

(l) The project is about this state or shows this state in a positive light.

(m) A review of the production company's past activities in this state or other states.

(n) The length of time the production company has made productions in this state, the number of productions the production company has made in this state, and the production company's overall commitment to this state. This includes a production company that is based in this state.

(o) Expected contributions to this state's economy, consistent with the state strategic economic development plan prepared by the department.

(p) The expected effect of the award on the viability of the project and the probability that the project would be undertaken in this state if funds are granted to the production company.

(5) A production company must have financing in place for a

project before it applies for funds under this section.

(6) The department shall prescribe a form upon which an application must be made to the division. At a minimum, the application must include:

(a) The applicant's federal employer identification number, reemployment assistance account number, and state sales tax registration number, as applicable. If such numbers are not available at the time of application, they must be submitted to the department in writing before the disbursement of any payments.

(b) The signature of the applicant.

(c) A detailed budget of planned qualified and nonqualified expenditures in this state.

(d) The type and amount of capital investment that will be made in this state.

(e) The locations in this state where the project will occur.

(f) The anticipated commencement date and duration of the project.

(g) The proposed number of state residents and nonstate residents who will be employed in full-time equivalent and part-time positions related to the project and wages paid to such persons.

(h) The total number of full-time equivalent employees employed by the production company in this state, if applicable.

(i) Proof of financing for the project.

(j) The amount of promotion of Florida which the production company will provide for the state.

(k) An attestation verifying that the information provided

on the application is true and accurate.

(l) Any additional information requested by the department or division.

(7) The division and department must make a recommendation to the Governor to approve or deny a project pursuant to s. 288.061. An award of funds may constitute up to 30 percent of qualified expenditures in this state and may not fund wages paid to nonresidents. The division may recommend an award of funds that is less than 30 percent of qualified expenditures in this state. A production must start within 1 year after the date the project is approved by the Governor. The recommendation must include the performance conditions that the project must meet to obtain funds.

(a) The Governor may approve an award of less than $2 million without consulting the Legislature and shall provide a written description and evaluation of the approved project to the President of the Senate and the Speaker of the House of Representatives within 1 business day after approval.

(b) For a project recommended for approval for an award of $2 million or more, the Governor shall provide a written description and evaluation of the project to the President of the Senate and the Speaker of the House of Representatives at least 14 days before approving the award. If the President of the Senate or the Speaker of the House of Representatives timely advises the Governor, in writing, that his or her planned or proposed action exceeds the delegated authority of the Governor or is contrary to legislative policy or intent, the Governor shall instruct the department to immediately suspend any action planned or proposed.

(c) A written description and evaluation of an amendment, a modification, or an extension of an executed agreement must be provided to the President of the Senate and the Speaker of the House of Representatives within 1 business day after approval. An amendment, a modification, or an extension may not be made to an executed agreement if the award of state funds outlined in the agreement has not been reduced by a proportionate amount.

(8) Upon the approval of the Governor, the department and the production company shall enter into an agreement pursuant to s. 288.061 that also specifies:

(a) The performance conditions the production company must meet to obtain payment of moneys from the fund. Performance conditions must include the criteria considered in the review and evaluation of the application. Performance conditions must relate to activity that occurs in this state.

(b) That the department may review and verify any records of the production company to ascertain whether that company is in compliance with this section and the agreement.

(c) That payment of moneys from the fund is contingent upon sufficient appropriation of funds by the Legislature.

(9) The agreement must be finalized and signed by an authorized officer of the production company within 90 days after the Governor's approval. A production company that receives funds under this section may not receive benefits under s. 288.1258 for the same production.

(10)(a) The department shall validate contractor performance and report such validation in an annual report. The agreement shall require the production company to submit proof of performance within a certain period of time from the required

date of performance provided in the agreement, not to exceed 90 days.

(b) Each November 1, the department and the division shall submit an annual report for the previous fiscal year to the Governor, the President of the Senate, and the Speaker of the House of Representatives which outlines the program's return on investment and economic benefits to the state. The report must also include an estimate of the full-time equivalent positions created by each production that received a grant under this section and information relating to the distribution of productions receiving credits by geographic region and type of production. In addition, the report must include the expenditures report required under s. 288.915, the information describing the relationship between tax exemptions and incentives to industry growth required under s. 288.1258(5), and program performance information required under this section.

(11) The department may not approve awards in excess of the amount appropriated for a fiscal year. The department must maintain a schedule of funds to be paid from the appropriation for the fiscal year that begins on July 1. For the first 6 months of each fiscal year, the department shall set aside 50 percent of the amount appropriated for the fund by the Legislature. At the end of the 6-month period, these funds are available to provide funding under this section for applications submitted on or after January 1. The department or division may not accept any applications or conditionally commit funds or grant priority to a production company if funds are not available in the current period.

(12) A production company that submits fraudulent

information under this section is liable for reimbursement of the reasonable costs and fees associated with the review, processing, investigation, and prosecution of the fraudulent claim. A production company that receives a payment under this section through a claim that is fraudulent is liable for reimbursement of the payment amount, plus a penalty in an amount double the payment amount. The penalty is in addition to any criminal penalty for which the production company is liable for the same acts. The production company is also liable for costs and fees incurred by the state in investigating and prosecuting the fraudulent claim.

(13) The department or division may not waive any provision or provide an extension of time to meet any requirement of this section.

(14) This section expires on July 1, 2026. An agreement in existence on that date shall continue in effect in accordance with its terms.

Section 29. Section 288.1258, Florida Statutes, is amended to read:

288.1258 Entertainment industry qualified production companies; application procedure; categories; duties of the Department of Revenue; records and reports.—

(1) PRODUCTION COMPANIES AUTHORIZED TO APPLY.—

(a) Any production company engaged in this state in the production of motion pictures, made-for-TV motion pictures, television series, commercial advertising, music videos, or sound recordings may submit an application for exemptions under ss. 212.031, 212.06, and 212.08 to the Department of Revenue to be approved by the Department of Economic Opportunity ~~Office of~~

~~Film and Entertainment~~ as a qualified production company for the purpose of receiving a sales and use tax certificate of exemption from the Department of Revenue to exempt purchases on or after the date that the completed application is filed with the Department of Revenue.

(b) As used in ~~For the purposes of~~ this section, the term "qualified production company" means any production company that has submitted a properly completed application to the Department of Revenue and that is subsequently qualified by the Department of Economic Opportunity ~~Office of Film and Entertainment~~.

(2) APPLICATION PROCEDURE.—

(a) The Department of Revenue shall ~~will~~ review all submitted applications for the required information. Within 10 working days after the receipt of a properly completed application, the Department of Revenue shall ~~will~~ forward the completed application to the Department of Economic Opportunity ~~Office of Film and Entertainment~~ for approval.

(b)1. The Department of Economic Opportunity ~~Office of Film and Entertainment~~ shall establish a process by which an entertainment industry production company may be approved by the department ~~office~~ as a qualified production company and may receive a certificate of exemption from the Department of Revenue for the sales and use tax exemptions under ss. 212.031, 212.06, and 212.08. A production company that receives a sales tax exemption certificate under this section for a production may not receive benefits under s. 288.1256 for the same production.

2. Upon determination by the department ~~Office of Film and Entertainment~~ that a production company meets the established

approval criteria and qualifies for exemption, the department ~~Office of Film and Entertainment~~ shall return the approved application or application renewal or extension to the Department of Revenue, which shall issue a certificate of exemption.

3. The department ~~Office of Film and Entertainment~~ shall deny an application or application for renewal or extension from a production company if it determines that the production company does not meet the established approval criteria.

(c) The department ~~Office of Film and Entertainment~~ shall develop, with the cooperation of the Department of Revenue, the Division of Film and Entertainment within Enterprise Florida, Inc., and local government entertainment industry promotion agencies, a standardized application form for use in approving qualified production companies.

1. The application form shall include, but not be limited to, production-related information on employment, proposed budgets, planned purchases of items exempted from sales and use taxes under ss. 212.031, 212.06, and 212.08, a signed affirmation from the applicant that any items purchased for which the applicant is seeking a tax exemption are intended for use exclusively as an integral part of entertainment industry preproduction, production, or postproduction activities engaged in primarily in this state, and a signed affirmation from the department ~~Office of Film and Entertainment~~ that the information on the application form has been verified and is correct. In lieu of information on projected employment, proposed budgets, or planned purchases of exempted items, a production company seeking a 1-year certificate of exemption may submit summary

historical data on employment, production budgets, and purchases of exempted items related to production activities in this state. Any information gathered from production companies for the purposes of this section shall be considered confidential taxpayer information and shall be disclosed only as provided in s. 213.053.

2. The application form may be distributed to applicants by the department, the Division ~~Office~~ of Film and Entertainment, or local film commissions.

(d) All applications, renewals, and extensions for designation as a qualified production company shall be processed by the department ~~Office of Film and Entertainment~~.

(e) If ~~In the event that~~ the Department of Revenue determines that a production company no longer qualifies for a certificate of exemption, or has used a certificate of exemption for purposes other than those authorized by this section and chapter 212, the Department of Revenue shall revoke the certificate of exemption of that production company, and any sales or use taxes exempted on items purchased or leased by the production company during the time such company did not qualify for a certificate of exemption or improperly used a certificate of exemption shall become immediately due to the Department of Revenue, along with interest and penalty as provided by s. 212.12. In addition to the other penalties imposed by law, any person who knowingly and willfully falsifies an application, or uses a certificate of exemption for purposes other than those authorized by this section and chapter 212, commits a felony of the third degree, punishable as provided in ss. 775.082, 775.083, and 775.084.

(3) CATEGORIES.—

(a)1. A production company may be qualified for designation as a qualified production company for a period of 1 year if the company has operated a business in Florida at a permanent address for a period of 12 consecutive months. Such a qualified production company shall receive a single 1-year certificate of exemption from the Department of Revenue for the sales and use tax exemptions under ss. 212.031, 212.06, and 212.08, which certificate shall expire 1 year after issuance or upon the cessation of business operations in the state, at which time the certificate shall be surrendered to the Department of Revenue.

2. ~~The Office of Film and Entertainment shall develop a method by which~~ A qualified production company may submit a new application for ~~annually renew~~ a 1-year certificate of exemption upon the expiration of that company's certificate of exemption; however, upon approval of the department, such qualified production company may annually renew the 1-year certificate of exemption for a period of up to 5 years without submitting ~~requiring the production company to resubmit~~ a new application during that 5-year period.

3. Each year, or upon surrender of the certificate of exemption to the Department of Revenue, the ~~Any~~ qualified production company shall ~~may~~ submit to the department aggregate data for production-related information on employment, expenditures in this state, capital investment, and purchases of items exempted from sales and use taxes under ss. 212.031, 212.06, and 212.08 for inclusion in the annual report required under subsection (5) ~~a new application for a 1-year certificate of exemption upon the expiration of that company's certificate~~

~~of exemption~~.

(b)1. A production company may be qualified for designation as a qualified production company for a period of 90 days. Such production company shall receive a single 90-day certificate of exemption from the Department of Revenue for the sales and use tax exemptions under ss. 212.031, 212.06, and 212.08, which certificate shall expire 90 days after issuance or upon the cessation of business operations in the state, at which time~~,~~ ~~with extensions contingent upon approval of the Office of Film and Entertainment.~~ the certificate shall be surrendered to the Department of Revenue ~~upon its expiration~~.

2. A qualified production company may submit a new application for a 90-day certificate of exemption each quarter upon the expiration of that company's certificate of exemption; however, upon approval of the department, such qualified production company may renew the 90-day certificate of exemption for a period of up to 1 year without submitting a new application during that 1-year period.

3.~~2.~~ Each 90 days, or upon surrender of the certificate of exemption to the Department of Revenue, the qualified ~~Any~~ production company shall ~~may~~ submit to the department aggregate data for production-related information on employment, expenditures in this state, capital investment, and purchases of items exempted from sales and use taxes under ss. 212.031, 212.06, and 212.08 for inclusion in the annual report required under subsection (5) ~~a new application for a 90-day certificate of exemption upon the expiration of that company's certificate of exemption~~.

(4) DUTIES OF THE DEPARTMENT OF REVENUE.—

(a) The Department of Revenue shall review the initial application and notify the applicant of any omissions and request additional information if needed. An application shall be complete upon receipt of all requested information. The Department of Revenue shall forward all complete applications to the department ~~Office of Film and Entertainment~~ within 10 working days.

(b) The Department of Revenue shall issue a numbered certificate of exemption to a qualified production company within 5 working days of the receipt of an approved application, application renewal, or application extension from the department ~~Office of Film and Entertainment~~.

(c) The Department of Revenue may adopt ~~promulgate~~ such rules and shall prescribe and publish such forms as may be necessary to effectuate the purposes of this section or any of the sales tax exemptions which are reasonably related to the provisions of this section.

(d) The Department of Revenue is authorized to establish audit procedures in accordance with the provisions of ss. 212.12, 212.13, and 213.34 which relate to the sales tax exemption provisions of this section.

(5) RELATIONSHIP OF TAX EXEMPTIONS AND INCENTIVES TO INDUSTRY GROWTH; REPORT TO THE LEGISLATURE.—The department ~~Office of Film and Entertainment~~ shall keep annual records from the information provided on taxpayer applications for tax exemption certificates and regularly reported as required in this section ~~beginning January 1, 2001~~. These records also must reflect a ratio of the annual amount of sales and use tax exemptions under this section~~,~~ plus the funds granted ~~incentives~~

~~awarded~~ pursuant to s. 288.1256 ~~s. 288.1254~~ to the estimated amount of funds expended by certified productions. In addition, the department ~~office~~ shall maintain data showing annual growth in Florida-based entertainment industry companies and entertainment industry employment and wages. The employment information must include ~~an estimate of~~ the full-time equivalent positions created by each production that received funds ~~tax credits~~ pursuant to s. 288.1256 ~~s. 288.1254~~. The department ~~Office of Film and Entertainment~~ shall include this information in the annual report for the entertainment industry ~~financial incentive~~ program required under s. 288.1256(10) ~~s. 288.1254(10)~~.

Section 30. Paragraphs (a) and (b) of subsection (5) of section 288.901, Florida Statutes, are amended to read:

288.901 Enterprise Florida, Inc.—

(5) APPOINTED MEMBERS OF THE BOARD OF DIRECTORS.—

(a) In addition to the Governor or his or her designee, the board of directors shall consist of the following appointed members:

1. The Commissioner of Education or his or her designee.

2. The Chief Financial Officer or his or her designee.

3. The Attorney General or his or her designee.

4. The Commissioner of Agriculture or his or her designee.

5. The chairperson of the board of directors of CareerSource Florida, Inc.

6. The Secretary of State or his or her designee.

7. The president of CareerSource Florida, Inc.

8.~~7.~~ Twelve members from the private sector, six of whom shall be appointed by the Governor, three of whom shall be

appointed by the President of the Senate, and three of whom shall be appointed by the Speaker of the House of Representatives. Members appointed by the Governor are subject to Senate confirmation.

(b) In making their appointments, the Governor, the President of the Senate, and the Speaker of the House of Representatives shall ensure that the composition of the board of directors reflects the diversity of Florida's business community and is representative of the economic development goals in subsection (2). The board must include at least one director for each of the following areas of expertise: international business, tourism marketing, the space or aerospace industry, managing or financing a minority-owned business, manufacturing, finance and accounting, and rural economic development ~~sports marketing~~.

Section 31. Paragraph (c) of subsection (1), paragraph (d) of subsection (2), and subsection (3) of section 288.907, Florida Statutes, are amended, and subsection (14) is added to that section, to read:

288.907 Annual incentives report.—By December 30 of each year, Enterprise Florida, Inc., in conjunction with the department, shall provide the Governor, the President of the Senate, and the Speaker of the House of Representatives a detailed incentives report quantifying the economic benefits for all of the economic development incentive programs marketed by Enterprise Florida, Inc. The annual incentives report must include:

(1) For each incentive program:

(c) The actual amount of private capital invested, the

actual number of jobs created, the actual number of jobs created which provide health benefits for the employee, the actual number of jobs retained, the actual number of jobs retained which provide health benefits for the employee, and actual wages paid for incentive agreements completed during the previous 3 years for each target industry sector.

(2) For projects completed during the previous state fiscal year:

(d) The projects for which a tax refund, tax credit, or cash grant agreement was executed, identifying for each project:

1. The number of jobs committed to be created and the number of those jobs that will provide health benefits for the employee.

2. The number of jobs committed to be retained and the number of those jobs that will provide health benefits for the employee.

3.~~2.~~ The amount of capital investments committed to be made.

4.~~3.~~ The annual average wage committed to be paid.

5.~~4.~~ The amount of state economic development incentives committed to the project from each incentive program under the project's terms of agreement with the Department of Economic Opportunity.

6.~~5.~~ The amount and type of local matching funds committed to the project.

(3) For economic development projects that received tax refunds, tax credits, or cash grants under the terms of an agreement for incentives:

(a) The number of jobs actually created and the number of

those jobs that provided health benefits for the employee.

(b) The number of jobs actually retained and the number of those jobs that provided health benefits for the employee.

(c) ~~(b)~~ The amount of capital investments actually made.

(d) ~~(c)~~ The annual average wage paid.

(14) For the previous fiscal year, information relating to any of the following changes made to an agreement:

(a) Contract extensions.

(b) Amendments or modifications that alter a performance condition that a project must meet to receive payment.

Section 32. Subsection (1) of section 288.92, Florida Statutes, is amended to read:

288.92 Divisions of Enterprise Florida, Inc.—

(1) Enterprise Florida, Inc., may create and dissolve divisions as necessary to carry out its mission. Each division shall have distinct responsibilities and complementary missions. At a minimum, Enterprise Florida, Inc., shall have divisions related to the following areas:

(a) International Trade and Business Development;

(b) Business Retention and Recruitment;

(c) Tourism Marketing;

(d) Minority Business Development; and

(e) Film and Entertainment ~~Sports Industry Development~~.

Section 33. Paragraph (c) of subsection (3) and subsection (4) of section 288.980, Florida Statutes, are amended to read:

288.980 Military base retention; legislative intent; grants program.—

(3)

(c) The department shall require that an applicant:

1. Represent a local government with a military installation or military installations that could be adversely affected by federal actions.

2. ~~Agree to match at least 30 percent of any grant awarded.~~

~~3.~~ Prepare a coordinated program or plan of action delineating how the eligible project will be administered and accomplished.

3.~~4.~~ Provide documentation describing the potential for changes to the mission of a military installation located in the applicant's community and the potential impacts such changes will have on the applicant's community.

(4) The Florida Defense Reinvestment Grant Program is established to respond to the need for this state to work in conjunction with defense-dependent communities in developing and implementing strategies and approaches that will help communities support the missions of military installations, and in developing and implementing alternative economic diversification strategies to transition from a defense economy to a nondefense economy. The department shall administer the program.

(a) Eligible applicants include defense-dependent counties and cities, and local economic development councils located within such communities. ~~The program shall be administered by the department and~~ Grant awards may be provided to support community-based activities that:

1.~~(a)~~ Protect existing military installations;

2.~~(b)~~ Diversify or grow the economy of a defense-dependent community; or

3.~~(c)~~ Develop plans for the reuse of closed or realigned

military installations, including any plans necessary for infrastructure improvements needed to facilitate reuse and related marketing activities.

(b) Applications for grants under paragraph (a) ~~this subsection~~ must include a coordinated program of work or plan of action delineating how the eligible project will be administered and accomplished, which must include a plan for ensuring close cooperation between civilian and military authorities in the conduct of the funded activities and a plan for public involvement. An applicant must agree to match at least 30 percent of any grant awarded.

Section 34. Section 288.9937, Florida Statutes, is amended to read:

288.9937 Evaluation of programs.—The Office of Economic and Demographic Research and the Office of Program Policy Analysis and Government Accountability shall analyze and~~,~~ evaluate~~, and determine the economic benefits, as defined in s. 288.005, of~~ the first 3 years of the Microfinance Loan Program and the Microfinance Guarantee Program. The analysis by the Office of Economic and Demographic Research must determine the economic benefits, as defined in s. 288.005, and ~~also~~ evaluate the number of jobs created, the increase or decrease in personal income, and the impact on state gross domestic product from the direct, indirect, and induced effects of the state's investment. The analysis by the Office of Program Policy Analysis and Government Accountability must ~~also~~ identify any inefficiencies in the programs and provide recommendations for changes to the programs. Each ~~The~~ office shall submit a report to the President of the Senate and the Speaker of the House of Representatives by

January 15 ~~1~~, 2018. This section expires January 31, 2018.

Section 35. Paragraph (a) of subsection (6), paragraph (b) of subsection (9), paragraph (a) of subsection (35), subsection (60), and paragraph (b) of subsection (64) of section 320.08058, Florida Statutes, are amended to read:

320.08058 Specialty license plates.—

(6) FLORIDA UNITED STATES OLYMPIC COMMITTEE LICENSE PLATES.—

(a) Because the United States Olympic Committee has selected this state to participate in a combined fundraising program that provides for one-half of all money raised through volunteer giving to stay in this state and be administered by the Florida Sports Foundation ~~Enterprise Florida, Inc.,~~ to support amateur sports, and because the United States Olympic Committee and the Florida Sports Foundation ~~Enterprise Florida, Inc.,~~ are nonprofit organizations dedicated to providing athletes with support and training and preparing athletes of all ages and skill levels for sports competition, and because the Florida Sports Foundation ~~Enterprise Florida, Inc.,~~ assists in the bidding for sports competitions that provide significant impact to the economy of this state, and the Legislature supports the efforts of the United States Olympic Committee and the Florida Sports Foundation ~~Enterprise Florida, Inc.~~, the Legislature establishes a Florida United States Olympic Committee license plate for the purpose of providing a continuous funding source to support this worthwhile effort. Florida United States Olympic Committee license plates must contain the official United States Olympic Committee logo and must bear a design and colors that are approved by the

department. The word "Florida" must be centered at the top of the plate.

(9) FLORIDA PROFESSIONAL SPORTS TEAM LICENSE PLATES.—

(b) The license plate annual use fees are to be annually distributed as follows:

1. Fifty-five percent of the proceeds from the Florida Professional Sports Team plate must be deposited into the Professional Sports Development Trust Fund within the Department of Economic Opportunity. These funds must be used solely to attract and support major sports events in this state. As used in this subparagraph, the term "major sports events" means, but is not limited to, championship or all-star contests of Major League Baseball, the National Basketball Association, the National Football League, the National Hockey League, Major League Soccer, the men's and women's National Collegiate Athletic Association championships ~~Final Four basketball championship~~, or a horseracing or dogracing Breeders' Cup. All funds must be used to support and promote major sporting events, and the uses must be approved by the Department of Economic Opportunity.

2. The remaining proceeds of the Florida Professional Sports Team license plate must be allocated to the Florida Sports Foundation ~~Enterprise Florida, Inc~~. These funds must be deposited into the Professional Sports Development Trust Fund within the Department of Economic Opportunity. These funds must be used by the Florida Sports Foundation ~~Enterprise Florida, Inc.,~~ to promote the economic development of the sports industry; to distribute licensing and royalty fees to participating professional sports teams; ~~to promote education~~

~~programs in Florida schools that provide an awareness of the benefits of physical activity and nutrition standards; to partner with the Department of Education and the Department of Health to develop a program that recognizes schools whose students demonstrate excellent physical fitness or fitness improvement;~~ to institute a grant program for communities bidding on minor sporting events that create an economic impact for the state; to distribute funds to Florida-based charities designated by the Florida Sports Foundation ~~Enterprise Florida, Inc.,~~ and the participating professional sports teams; and to fulfill the sports promotion responsibilities of the Department of Economic Opportunity.

3. The Florida Sports Foundation ~~Enterprise Florida, Inc.,~~ shall provide an annual financial audit in accordance with s. 215.981 of its financial accounts and records by an independent certified public accountant pursuant to the contract established by the Department of Economic Opportunity as specified in s. 288.1229(5). The auditor shall submit the audit report to the Department of Economic Opportunity for review and approval. If the audit report is approved, the Department of Economic Opportunity shall certify the audit report to the Auditor General for review.

4. Notwithstanding the provisions of subparagraphs 1. and 2., proceeds from the Professional Sports Development Trust Fund may also be used for operational expenses of the Florida Sports Foundation ~~Enterprise Florida, Inc.,~~ and financial support of the Sunshine State Games and Florida Senior Games.

(35) FLORIDA GOLF LICENSE PLATES.—

(a) The Department of Highway Safety and Motor Vehicles

shall develop a Florida Golf license plate as provided in this section. The word "Florida" must appear at the bottom of the plate. The Dade Amateur Golf Association, following consultation with the PGA TOUR, the Florida Sports Foundation ~~Enterprise Florida, Inc.~~, the LPGA, and the PGA of America may submit a revised sample plate for consideration by the department.

(60) FLORIDA NASCAR LICENSE PLATES.—

(a) The department shall develop a Florida NASCAR license plate as provided in this section. Florida NASCAR license plates must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the term "NASCAR" must appear at the bottom of the plate. The National Association for Stock Car Auto Racing, following consultation with the Florida Sports Foundation ~~Enterprise Florida, Inc.~~, may submit a sample plate for consideration by the department.

(b) The license plate annual use fees shall be distributed to the Florida Sports Foundation ~~Enterprise Florida, Inc~~. The license plate annual use fees shall be annually allocated as follows:

1. Up to 5 percent of the proceeds from the annual use fees may be used by the Florida Sports Foundation ~~Enterprise Florida, Inc.,~~ for the administration of the NASCAR license plate program.

2. The National Association for Stock Car Auto Racing shall receive up to $60,000 in proceeds from the annual use fees to be used to pay startup costs, including costs incurred in developing and issuing the plates. Thereafter, 10 percent of the proceeds from the annual use fees shall be provided to the association for the royalty rights for the use of its marks.

3. The remaining proceeds from the annual use fees shall be distributed to the Florida Sports Foundation ~~Enterprise Florida, Inc~~. The Florida Sports Foundation ~~Enterprise Florida, Inc.,~~ will retain 15 percent to support its regional grant program, attracting sporting events to Florida; 20 percent to support the marketing of motorsports-related tourism in the state; and 50 percent to be paid to the NASCAR Foundation, a s. 501(c)(3) charitable organization, to support Florida-based charitable organizations.

(c) The Florida Sports Foundation ~~Enterprise Florida, Inc.,~~ shall provide an annual financial audit in accordance with s. 215.981 of its financial accounts and records by an independent certified public accountant pursuant to the contract established by the Department of Economic Opportunity as specified in s. 288.1229(5). The auditor shall submit the audit report to the Department of Economic Opportunity for review and approval. If the audit report is approved, the Department of Economic Opportunity shall certify the audit report to the Auditor General for review.

(64) FLORIDA TENNIS LICENSE PLATES.—

(b) The department shall distribute the annual use fees to the Florida Sports Foundation ~~Enterprise Florida, Inc~~. The license plate annual use fees shall be annually allocated as follows:

1. Up to 5 percent of the proceeds from the annual use fees may be used by the Florida Sports Foundation ~~Enterprise Florida, Inc.,~~ to administer the license plate program.

2. The United States Tennis Association Florida Section Foundation shall receive the first $60,000 in proceeds from the

annual use fees to reimburse it for startup costs, administrative costs, and other costs it incurs in the development and approval process.

3. Up to 5 percent of the proceeds from the annual use fees may be used for promoting and marketing the license plates. The remaining proceeds shall be available for grants by the United States Tennis Association Florida Section Foundation to nonprofit organizations to operate youth tennis programs and adaptive tennis programs for special populations of all ages, and for building, renovating, and maintaining public tennis courts.

Section 36. Section 189.033, Florida Statutes, is amended to read:

189.033 Independent special district services in disproportionally affected county; rate reduction for providers providing economic benefits.—If the governing body of an independent special district that provides water, wastewater, and sanitation services in a disproportionally affected county, as provided ~~defined~~ in s. 220.191(1)(g)1. ~~s. 288.106(8)~~, determines that a new user or the expansion of an existing user of one or more of its utility systems will provide a significant benefit to the community in terms of increased job opportunities, economies of scale, or economic development in the area, the governing body may authorize a reduction of its rates, fees, or charges for that user for a specified period of time. A governing body that exercises this power must do so by resolution that states the anticipated economic benefit justifying the reduction as well as the period of time that the reduction will remain in place.

Section 37. Paragraph (a) of subsection (14) of section 196.012, Florida Statutes, is amended to read:

196.012 Definitions.—For the purpose of this chapter, the following terms are defined as follows, except where the context clearly indicates otherwise:

(14) "New business" means:

(a)1. A business or organization establishing 10 or more new jobs to employ 10 or more full-time employees in this state which pays~~, paying~~ an average wage for such new jobs which ~~that~~ is above the average wage in the area and~~, which~~ principally engages in any one or more of the following operations:

a. Manufactures, processes, compounds, fabricates, or produces for sale items of tangible personal property at a fixed location and which comprises an industrial or manufacturing plant; or

b. Is a target industry business as defined in s. 288.106(2) ~~s. 288.106(2)(q)~~;

2. A business or organization establishing 25 or more new jobs to employ 25 or more full-time employees in this state, the sales factor of which, as defined by s. 220.15(5), for the facility with respect to which it requests an economic development ad valorem tax exemption is less than 0.50 for each year the exemption is claimed; or

3. An office space in this state owned and used by a business or organization newly domiciled in this state if~~,~~ ~~provided~~ such office space houses 50 or more full-time employees of such business or organization and~~; provided that such business or organization office~~ first begins operation on a site clearly separate from any other commercial or industrial

operation owned by the same business or organization.

Section 38. Effective upon becoming law, paragraph (d) of subsection (6) of section 212.20, Florida Statutes, is amended to read:

212.20 Funds collected, disposition; additional powers of department; operational expense; refund of taxes adjudicated unconstitutionally collected.—

(6) Distribution of all proceeds under this chapter and ss. 202.18(1)(b) and (2)(b) and 203.01(1)(a)3. is as follows:

(d) The proceeds of all other taxes and fees imposed pursuant to this chapter or remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be distributed as follows:

1. In any fiscal year, the greater of $500 million, minus an amount equal to 4.6 percent of the proceeds of the taxes collected pursuant to chapter 201, or 5.2 percent of all other taxes and fees imposed pursuant to this chapter or remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in monthly installments into the General Revenue Fund.

2. After the distribution under subparagraph 1., 8.9744 percent of the amount remitted by a sales tax dealer located within a participating county pursuant to s. 218.61 shall be transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund. Beginning July 1, 2003, the amount to be transferred shall be reduced by 0.1 percent, and the department shall distribute this amount to the Public Employees Relations Commission Trust Fund less $5,000 each month, which shall be added to the amount calculated in subparagraph 3. and distributed accordingly.

3. After the distribution under subparagraphs 1. and 2.,

0.0966 percent shall be transferred to the Local Government Half-cent Sales Tax Clearing Trust Fund and distributed pursuant to s. 218.65.

4. After the distributions under subparagraphs 1., 2., and 3., 2.0810 percent of the available proceeds shall be transferred monthly to the Revenue Sharing Trust Fund for Counties pursuant to s. 218.215.

5. After the distributions under subparagraphs 1., 2., and 3., 1.3653 percent of the available proceeds shall be transferred monthly to the Revenue Sharing Trust Fund for Municipalities pursuant to s. 218.215. If the total revenue to be distributed pursuant to this subparagraph is at least as great as the amount due from the Revenue Sharing Trust Fund for Municipalities and the former Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, no municipality shall receive less than the amount due from the Revenue Sharing Trust Fund for Municipalities and the former Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000. If the total proceeds to be distributed are less than the amount received in combination from the Revenue Sharing Trust Fund for Municipalities and the former Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, each municipality shall receive an amount proportionate to the amount it was due in state fiscal year 1999-2000.

6. Of the remaining proceeds:

a. In each fiscal year, the sum of $29,915,500 shall be divided into as many equal parts as there are counties in the state, and one part shall be distributed to each county. The distribution among the several counties must begin each fiscal

year on or before January 5th and continue monthly for a total of 4 months. If a local or special law required that any moneys accruing to a county in fiscal year 1999-2000 under the then-existing provisions of s. 550.135 be paid directly to the district school board, special district, or a municipal government, such payment must continue until the local or special law is amended or repealed. The state covenants with holders of bonds or other instruments of indebtedness issued by local governments, special districts, or district school boards before July 1, 2000, that it is not the intent of this subparagraph to adversely affect the rights of those holders or relieve local governments, special districts, or district school boards of the duty to meet their obligations as a result of previous pledges or assignments or trusts entered into which obligated funds received from the distribution to county governments under then-existing s. 550.135. This distribution specifically is in lieu of funds distributed under s. 550.135 before July 1, 2000.

b. The department shall distribute $166,667 monthly to each applicant certified as a facility for a new or retained professional sports franchise pursuant to s. 288.1162. Up to $41,667 shall be distributed monthly by the department to each certified applicant as defined in s. 288.11621 for a facility for a spring training franchise. However, not more than $416,670 may be distributed monthly in the aggregate to all certified applicants for facilities for spring training franchises. Distributions begin 60 days after such certification and continue for not more than 30 years, except as otherwise provided in s. 288.11621. A certified applicant identified in

this sub-subparagraph may not receive more in distributions than expended by the applicant for the public purposes provided in s. 288.1162(5) or s. 288.11621(3).

c. Beginning 30 days after notice by the Department of Economic Opportunity to the Department of Revenue that an applicant has been certified as the professional golf hall of fame pursuant to s. 288.1168 and is open to the public, $166,667 shall be distributed monthly, for up to 300 months, to the applicant.

~~d. Beginning 30 days after notice by the Department of Economic Opportunity to the Department of Revenue that the applicant has been certified as the International Game Fish Association World Center facility pursuant to s. 288.1169, and the facility is open to the public, $83,333 shall be distributed monthly, for up to 168 months, to the applicant. This distribution is subject to reduction pursuant to s. 288.1169. A lump sum payment of $999,996 shall be made after certification and before July 1, 2000.~~

d.~~e.~~ The department shall distribute up to $83,333 monthly to each certified applicant as defined in s. 288.11631 for a facility used by a single spring training franchise, or up to $166,667 monthly to each certified applicant as defined in s. 288.11631 for a facility used by more than one spring training franchise. Monthly distributions begin 60 days after such certification or July 1, 2016, whichever is later, and continue for not more than 20 years to each certified applicant as defined in s. 288.11631 for a facility used by a single spring training franchise or not more than 25 years to each certified applicant as defined in s. 288.11631 for a facility used by more

than one spring training franchise. A certified applicant identified in this sub-subparagraph may not receive more in distributions than expended by the applicant for the public purposes provided in s. 288.11631(3).

e.~~f.~~ Beginning 45 days after notice by the Department of Economic Opportunity to the Department of Revenue that an applicant has been ~~approved by the Legislature and~~ certified by the Department of Economic Opportunity under s. 288.11625 or upon a date specified by the Department of Economic Opportunity as provided under s. 288.11625(6)(d), the department shall distribute each month an amount equal to one-twelfth of the annual distribution amount certified by the Department of Economic Opportunity for the applicant. The department may not distribute more than $7 million in the 2014-2015 fiscal year or more than $13 million annually thereafter under this sub-subparagraph.

f.~~g.~~ Beginning December 1, 2015, and ending June 30, 2016, the department shall distribute $26,286 monthly to the State Transportation Trust Fund. Beginning July 1, 2016, the department shall distribute $15,333 monthly to the State Transportation Trust Fund.

7. All other proceeds must remain in the General Revenue Fund.

Section 39. Paragraph (a) of subsection (2) of section 220.196, Florida Statutes, is amended to read:

220.196 Research and development tax credit.—

(2) TAX CREDIT.—

(a) As provided in this section, a business enterprise is eligible for a credit against the tax imposed by this chapter if

it:

1. Has qualified research expenses in this state in the taxable year exceeding the base amount;

2. Claims and is allowed a research credit for such qualified research expenses under 26 U.S.C. s. 41 for the same taxable year as subparagraph 1.; and

3. Is a qualified target industry business as defined in s. 288.106(2) ~~s. 288.106(2)(n)~~. Only qualified target industry businesses in the manufacturing, life sciences, information technology, aviation and aerospace, homeland security and defense, cloud information technology, marine sciences, materials science, and nanotechnology industries may qualify for a tax credit under this section. A business applying for a credit pursuant to this section shall include a letter from the Department of Economic Opportunity certifying whether the business meets the requirements of this subparagraph with its application for credit. The Department of Economic Opportunity shall provide such a letter upon receiving a request.

Section 40. Subsection (7) of section 288.11621, Florida Statutes, is amended to read:

288.11621 Spring training baseball franchises.—

(7) STRATEGIC PLANNING.—The department shall request assistance from the Florida Sports Foundation ~~Enterprise Florida, Inc.,~~ and the Florida Grapefruit League Association to develop a comprehensive strategic plan to:

(a) Finance spring training facilities.

(b) Monitor and oversee the use of state funds awarded to applicants.

(c) Identify the financial impact that spring training has

on the state and ways in which to maintain or improve that impact.

(d) Identify opportunities to develop public-private partnerships to engage in marketing activities and advertise spring training baseball.

(e) Identify efforts made by other states to maintain or develop partnerships with baseball spring training teams.

(f) Develop recommendations for the Legislature to sustain or improve this state's spring training tradition.

Section 41. Effective upon becoming law, paragraph (c) of subsection (2) and paragraphs (a), (c), and (d) of subsection (3) of section 288.11631, Florida Statutes, are amended to read:

288.11631 Retention of Major League Baseball spring training baseball franchises.—

(2) CERTIFICATION PROCESS.—

(c) Each applicant certified on or after July 1, 2013, shall enter into an agreement with the department which:

1. Specifies the amount of the state incentive funding to be distributed. The amount of state incentive funding per certified applicant may not exceed $20 million. However, if a certified applicant's facility is used by more than one spring training franchise, the maximum amount may not exceed $50 million, and the Department of Revenue shall make distributions to the applicant pursuant to s. 212.20(6)(d)6.d. ~~s. 212.20(6)(d)6.c.~~

2. States the criteria that the certified applicant must meet in order to remain certified. These criteria must include a provision stating that the spring training franchise must reimburse the state for any funds received if the franchise does

not comply with the terms of the contract. If bonds were issued to construct or renovate a facility for a spring training franchise, the required reimbursement must be equal to the total amount of state distributions expected to be paid from the date the franchise violates the agreement with the applicant through the final maturity of the bonds.

3. States that the certified applicant is subject to decertification if the certified applicant fails to comply with this section or the agreement.

4. States that the department may recover state incentive funds if the certified applicant is decertified.

5. Specifies the information that the certified applicant must report to the department.

6. Includes any provision deemed prudent by the department.

(3) USE OF FUNDS.—

(a) A certified applicant may use funds provided under s. 212.20(6)(d)6.d. ~~s. 212.20(6)(d)6.c.~~ only to:

1. Serve the public purpose of constructing or renovating a facility for a spring training franchise.

2. Pay or pledge for the payment of debt service on, or to fund debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect thereto, bonds issued for the construction or renovation of such facility, or for the reimbursement of such costs or the refinancing of bonds issued for such purposes.

(c) The Department of Revenue may not distribute funds under s. 212.20(6)(d)6.d. ~~s. 212.20(6)(d)6.c.~~ until July 1, 2016. Further, the Department of Revenue may not distribute funds to an applicant certified on or after July 1, 2013, until

it receives notice from the department that:

1. The certified applicant has encumbered funds under either subparagraph (a)1. or subparagraph (a)2.; and

2. If applicable, any existing agreement with a spring training franchise for the use of a facility has expired.

(d)1. All certified applicants shall place unexpended state funds received pursuant to s. 212.20(6)(d)6.d. ~~s. 212.20(6)(d)6.c.~~ in a trust fund or separate account for use only as authorized in this section.

2. A certified applicant may request that the department notify the Department of Revenue to suspend further distributions of state funds made available under s. 212.20(6)(d)6.d. ~~s. 212.20(6)(d)6.c.~~ for 12 months after expiration of an existing agreement with a spring training franchise to provide the certified applicant with an opportunity to enter into a new agreement with a spring training franchise, at which time the distributions shall resume.

3. The expenditure of state funds distributed to an applicant certified after July 1, 2013, must begin within 48 months after the initial receipt of the state funds. In addition, the construction or renovation of a spring training facility must be completed within 24 months after the project's commencement.

Section 42. Subsection (1) of section 288.9015, Florida Statutes, is amended to read:

288.9015 Powers of Enterprise Florida, Inc.; board of directors.—

(1) Enterprise Florida, Inc., shall integrate its efforts in business recruitment and expansion, job creation, marketing

the state for tourism ~~and sports~~, and promoting economic opportunities for minority-owned businesses and promoting economic opportunities for rural and distressed urban communities with those of the department, to create an aggressive, agile, and collaborative effort to reinvigorate the state's economy.

Section 43. Subsection (5) of section 477.0135, Florida Statutes, is amended to read:

477.0135 Exemptions.—

(5) A license is not required of any individual providing makeup, special effects, or cosmetology services to an actor, stunt person, musician, extra, or other talent during a production recognized by the Department of Economic Opportunity ~~Office of Film and Entertainment~~ as a project ~~qualified production~~ as defined in s. 288.1256 ~~s. 288.1254(1)~~. Such services are not required to be performed in a licensed salon. Individuals exempt under this subsection may not provide such services to the general public.

Section 44. For the purpose of incorporating the amendment made by this act to section 288.106, Florida Statutes, in a reference thereto, subsection (11) of section 159.803, Florida Statutes, is reenacted to read:

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

(11) "Florida First Business project" means any project which is certified by the Department of Economic Opportunity as eligible to receive an allocation from the Florida First Business allocation pool established pursuant to s. 159.8083. The Department of Economic Opportunity may certify those projects meeting the criteria set forth in s. 288.106(4)(b) or

any project providing a substantial economic benefit to this state.

Section 45. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect July 1, 2016.

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Committee			
BILL:	CS/SB 1646		
INTRODUCER:	Commerce and Tourism Committee; and Senator Latvala		
SUBJECT:	Economic Development		
DATE:	March 2, 2016	REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Askey	McKay	CM	**Fav/CS**
2.	Gusky	Miller	ATD	**Pre-meeting**
3.	Gusky	Kynoch	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1646 makes several changes to the state's economic development programs to increase accountability and efficiency.

Related to economic development incentives programs, the bill:

- Revises definitions of "cumulative capital investment," "economic benefit," and "average private sector wage in the area" across the state's economic development incentive programs.
- Regarding incentive contracts, the bill:
  - Limits incentive contract terms to 10 years,
  - Requires contracts to embody the written descriptions provided to the Legislature,
  - Requires contracts to include provisions requiring the capital investment made for the project remain in the state for the duration of the contract, and
  - Requires the Department of Economic Opportunity (DEO) to provide notice of executed contracts to the Legislature.
- Requires incentive reports to include information on jobs created and retained that provide health benefits.
- Renames the Quick Action Closing Fund as the "Florida Enterprise Fund," and makes the following changes to the program:
  - Lowers the required economic benefits (return on investment) from 5 to 1, to 3 to 1.
  - Requires that projects create at least 10 jobs.
  - Requires local financial support of at least 20 percent of the award.
  - Prohibits payment before performance conditions are met.

- Extends the Qualified Defense and Space Contractors Tax Refund program to 2018 and allows businesses to receive refunds for activity in 2014 if the business failed to timely submit information and meets other conditions.
- Clarifies for the Qualified Target Industry Tax Refund program that payments are not refunds of taxes, but that the taxes paid serve as limitations on the amount of incentive payments a business may receive.

Related to the sports industry in Florida, the bill:

- Moves the Florida Sports Foundation from Enterprise Florida, Inc., (EFI) to the Department of Economic Opportunity (DEO).
  - Revises the membership of the governing board of the Florida Sports Foundation.
  - Deletes residency requirement for participants of the Sunshine State Games and the Florida Senior Games.
  - Conforms distributions from sports-related license plates to be made to the Florida Sports Foundation.
- Repeals expired provisions related to an International Game Fish Association World Center facility.

The bill reforms the state's entertainment industry development efforts by:

- Moving the DEO Office of Film and Entertainment (OFE) to EFI, and renaming it the Division of Film and Entertainment (division).
- Creating the Entertainment Action Fund, from which approved production companies may receive funds from the program for qualified expenditures in the state.
- Changing the repeal date of the entertainment industry financial incentive program to April 1, 2016, and prohibiting program tax credits from being awarded after that date.
- Revising the entertainment industry sales tax exemption certificate program to prohibit backdating of tax exemption certificates.
- Prohibiting a production company from benefiting from both the Entertainment Action Fund and the sales tax exemption certificate program for the same production.

The bill does not provide an appropriation for the Entertainment Action Fund program. The DEO will not be able to implement the program unless funding is included in the Fiscal Year 2016-2017 General Appropriations Act.

The extension of the Qualified Defense Contractor and Space Flight Business Tax Refund (QDSC) program to allow the DEO to certify applications through June 30, 2018, will have a negative impact to state revenues. Funds to make payments for this refund program are appropriated in the General Appropriations Act each year. The bill will have an indeterminate, but positive, fiscal impact to businesses that are certified to participate in the QDSC program.

The bill will have an indeterminate, but expected to be minimal, impact to the DEO and EFI; any additional costs are expected to be absorbed within existing resources.

Except as otherwise expressly provided, the bill provides an effective date of upon becoming a law.

II. Present Situation:

For the purposes of this bill analysis, the Present Situation will be addressed in the Effect of Proposed Changes section below.

III. Effect of Proposed Changes:

Economic Development Incentive Programs

Current Situation

Florida has a number of incentive programs intended to promote economic development in the state. These programs are collectively referred to as the economic development "toolkit" and come in a variety of forms including tax refunds, tax credits, tax exemptions, and cash grants.

The Qualified Target Industry Business Tax Refund (QTI) program is designed to attract high wage jobs in targeted industries to the state.[1] The target industries are identified by the Department of Economic Opportunity (DEO) using such criteria as future growth, stability, high wages, market and resource independence, industrial base diversification, and positive economic impact. Approved QTI projects have contractual performance measures with specific milestones to be verified prior to payment of any tax refunds. This incentive requires 20 percent of the award to come from the local government. QTI businesses are eligible for tax refunds in the amount of eligible taxes that were paid by the business. The program is funded through a specific annual appropriation.[2]

The Qualified Defense Contractor and Space Flight Business Tax Refund (QDSC) program is designed to attract high wage jobs in the space and defense industries.[3] As with the QTI refund, 20 percent of the award comes from the local government. As with other programs, the QDSC tax refunds are awarded after contractual performance-based milestones are met and verified by the state. The program is funded through a specific annual appropriation. Currently, an applicant cannot be certified as qualified after June 30, 2014, but any agreements in effect after that date continue in accordance with their terms.

The QTI and QDSC programs share a $35 million cap on tax refund payments, per fiscal year.

The Capital Investment Tax Credit (CITC) is designed to attract and grow capital-intensive industries in Florida.[4] Eligible projects must be in designated high-impact portions of certain sectors, determined by the DEO, including clean energy, biomedical technology, financial services, information or silicon technology, or transportation equipment manufacturing. Corporate headquarters facilities are also eligible. The DEO reported that $21.5 million in tax credits were claimed in 2014.[5] The annual credit can be provided for up to 20 years against corporate income tax liability.

[1] Section 288.106, F.S.
[2] Section 288.095, F.S.
[3] Section 288.1045, F.S.
[4] Section 220.191, F.S.
[5] Department of Economic Opportunity, *DEO: 2015 Incentives Report*, December 30, 2015, (on file with the Commerce and Tourism Committee).

To apply for the CITC, a business must meet cumulative capital investment requirements, among other criteria. For the purposes of the CITC tax credit "cumulative capital investment" is defined as the total capital investment in land, buildings, and equipment made in connection with a qualifying project during the period from the beginning of construction of the project to the commencement of operations.

The High Impact Performance Incentive (HIPI)[6] grant program is designed to spur capital investment and job creation in the same high-impact sectors as for the CITC tax credit. The cash grant is reserved for major facilities operating in designated portions of high-impact sectors. The program has an annual cap of $30 million for scheduled performance grant payments. This program authorizes the recapture of funds if a business fails to meet its contractual performance requirements.

The Quick Action Closing (QAC) Fund grant program is designed to be a competitive "deal closing" tool for negotiations where the state's other incentives are not enough to incentivize a business to remain, locate, or expand in the state.[7] Under current law, in order to be eligible for QAC funds a project must meet five criteria:

- Be in a qualified target industry;
- Have a positive economic benefit ratio of at least 5 to 1;
- Be an inducement to the project's location or expansion in the state;
- Pay an average annual wage of at least 125 percent of the area-wide or statewide private sector average wage; and
- Be supported by the local community in which the project is to be located.

A waiver of eligibility requirements can be considered if certain criteria are met.[8]

A QAC project must have a performance based contract requiring specific scheduled milestones and annual compliance requirements. The program authorizes sanctions and penalties for failure to perform. The DEO reports that $44.2 million in grant incentives was approved in Fiscal Year 2014-15.[9]

The Innovation Incentive Program (IIP) is designed to empower the state to compete effectively for research and development, innovation business, or alternative and renewable energy projects.[10] The state makes long-term investments in industry clusters critical to the state's future economic diversification. The projects have contractual performance measures and milestones that must be achieved before grant payment. The contracts also include a reinvestment provision, requiring recipients to pay a portion of earned royalty revenues back to the state for investment in existing state trust funds. A 1 to 1 local match is also required, and the project must ultimately result in a cumulative break-even economic benefit within a 20-year period. The DEO reports

[6] Section 288.108, F.S.
[7] Section 288.1088, F.S.
[8] Section 288.1088(3)(a), F.S.
[9] *Supra* note 5, at 18.
[10] Section 288.1089, F.S.

that as of 2015, for the life of the program nine companies have been awarded funds of $455.7 million.[11]

The Office of Economic Development and Research (EDR) and the Office of Program Policy Analysis and Government Accountability (OPPAGA) are required to provide a detailed analysis of state economic development programs according to a recurring schedule established in law.[12] The EDR must evaluate and determine the economic benefits, as defined in s. 288.005(1), F.S., of each program over the previous 3 years. For the purposes of EDR's analysis, the calculation of economic benefits is the same as the state's return on investment.

Effect of Proposed Changes

Qualified Target Industry Tax Refund Program

Section 12 amends s. 288.106, F.S., to clarify that the QTI "tax refund" program is not a repayment of taxes, but that taxes paid operate as a limitation on the incentive payments a business can receive.

Qualified Defense and Space Contractor Tax Refund Program

Section 11 amends s. 288.1045, F.S., to extend the expiration date for applicants to become certified as qualified to participate in the program to June 30, 2018. The bill also amends that section to allow a business that does not submit documentation requested by the DEO and as required by the agreement to claim an approved refund if:

- The business submits the documentation to the DEO;
- The business provides a written statement to the DEO detailing the extenuating circumstances that resulted in the failure to timely submit documentation required by the agreement;
- Funds appropriated for the program remain available;
- The business was scheduled to submit information to the DEO between January 1, 2014, and December 31, 2104; and
- The business has met all other requirements in the agreement.

Florida Enterprise Fund (formerly QAC)

Section 14 amends s. 288.1088, F.S., to rename the "Quick Action Closing Fund" as the "Florida Enterprise Fund." The bill amends eligibility criteria to require projects to have a positive economic benefit ratio of at least 3 to 1 and create at least 10 new jobs.

The bill also requires that local support include a resolution adopted by the governing board of the county or municipality in which the project is located. The resolution must include a commitment of local financial support similar to current law requirements for the QTI and QDSC programs. The bill defines "local financial support" as funding from local sources, public or private, which is paid to the Economic Development Trust Fund and which is equal to 20 percent of the Florida Enterprise Fund award to the business. The state share of the award cannot be more than 80 percent.

[11] *Supra* note 5, at 27.
[12] Section 288.0001, F.S.

Local financial support can include any tax abatement granted to a business or the appraised market value of municipal or county land conveyed or provided at a discount to the business. The DEO is prohibited from entering into a contract with a business if the local financial support resolution is not passed within a certain timeframe. The bill prohibits a business from providing over 5 percent of the local financial support, and prohibits funds appropriated from the General Revenue Fund or any state trust fund from being used for local financial support.

Prior to payment under the Florida Enterprise Fund, a business must meet and report on contract performance criteria. The bill expands the list of performance criteria that must be included in a Florida Enterprise Fund contract to include the amount of local financial support that will be annually available and will be paid into the Economic Development Trust Fund. The bill prohibits payment to a business unless the required local financial support is paid into the Economic Development Trust Fund.

The bill provides that if a local government and EFI request a waiver of criteria required for a project to be eligible to receive funds from the program, a written request must be sent to the DEO explaining the reasons for the request. Additionally, the DEO must write an explanation regarding the reasons for an approval of any such request. The bill requires that after the Governor approves an applicant, the DEO will issue a letter certifying the applicant is qualified for an award.

Sections 6 and 9 amend ss. 288.0001 and 288.076, F.S., respectively, to make conforming changes related to the name change of the QAC program to the Florida Enterprise Fund.

Section 6 amends s. 288.0001, F.S., to add a report on the retention of Major League Baseball (MLB) spring training baseball franchises under s. 288.11631, F.S., to the list of reports required by the economic development programs evaluation schedule beginning January 1, 2018, and every 3 years thereafter.[13]

Economic Development Incentives Account

Current Situation

Under current law, funds are appropriated to the Economic Development Incentives Account within the Economic Development Trust Fund for the purpose of the QDSC and the QTI programs, and related local financial support. Economic Development Incentives Account funds can only be used to pay tax refunds and make other payments authorized for the QDSC, QTI, and Brownfield Redevelopment Tax Refund programs.[14]

Effect of Proposed Changes

Section 10 amends s. 288.095, F.S., to allow local financial support associated with the Florida Enterprise Fund (formerly QAC) to be deposited into the Economic Development Incentives Account. The bill also authorizes payments for the Florida Enterprise Fund to be made out of the Economic Development Incentives Account.

[13] Section 288.0001, F.S.
[14] Section 288.095, F.S.

Incentive Contract Administration and Evaluation

Current Situation

The DEO is generally responsible for overseeing the incentive application and certification approval process, and for incentive agreement and contract management.

The DEO evaluates each incentive application to determine the economic benefits of the proposed award of state incentives proposed for the project. Currently, "economic benefits" are defined as the direct, indirect, and induced gains in state revenues as a percentage of the state's investment. The state's investment includes state grants, tax exemptions, tax refunds, tax credits and other state incentives.[15] The Office of Economic and Demographic Research (EDR) establishes the methodology and model used to calculate the economic benefits. An amended definition of "economic benefits" may be developed by the EDR.[16]

The DEO must approve or disapprove of an incentive application and issue a certification letter within 10 business days of application *submission*.[17]

The DEO is responsible for entering into incentive contracts or agreements with businesses and overseeing the performance of those contracts. Currently, incentive contracts must specify the following:

- The total amount of the award;
- The performance conditions that must be met to obtain the award;
- The schedule for payment; and
- Sanctions that would apply for failure to meet performance conditions.
- Contracts may also include representations, warranties and other covenants.[18]

Current law does not require incentive contracts to specify the duration of the contract nor require any capital investment made by the business to remain in the state for the duration of the contract. In addition, current law does not specifically allow for QAC and HIPI agreements to be amended. However, under certain circumstances an IIP award agreement can be amended.

Effect of Proposed Changes

Section 7 amends s. 288.005, F.S., to include a definition for "average private sector wage in the area," effectively standardizing use of the term for economic development programs. The term is defined to mean the statewide average wage in the private sector or the average of all private sector wages in the county or standard metropolitan area in which the project is located, as determined by the DEO. The bill makes conforming changes to reflect the new definition in the:

- Capital Investment Tax Credit program (**Section 4)**;[19]
- Research and Development Tax Credit program **(Section 5)**;[20]

[15] Section 288.005, F.S.
[16] Section 288.061, F.S.
[17] With the exception of the QAC and the IIP.
[18] Section 288.061, F.S.
[19] Section 220.191, F.S.
[20] Section 220.196, F.S.

- Qualified Defense Contractor and Space Flight Business Tax Refund program **(Section 11)**;[21]
- Qualified Target Industry Tax Refund program **(Section 12)**;[22]
- Florida Enterprise Fund (FEF), formerly the Quick Action Closing Fund, program **(Section 14)**;[23] and
- Innovation Incentive Program **(Section 15)**[24].

The bill revises several definitions to effectively standardize the requirement that no public or state funds can be counted when determining the economic benefit or return on investment of an incentive project, specifically:

- **Section 4** amends s. 220.191, F.S., related to the CITC tax credit, to clarify that the definition of "cumulative capital investment" is the total capital investment in land, buildings, and equipment made by, *or on behalf of*, the qualifying business in connection with a qualifying project during the period from the beginning construction of the project or the commencement of operations. The amended definition clarifies that the term does not include funds granted to or spent on behalf of the qualifying business by the state, a local government, or other governmental entity; funds appropriated in the General Appropriations Act (GAA); or funds otherwise provided to the qualifying business by a state agency, local government, or other governmental entity.
- **Section 13** amends s. 288.108, F.S., related to the HIPI program, to clarify that the term "cumulative investment" does not include funds granted to or spent on behalf of the qualifying business by the state, a local government, or other governmental entity; funds appropriated in the GAA; or funds otherwise provided to the qualifying business by a state agency, local government, or other governmental entity.
- **Sections 7 and 9** amends ss. 288.005(3) and 288.076(1)(e), F.S., respectively, related to definitions and return on investment reporting, to clarify that the "state investment" includes all state funds spent or foregone to benefit a business, including state funds appropriated to public and private entities, in addition to state grants, tax exemptions, tax refunds, tax credits, and any other source of state funds reasonably known to the DEO at the time of the approval

Section 8 amends s. 288.061, F.S., related to the economic development incentive application process to:

- Allow the DEO 10 business days from receiving a *complete* application, rather than a *submitted* application, to approve or disapprove the application and issue a certification letter.
- Require the EDR's amended definition of "economic benefits," to include all state funds spent or forgone to benefit the business, including state funds appropriated to public and private entities, to the extent that those funds are reasonably known by the DEO at the time of approval. The bill also directs the EDR to include guidelines for the appropriate application of the DEO's internal model.
- Require the DEO to consider all cumulative capital investment for the purpose of evaluating an incentive application. However, the DEO is prohibited from attributing state funds to the capital investment made by the business when calculating the economic benefit of an award.

[21] Section 288.1045, F.S.
[22] Section 288.106, F.S.
[23] Section 288.1088, F.S.
[24] Section 288.1089, F.S.

Section 8 further amends s. 288.061, F.S., to:

- Prohibit the DEO from entering into economic development incentive agreements or contracts that exceed 10 years. However, the bill provides that the DEO may enter into successive agreements or contracts for a project to extend the first 10-year term, contingent upon the successful completion of the previous agreement or contract. Agreements and contracts for the CITC tax credit and IIP projects are not subject to the restriction on the 10 year term.
- Specify that contracts and agreements that require the business to make a capital investment must also require that such investment remain in the state for the duration of the agreement or contract. The bill exempts investments made in transportation-related assets specifically used for the purpose of transporting goods and employees from the requirement.
- Require the DEO to provide a notice, including an updated description and evaluation, to the Legislature upon final execution of each incentive contract or agreement. The bill requires HIPI, FEF (formerly QAC), and IIP contracts to embody the information included in the written description and evaluation presented to the Legislature.

Currently, the DEO and Enterprise Florida, Inc. (EFI) are required to report information pertaining to each incentive program on the DEO's incentive portal (an online listing of all incentive contracts with specified information) and EFI's annual incentive report. **Sections 9 and 30** amend ss. 288.076 and 288.907, F.S., respectively, to require that DEO's incentives portal and EFI's annual incentives report include data on the number of jobs created and retained and the number of jobs created and retained that provide health benefits.

Florida Sports Foundation

Current Situation

The Florida Sports Foundation (FSF) was a direct-support organization of the Office of Tourism Trade and Economic Development, prior to the governmental reorganization that created the DEO and restructured EFI.[25] The FSF serves as the official sports promotion and development organization for the state and currently is housed within EFI as the Division of Sports Industry Development. The FSF's mission is to:

- Assist communities in the state with securing, hosting and retaining, sporting events that generate economic impact and sports-tourism for the state;
- Provide Floridians opportunities to participate in the Sunshine State Games and Florida Senior Games;
- Serve as the state's leading source for sports-tourism research and information;
- Assist in the promotion of targeted leisure sport industries in the state; and
- Assist national and state governing bodies to promote amateur sports development through the Sunshine State Games and hosting events in the state.

Effect of Proposed Changes

Section 20 revives, reenacts, and amends s. 288.1229, F.S., to house the FSF within the DEO. The DEO is directed to contract with the FSF by July 1, 2016.

[25] Chapter 2011-142, L.O.F.

The bill specifies that the foundation's board of directors must consist of 20 members appointed by the Governor, which include:

- Ten members representing Florida major league franchises of Major League Baseball, National Basketball Association, National Football League, Arena Football League, National Hockey League, and Major League Soccer teams domiciled in this state;
- A member representing Florida's Sports Commissions;
- A member representing the boating and fishing industries in Florida;
- A member representing the golf industry in Florida;
- A member representing Major League Baseball spring training;
- A member representing the auto racing industry in Florida; and
- Five members at-large.

The bill repeals or transfers all duties and responsibilities related to the sports industry from EFI. These repeals include the requirement for an individual with sports marketing expertise to serve on the EFI board of directors, requiring EFI to market the state for sports, and requiring a Division of Sports Industry Development within EFI (**Sections 16, 28, 29, 31, amending ss. 288.11621, 288.901, 288.9015, and 299.92, F.S., respectively**). Further, the bill amends s. 20.60, F.S., the statute which creates the DEO, to reflect DEO's responsibilities with respect to the FSF (**Section 1**).

Section 33 transfers responsibilities and distributions related to sports-related specialty license plates in s. 320.08058, F.S., from EFI to the FSF. The affected specialty license plates are:

- Florida United States Olympic Committee license plate;
- Florida Professional Sports Team license plate;
- Florida Golf license plate;
- Florida NASCAR license plate; and
- Florida Tennis license plate.

Section 33 also removes the requirement that the FSF use proceeds from the Florida Professional Sports Team license plate to promote and develop education programs in state schools.

Office of Film and Entertainment

Current Situation

The Office of Film and Entertainment (OFE) within the DEO develops, markets, promotes, and provides services to Florida's entertainment industry, including serving as a liaison between the industry and government entities and facilitating access to filming locations.[26] The Commissioner of Film and Entertainment is selected through a national search and must meet certain qualifications. The OFE is assisted by the Florida Film and Entertainment Advisory Council (council), which is composed of 17 members, of which seven members are appointed by the Governor, and five members each are appointed by the President of the Senate and the Speaker of the House of Representatives.[27]

[26] Section 288.1251, F.S. See also OFE website, available at http://www.filminflorida.com/about/vm.asp (last visited January 21, 2016).
[27] Section 288.1252, F.S.

The OFE gathers statistical information related to the state's entertainment industry; provides information and services to businesses, communities, organizations, and individuals engaged in entertainment industry activities; administers field offices outside the state; and coordinates with regional offices maintained by counties and regions of the state. The OFE is also required to develop a 5-year strategic plan to guide its activities, which is updated on an annual basis and aligns with the DEO's Strategic Plan for Economic Development. The OFE's mission is to build, support, and market the entertainment industry in Florida.

Effect of Proposed Changes

Section 22 renumbers and amends s. 288.1251, F.S., as s. 288.913, F.S., to rename the OFE as the Division of Film and Entertainment (division) and house it within EFI. The bill clarifies and revises the responsibilities of the division and requirements for the 5-year plan.

EFI's board of directors is required to annually review and approve the 5-year plan developed by the division. The bill requires the president of EFI to appoint a film and entertainment commissioner, who is subject to confirmation by the Senate. The commissioner is required to have a record of high-level involvement in production deals and contact with industry decision makers, among other criteria.

Section 24 renumbers and amends s. 288.1253, F.S., related to travel and entertainment expenses incurred by employees of the division, as s. 288.915, F.S. Additionally, the bill prohibits the division and its employees and representatives from accepting any complimentary travel, accommodations, meeting space, meals, equipment, transportation, or other goods and services from any entity, or employee, designee, or representative of such entity, which has received, applied to receive, or anticipates to receive, any funds from the Entertainment Action Fund created under s. 288.1256, F.S. Failure to abide by this prohibition is subject to the penalties provided for in s. 112.317, F.S.

Section 23 renumbers and amends s. 288.1552, F.S., as s. 288.914, F.S., to conform to changes made by the bill. Additionally, the bill reduces the number of members on the advisory council from 17 to 11, with five members appointed by the Governor and three members each appointed by the President of the Senate and the Speaker of the House of Representatives. Current members may serve out the remainder of their terms, but upon vacancy or the conclusion of a term, members must be appointed in accordance with the section. The bill provides that the advisory council will review the administration of programs related to the strategic plan, make recommendations on state agency or local government actions that may have an impact on the entertainment industry, advise on the promulgation of rules related to the entertainment industry, and appear on its own behalf before boards, commissions, departments, or other government agencies.

Entertainment Action Fund

Effect of Proposed Changes

The bill creates s. 288.1256, F.S., as the Entertainment Action Fund (**Section 26**) and provides that the fund is created within the DEO in order to:

- Respond to extraordinary opportunities;
- Compete effectively to attract and retain production companies; and
- Provide favorable conditions for the growth of the entertainment industry in the state.

Production companies may submit applications to the division to receive funds. The division must set application periods and accept applications for at least 3 months of a period. There may be multiple application periods in a single fiscal year depending on the availability of funds. The DEO is directed to prescribe an application form with specific required information to aid in the review and evaluation of project criteria.

The division reviews and evaluates applications to identify competitive projects for approval. The evaluation criteria, listed in order of priority, are:

- The number of state residents to be employed in full and part-time positions related to the project and the average wages paid;
- The amount of qualified, and unqualified, expenditures to be made in the state;
- Planned or executed contracts with production facilities in the state for production activity;
- The amount of capital investment, especially fixed capital, made directly by the production company in this state related to a project;
- The duration of the project;
- The amount of principal photography that will occur in an underutilized county;
- The extent to which the state will be promoted by the production company;
- The employment of in-state students and recent graduates;
- Any plans to work with in-state higher education institutions;
- Any local support, financial or otherwise;
- If the project is about the state, or positively reflects on the state;
- A review of the production company's past activity in the state;
- A productions company's number of productions already made and overall commitment to the state;
- Expected contributions to the state's economy; and
- The effect of any award on the viability of a project and the possibility of the project being undertaken in the state.

A production must have financing in place in order to qualify for an award. Any award cannot constitute more than 30 percent of qualified expenditures in the state and cannot be used for wages paid to nonresidents. No requirements of this program may be waived.

Similar to the current QAC program, the DEO must make a recommendation to the Governor within 7 days of reviewing an application. Recommendations must include performance conditions required to obtain any funds. The Governor may approve any project requiring less than $2 million in funding without consulting the Legislature. For projects requiring funding between $2 million and $5 million, the Governor must submit a written description and evaluation of the project to the chair and vice chair of the Legislative Budget Commission (LBC) at least 10 days before giving final approval. The LBC, President of the Senate, or Speaker of the House of Representatives may direct the Governor to avoid release of funds until the LBC or the Legislature addresses the issue. For projects requiring over $5 million in funding, LBC approval is required before any funds can be released.

Upon approval, the DEO and the production company must enter into an agreement specifying;
- The total funds awarded and scheduled payments;
- The performance conditions required to obtain payments;
- The methodology for validating performance conditions;
- That the DEO may review and verify company records to ascertain compliance;
- Sanctions for failure to meet performance conditions; and
- That fund payments are contingent upon appropriation by the Legislature.

Once the Governor has approved a project, agreements must be signed by all parties within 90 days and the production must start within 1 year. Production companies cannot receive an award from the fund and benefit from sales tax exemptions in s. 288.1258, F.S., for the same production.

The DEO cannot approve awards in excess of the amount, if any, appropriated in a fiscal year. For the first 6 months, the DEO will set aside 50 percent of any amount appropriated to the program to be used for awarding applications received on or after January 1st of each fiscal year. The DEO cannot accept applications or conditionally commit awards in a period where there has been no appropriation. The bill provides for the reimbursement of costs and penalties associated with fraudulent claims.

The DEO must validate contractor performance and include such findings in an annual report required to be submitted on November 1st of each year.

This program expires on July 1, 2026. Agreements in existence on that date continue in accordance with their terms.

The bill does not provide an appropriation for the Entertainment Action Fund program.

Other Entertainment Industry Incentive Programs

Current Situation

In 2003, the Legislature created the Entertainment Industry Financial Incentive Program,[28] which is a 6-year program that began July 1, 2010, and sunsets June 30, 2016. The program provides tax credits for qualified expenditures related to filming and production activities in Florida. These tax credits may be applied against the corporate income tax or sales and use taxes. Additionally these tax credits may be transferred or sold one time.[29]

Over the 6 year period, a total of $296 million in tax credits were authorized. Annual limitations for tax credits were set at:
- $53.5 million in Fiscal Year 2010-11;
- $74.5 million in Fiscal Year 2011-12; and

[28] Section 288.1254, F.S. See ch. 2003-81, L.O.F. In 2010, the incentive program was changed from a cash reimbursement type program to the current form. See ch. 2010-147, L.O.F.
[29] Also, tax credits may be relinquished to the Department of Revenue for 90 percent of the amount of the relinquished tax credit.

- $42 million in each Fiscal Year 2012-13, 2013-14, 2014-15, and 2015-16.[30]

The OFE reports that all of the tax credits authorized for the 6-year period have been certified (*allocated to certified productions*).[31]

Entertainment industry qualified production companies are eligible for several exemptions from taxes under ch. 212, F.S. A qualified production company can obtain a certificate to avoid paying tax at the point of sale, rather than claiming a refund after paying the tax.[32] Qualified production companies are exempt from paying sales tax for the following:

- *Lease or rental of real property* that is used as an integral part of an activity or service performed directly in connection with the production of a qualified motion picture (the term "activity or service" includes photography, casting, location scouting, and designing sets).[33]
- *Fabrication labor* when a producer uses his or her own equipment and personnel to produce a qualified motion picture.[34]
- *Purchase or lease of motion picture and video equipment and sound recording equipment* used in Florida for motion picture or television production or for the production of master tapes or master records.[35]
- *Sale, lease, storage, or use of blank master tapes, records, films, and video tapes*.[36]

The OFE reviews and approves applications for the exemptions and the Department of Revenue (DOR) issues certificates of exemption to the production companies.

Effect of Proposed Changes

Section 25 bill amends s. 288.1254, F.S., the entertainment industry financial incentive program, to change the repeal date of the program from July 1, 2016 to April 1, 2016, and provide that no credits certified before the repeal date may be awarded after the repeal date. The DOR must deny any credit claimed on a tax return if the credit was awarded on or after the repeal date.

Section 27 amends s. 288.1258, F.S., to clarify that the sales tax exemption certificate exempts purchases made on or after the date that a completed application is filed with the DOR. The bill provides that production companies that receive a sales tax exemption certificate under s. 288.1258, F.S., may not also receive benefits from the newly created Entertainment Action Fund under s. 288.1256, F.S. The bill clarifies the renewal and reporting processes for the 1-year and 90-day certificates.

Additionally, the bill amends cross references in the definition of "entertainment industry" in s. 288.125, F.S., (**Section 21**) and in s. 477.0135, F.S. (**Section 34**).

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[30] Section 288.1254(7), F.S. In 2012, an additional year was added to the program. See s. 15, ch. 2012-32, L.O.F.
[31] Office of Economic and Demographic Research, The Florida Legislature, *Return on Investment for the Entertainment Industry Incentive Programs* (January, 2015).
[32] Section 288.1258, F.S. See also Department of Revenue, Film in Florida Sales Tax Exemption, available at http://dor.myflorida.com/dor/taxes/film_in_florida.html (last visited January 21, 2016).
[33] Section 212.031(1)(a)9., F.S.
[34] Section 212.06(1)(b), F.S., provides a definition of the term "qualified motion picture" for purposes of ch. 212, F.S.
[35] Section 212.08(5)(f), F.S.
[36] Section 212.08(12), F.S.

Defense Grant Programs

Present Situation

Section 288.980, F.S., establishes grant programs designed to aid defense-dependent communities throughout the state, administered by Enterprise Florida, Inc., (EFI) and the Department of Economic Opportunity (DEO). Among these programs are the Florida Defense Reinvestment Grant Program (DRG)[37] and the Defense Infrastructure Grant Program (DIG).[38]

The DIG program competitively funds local infrastructure projects deemed to have a positive impact on the military value of installations within the state. Authorized DIG projects include, but are not limited to, those relating to encroachment, transportation and access, utilities, communications, housing, environment, and security.

In 2004, the Legislature created the DIG program in s. 288.980(4), F.S, with a provision that the now-defunct Office of Tourism, Trade, and Economic Development (OTTED) *could require* a match by the county or local community grant applicants.[39] However, s. 288.980(2)(c)2., F.S., was added in 2004 to provide that OTTED *must require*, with one exception that a grant applicant agree to match at least 30 percent of any grant awarded.[40] This apparent conflict between the required grant match for DRG projects and permissive grant match for DIG projects has existed since 2004. According to EFI, in administering the two programs, the DEO and EFI require the 30 percent match for DRG projects only, and the 30 percent match requirement is appropriate for the DRG program, not the DIG program.

Effect of Proposed Changes

Section 39 of the bill amends s. 288.980, F.S., to remove the 30 percent match requirement for grants awarded under the Defense Infrastructure Grant Program. The bill clarifies that the 30 percent match requirement applies only to the Defense Reinvestment Grant Program for applicants that are defense-dependent counties and cities, and local economic development councils located in those communities.

Miscellaneous Changes

The bill repeals the following obsolete provisions:

- Provision in the CITC program allowing a waiver between July 1, 2011, and June 30, 2014, under certain circumstances **(Section 4)**.
- Provision in the Sports Development program allowing an application for state funding for new facilities or projects commenced before July 1, 2014 (Section 17, amending s. 288.11625, F.S.).
- The International Game Fish Association World Center, as all distributions to the International Game Fish Association have been made (**Sections 3, 6, and 19, amending ss. 212.20(6)(d)6.d., s. 288.0001(2)(b)4., and 288.1169, F.S., respectively).**

[37] Section 288.980(4), F.S.
[38] Section 288.980(5), F.S.
[39] Chapter 2004-230, L.O.F.
[40] This 30 percent match requirement has remained in law since 2004, and is currently codified at s. 288.980(3)(c)2., F.S.

Additionally the bill makes clarifying, conforming, or technical changes in s. 288.076, F.S., related to the return on investment reporting for economic development programs (**Section 9**); s. 288.1089, F.S., related to the Innovation Incentive Program (**Section 15**); s. 288.11625, F.S., related to the sports development program (**Section 17**); and s. 288.11631, F.S., related to the Retention of MLB spring training baseball franchises program (**Section 18**).

Effective Date

The bill is effective upon becoming law, except as otherwise expressly provided for in the bill. The provisions related to the Florida Sports Foundation are effective July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

Under CS/SB 1646, the extension of the Qualified Defense Contractor and Space Flight tax refund program to allow the Department of Economic Opportunity (DEO) to certify applications through June 30, 2018, will have a negative impact to state revenues. Funds to make payments for this refund program are appropriated in the General Appropriations Act each year.

B. Private Sector Impact:

The bill will have an indeterminate, but positive, fiscal impact to businesses that are certified to participate in the Qualified Defense Contractor and Space Flight tax refund program.

C. Government Sector Impact:

The bill does not provide an appropriation for the Entertainment Action Fund program. The DEO will not be able to implement the program unless funding is included in the Fiscal Year 2016-2017 General Appropriations Act.

The bill will have an indeterminate, but expected to be minimal, fiscal impact to the DEO and Enterprise Florida, Inc.; any additional costs are expected to be absorbed within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.60, 196.012, 212.20, 220.191, 220.196, 288.0001, 288.005, 288.061, 288.076, 288.095, 288.1045, 288.106, 288.108, 288.1088, 288.1089, 288.11621, 288.11625, 288.11631, 288.125, 288.1254, 288.1258, 288.901, 288.9015, 288.907, 288.92, 288.980, 320.08058, and 477.0135.

This bill revives, reenacts, and amends section 288.1229 of the Florida Statutes.

This bill substantially amends and renumbers the following sections of the Florida Statutes: 288.1251 as 288.913; 288.1252 as 288.914; and 288.1253 as 288.915.

This bill creates section 288.1256 of the Florida Statutes.

This bill repeals section 288.1169 of the Florida Statutes.

IX. Additional Information:

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

CS by Commerce and Tourism on January 25, 2016:

- The CS renames the Quick Action Closing Fund as the "Florida Enterprise Fund," and makes the following changes to the fund:
  - Lowers the required return on investment (ROI) from 5 to 1, to 3 to 1.
  - Requires that projects create at least 10 jobs.
  - Requires that 20 percent of the award comes from local financial support.
- The bill requires that all state funds used to benefit a business be included in the ROI for calculating projects' economic benefits.
- For all incentive programs, the bill:
  - Clarifies that when calculating projects' economic benefits a business's capital investment does not include any public funds;
  - Requires capital investment made by a business to remain in the state for the duration of the incentives contract;
  - Limits the duration of contracts to 10 years; and

- Requires the DEO to provide a notice to the Legislature of executed contracts.

- The bill extends certification for the QDSC program to June 30, 2018 and allows for late filings in 2014 to be claimed under certain conditions. The bill clarifies that the "tax refund" program is not a repayment of taxes but taxes paid operate as a limitation on the incentive award amount.
- The bill requires that the incentive project reports by the DEO, and the annual incentives report by EFI, include data on the number of jobs created and retained and the number of jobs created and retained that provide health benefits.
- The bill updates the board requirements for the Florida Sports Foundation to reflect their current board. The bill also removes the requirement that the foundation use proceeds from the Florida Professional Sports Team license plate to promote and develop education programs in state schools.

B. Amendments:

None.

By the Committee on Commerce and Tourism; and Senator Latvala

577-02554A-16 20161646c1

A bill to be entitled

An act relating to economic development; amending s. 20.60, F.S.; requiring the Department of Economic Opportunity to contract with a direct-support organization to promote the sports industry and the participation of residents in certain athletic competitions in this state and to promote the state as a host for certain athletic competitions; amending s. 196.012, F.S.; conforming provisions to changes made by the act; amending s. 212.20, F.S.; deleting an obsolete provision; amending s. 220.191, F.S.; revising the definition of the term "cumulative capital investment"; deleting an obsolete provision; conforming a cross-reference; amending s. 220.196, F.S.; conforming a cross-reference; amending s. 288.0001, F.S.; conforming cross-references; requiring the Office of Economic and Demographic Research and the Office of Program Policy Analysis and Government Accountability to provide a detailed analysis of the retention of Major League Baseball spring training baseball franchises; amending s. 288.005, F.S.; defining the term "average private sector wage in the area"; revising the definition of the term "economic benefits"; amending s. 288.061, F.S.; requiring the Office of Economic and Demographic Research to include certain guidelines for the calculation of economic benefits; providing requirements for an amended definition by the office; prohibiting the department from attributing to a business certain investments for specified purposes; requiring the department to consider certain investments for specified purposes; providing requirements for the contract or agreement;

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prohibiting the department from entering into an agreement or a contract that has a term of longer than 10 years; authorizing the department to enter into a successive agreement or contract for a specified project under certain circumstances; providing applicability; requiring the department to provide specified notice to the Legislature upon the final execution of each contract or agreement; amending s. 288.076, F.S.; revising definitions; conforming cross-references; providing requirements for information that the department is required to publish on a certain website; amending s. 288.095, F.S.; conforming provisions to changes made by the act; amending s. 288.1045, F.S.; deleting the definition of the term "average wage in the area"; authorizing a business to receive an approved refund if the business fails to submit certain documentation under certain circumstances; extending an expiration date; conforming provisions to changes made by the act; amending s. 288.106, F.S.; deleting the definition of the term "average private sector wage in the area"; making technical changes; providing that certain incentive payments are not repayment of actual taxes paid; providing that actual taxes paid limit the amount of incentive payments a business may receive; amending s. 288.108, F.S.; revising definitions; amending s. 288.1088, F.S.; renaming the Quick Action Closing Fund as the Florida Enterprise Fund; revising the requirements for projects eligible for receipt of

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

funds from the fund; requiring local financial support; defining a term; requiring a certain waiver request to be transmitted in writing to the department with an explanation of the specific justification for the request; requiring a decision to be stated in writing with an explanation of the reason for approving the request if the department approves the request; requiring the department to issue a letter to an applicant in certain circumstances; prohibiting the payment of moneys from the fund to a business until the scheduled goals have been achieved; conforming provisions to changes made by the act; amending s. 288.1089, F.S.; deleting the definition of the term "average private sector wage"; conforming provisions to changes made by the act; amending s. 288.11621, F.S.; conforming a provision to changes made by the act; amending s. 288.11625, F.S.; conforming cross-references; deleting an obsolete provision relating to applications for state funds by new facilities or projects commenced before July 1, 2014; amending s. 288.11631, F.S.; conforming cross-references; repealing s. 288.1169, F.S., relating to state agency funding of the International Game Fish Association World Center facility; reviving, reenacting, and amending s. 288.1229, F.S., relating to the promotion and development of sports-related industries and amateur athletics; requiring the department to create a direct-support organization to assist the department in certain promotion and development; naming the

direct support organization the Florida Sports Foundation; specifying the purpose of the foundation; specifying requirements for the foundation, including appointment of a governing board; requiring that the foundation operate under written contract with the department; specifying provisions that must be included in the contract; providing that the department may allow the foundation to use certain facilities, personnel, and services if it complies with certain provisions; requiring an annual financial audit of the foundation; specifying duties of the foundation; deleting residency requirements for participants of the Sunshine State Games and Florida Senior Games; deleting certain competition requirements; conforming provisions to changes made by the act; amending s. 288.125, F.S.; revising the applicability of the term "entertainment industry"; renumbering and amending s. 288.1251, F.S.; renaming the Office of Film and Entertainment within the department as the Division of Film and Entertainment within Enterprise Florida, Inc.; requiring the division to serve as a liaison between the entertainment industry and other agencies, commissions, and organizations; requiring the president of Enterprise Florida, Inc., to appoint the film and entertainment commissioner within a specified period of time; revising the requirements of the division's strategic plan; renumbering and amending s. 288.1252, F.S.; revising the powers and duties of the

Florida Film and Entertainment Advisory Council; revising council membership; conforming provisions to changes made by the act; renumbering and amending s. 288.1253, F.S.; prohibiting the division and its employees and representatives from accepting specified accommodations, goods, or services from specified parties; providing that a person who accepts any such goods or services is subject to specified penalties; conforming provisions to changes made by the act; amending s. 288.1254, F.S.; revising the date of repeal; prohibiting, rather than authorizing, an award of credits after April 1, 2016; requiring the Department of Revenue to deny certain credits received on or after April 1, 2016; creating s. 288.1256, F.S.; creating the Entertainment Action Fund within the Department of Economic Opportunity; defining terms; authorizing a production company to apply for funds from the Entertainment Action Fund in certain circumstances; requiring the division to review and evaluate applications to determine the eligibility of each project; requiring the division to select projects that maximize the return to the state; requiring certain criteria to be considered by the division; requiring a production company to have financing for a project before it applies for action funds; requiring the department to prescribe a form for an application with specified information; requiring that the division and the department make a recommendation to the Governor to approve or deny an

award within a specified timeframe after the completion of the review and evaluation; providing that an award of funds may not constitute more than a specified percentage of qualified expenditures in this state; prohibiting the use of such funds to pay wages to nonresidents; requiring a production to start within a specified period after it is approved by the Governor; requiring that the recommendation include performance conditions that the project must meet to obtain funds; authorizing the Governor to approve a project without consulting the Legislature under certain circumstances; requiring the Governor to provide a written description and evaluation of a project before giving final approval of the project under certain circumstances; requiring the department and the production company to enter into a specified agreement after approval by the Governor; requiring that the agreement be finalized and signed by an authorized officer of the production company within a specified period after approval by the Governor; prohibiting an approved production company from simultaneously receiving specified benefits for the same production; requiring that the department validate contractor performance and report such validation in the annual report; prohibiting the department from approving awards in excess of the amount appropriated for a fiscal year; requiring the department to maintain a schedule of funds; prohibiting the department or division from accepting

applications or conditionally committing funds under certain circumstances; providing that a production company that submits fraudulent information is liable for reimbursement of specified costs; providing a penalty; prohibiting the department or division from waiving any provision or providing an extension of time to meet specified requirements; providing an expiration date; amending s. 288.1258, F.S.; conforming provisions to changes made by the act; prohibiting an approved production company from simultaneously receiving benefits under specified provisions for the same production; requiring the department to develop a standardized application form in cooperation with the division and other agencies; requiring the production company to submit aggregate data on specified topics; authorizing a production company to renew its certificate of exemption for a specified period; amending ss. 288.901 and 288.9015, F.S.; conforming provisions to changes made by the act; amending s. 288.907 , F.S.; requiring reporting on the number of jobs that provide health benefits to employees; amending s. 288.92, F.S.; revising the required divisions within Enterprise Florida, Inc.; amending s. 288.980, F.S.; authorizing grant awards for activities that grow the economy of a defense-dependent community; making technical changes; amending s. 320.08058, F.S.; conforming provisions to changes made by the act; amending uses of the proceeds of the Florida Professional Sports Team license plate;

amending s. 477.0135, F.S.; conforming provisions to changes made by the act; providing effective dates.

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

Section 1. Effective July 1, 2016, paragraph (g) is added to subsection (4) of section 20.60, Florida Statutes, to read:

20.60 Department of Economic Opportunity; creation; powers and duties.—

(4) The purpose of the department is to assist the Governor in working with the Legislature, state agencies, business leaders, and economic development professionals to formulate and implement coherent and consistent policies and strategies designed to promote economic opportunities for all Floridians. To accomplish such purposes, the department shall:

(g) Notwithstanding part I of chapter 287, contract with the direct-support organization created under s. 288.1229 to guide, stimulate, and promote the sports industry in this state, to promote the participation of residents of this state in amateur athletic competition, and to promote this state as a host for national and international amateur athletic competitions.

Section 2. Paragraph (a) of subsection (14) of section 196.012, Florida Statutes, is amended to read:

196.012 Definitions.—For the purpose of this chapter, the following terms are defined as follows, except where the context clearly indicates otherwise:

(14) "New business" means:

(a)1. A business or organization establishing 10 or more

new jobs to employ 10 or more full-time employees in this state which pays~~, paying~~ an average wage for such new jobs which ~~that~~ is above the average wage in the area and~~, which~~ principally engages in any one or more of the following operations:

a. Manufactures, processes, compounds, fabricates, or produces for sale items of tangible personal property at a fixed location and which comprises an industrial or manufacturing plant; or

b. Is a target industry business as defined in s. 288.106(2) ~~s. 288.106(2)(q)~~;

2. A business or organization establishing 25 or more new jobs to employ 25 or more full-time employees in this state, the sales factor of which, as defined by s. 220.15(5), for the facility with respect to which it requests an economic development ad valorem tax exemption is less than 0.50 for each year the exemption is claimed; or

3. An office space in this state owned and used by a business or organization newly domiciled in this state if~~,~~ ~~provided~~ such office space houses 50 or more full-time employees of such business or organization and~~; provided that such business or organization office~~ first begins operation on a site clearly separate from any other commercial or industrial operation owned by the same business or organization.

Section 3. Paragraph (d) of subsection (6) of section 212.20, Florida Statutes, is amended to read:

212.20 Funds collected, disposition; additional powers of department; operational expense; refund of taxes adjudicated unconstitutionally collected.—

(6) Distribution of all proceeds under this chapter and ss.

202.18(1)(b) and (2)(b) and 203.01(1)(a)3. is as follows:

(d) The proceeds of all other taxes and fees imposed pursuant to this chapter or remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be distributed as follows:

1. In any fiscal year, the greater of $500 million, minus an amount equal to 4.6 percent of the proceeds of the taxes collected pursuant to chapter 201, or 5.2 percent of all other taxes and fees imposed pursuant to this chapter or remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in monthly installments into the General Revenue Fund.

2. After the distribution under subparagraph 1., 8.9744 percent of the amount remitted by a sales tax dealer located within a participating county pursuant to s. 218.61 shall be transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund. Beginning July 1, 2003, the amount to be transferred shall be reduced by 0.1 percent, and the department shall distribute this amount to the Public Employees Relations Commission Trust Fund less $5,000 each month, which shall be added to the amount calculated in subparagraph 3. and distributed accordingly.

3. After the distribution under subparagraphs 1. and 2., 0.0966 percent shall be transferred to the Local Government Half-cent Sales Tax Clearing Trust Fund and distributed pursuant to s. 218.65.

4. After the distributions under subparagraphs 1., 2., and 3., 2.0810 percent of the available proceeds shall be transferred monthly to the Revenue Sharing Trust Fund for Counties pursuant to s. 218.215.

5. After the distributions under subparagraphs 1., 2., and

3., 1.3653 percent of the available proceeds shall be transferred monthly to the Revenue Sharing Trust Fund for Municipalities pursuant to s. 218.215. If the total revenue to be distributed pursuant to this subparagraph is at least as great as the amount due from the Revenue Sharing Trust Fund for Municipalities and the former Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, no municipality shall receive less than the amount due from the Revenue Sharing Trust Fund for Municipalities and the former Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000. If the total proceeds to be distributed are less than the amount received in combination from the Revenue Sharing Trust Fund for Municipalities and the former Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, each municipality shall receive an amount proportionate to the amount it was due in state fiscal year 1999-2000.

6. Of the remaining proceeds:

a. In each fiscal year, the sum of $29,915,500 shall be divided into as many equal parts as there are counties in the state, and one part shall be distributed to each county. The distribution among the several counties must begin each fiscal year on or before January 5th and continue monthly for a total of 4 months. If a local or special law required that any moneys accruing to a county in fiscal year 1999-2000 under the then-existing provisions of s. 550.135 be paid directly to the district school board, special district, or a municipal government, such payment must continue until the local or special law is amended or repealed. The state covenants with holders of bonds or other instruments of indebtedness issued by

local governments, special districts, or district school boards before July 1, 2000, that it is not the intent of this subparagraph to adversely affect the rights of those holders or relieve local governments, special districts, or district school boards of the duty to meet their obligations as a result of previous pledges or assignments or trusts entered into which obligated funds received from the distribution to county governments under then-existing s. 550.135. This distribution specifically is in lieu of funds distributed under s. 550.135 before July 1, 2000.

b. The department shall distribute $166,667 monthly to each applicant certified as a facility for a new or retained professional sports franchise pursuant to s. 288.1162. Up to $41,667 shall be distributed monthly by the department to each certified applicant as defined in s. 288.11621 for a facility for a spring training franchise. However, not more than $416,670 may be distributed monthly in the aggregate to all certified applicants for facilities for spring training franchises. Distributions begin 60 days after such certification and continue for not more than 30 years, except as otherwise provided in s. 288.11621. A certified applicant identified in this sub-subparagraph may not receive more in distributions than expended by the applicant for the public purposes provided in s. 288.1162(5) or s. 288.11621(3).

c. Beginning 30 days after notice by the Department of Economic Opportunity to the Department of Revenue that an applicant has been certified as the professional golf hall of fame pursuant to s. 288.1168 and is open to the public, $166,667 shall be distributed monthly, for up to 300 months, to the

applicant.

~~d. Beginning 30 days after notice by the Department of Economic Opportunity to the Department of Revenue that the applicant has been certified as the International Game Fish Association World Center facility pursuant to s. 288.1169, and the facility is open to the public, $83,333 shall be distributed monthly, for up to 168 months, to the applicant. This distribution is subject to reduction pursuant to s. 288.1169. A lump sum payment of $999,996 shall be made after certification and before July 1, 2000.~~

d.~~e.~~ The department shall distribute up to $83,333 monthly to each certified applicant as defined in s. 288.11631 for a facility used by a single spring training franchise, or up to $166,667 monthly to each certified applicant as defined in s. 288.11631 for a facility used by more than one spring training franchise. Monthly distributions begin 60 days after such certification or July 1, 2016, whichever is later, and continue for not more than 20 years to each certified applicant as defined in s. 288.11631 for a facility used by a single spring training franchise or not more than 25 years to each certified applicant as defined in s. 288.11631 for a facility used by more than one spring training franchise. A certified applicant identified in this sub-subparagraph may not receive more in distributions than expended by the applicant for the public purposes provided in s. 288.11631(3).

e.~~f.~~ Beginning 45 days after notice by the Department of Economic Opportunity to the Department of Revenue that an applicant has been approved by the Legislature and certified by the Department of Economic Opportunity under s. 288.11625 or

upon a date specified by the Department of Economic Opportunity as provided under s. 288.11625(6)(d), the department shall distribute each month an amount equal to one-twelfth of the annual distribution amount certified by the Department of Economic Opportunity for the applicant. The department may not distribute more than $7 million in the 2014-2015 fiscal year or more than $13 million annually thereafter under this sub-subparagraph.

f.~~g.~~ Beginning December 1, 2015, and ending June 30, 2016, the department shall distribute $26,286 monthly to the State Transportation Trust Fund. Beginning July 1, 2016, the department shall distribute $15,333 monthly to the State Transportation Trust Fund.

7. All other proceeds must remain in the General Revenue Fund.

Section 4. Paragraphs (b) and (g) of subsection (1) of section 220.191, Florida Statutes, are amended to read:

220.191 Capital investment tax credit.—

(1) DEFINITIONS.—For purposes of this section:

(b) "Cumulative capital investment" means the total capital investment in land, buildings, and equipment made by, or on behalf of, the qualifying business in connection with a qualifying project during the period from the beginning of construction of the project to the commencement of operations. The term does not include funds granted to or spent on behalf of the qualifying business by the state, a local government, or other governmental entity; funds appropriated in the General Appropriations Act; or funds otherwise provided to the qualifying business by a state agency, local government, or

other governmental entity.

(g) "Qualifying project" means a facility in this state meeting one or more of the following criteria:

1. A new or expanding facility in this state which creates at least 100 new jobs in this state and is in one of the high-impact sectors identified by Enterprise Florida, Inc., and certified by the Department of Economic Opportunity pursuant to s. 288.108(6), including, but not limited to, aviation, aerospace, automotive, and silicon technology industries. ~~However, between July 1, 2011, and June 30, 2014, the requirement that a facility be in a high-impact sector is waived for any otherwise eligible business from another state which locates all or a portion of its business to a Disproportionally Affected County. For purposes of this section, the term "Disproportionally Affected County" means Bay County, Escambia County, Franklin County, Gulf County, Okaloosa County, Santa Rosa County, Walton County, or Wakulla County.~~

2. A new or expanded facility in this state which is engaged in a target industry designated pursuant to the procedure specified in s. 288.106(2) and which is induced by this credit to create or retain at least 1,000 jobs in this state, provided that at least 100 of those jobs are new, pay an annual average wage of at least 130 percent of the average private sector wage in the area as defined in s. 288.005(1) ~~s. 288.106(2)~~, and make a cumulative capital investment of at least $100 million. Jobs may be considered retained only if there is significant evidence that the loss of jobs is imminent. Notwithstanding subsection (2), annual credits against the tax imposed by this chapter may not exceed 50 percent of the

increased annual corporate income tax liability or the premium tax liability generated by or arising out of a project qualifying under this subparagraph. A facility that qualifies under this subparagraph for an annual credit against the tax imposed by this chapter may take the tax credit for a period not to exceed 5 years.

3. A new or expanded headquarters facility in this state which locates in an enterprise zone and brownfield area and is induced by this credit to create at least 1,500 jobs which on average pay at least 200 percent of the statewide average annual private sector wage, as published by the Department of Economic Opportunity, and which new or expanded headquarters facility makes a cumulative capital investment in this state of at least $250 million.

Section 5. Paragraph (a) of subsection (2) of section 220.196, Florida Statutes, is amended to read:

220.196 Research and development tax credit.—

(2) TAX CREDIT.—

(a) As provided in this section, a business enterprise is eligible for a credit against the tax imposed by this chapter if it:

1. Has qualified research expenses in this state in the taxable year exceeding the base amount;

2. Claims and is allowed a research credit for such qualified research expenses under 26 U.S.C. s. 41 for the same taxable year as subparagraph 1.; and

3. Is a qualified target industry business as defined in s. 288.106(2) ~~s. 288.106(2)(n)~~. Only qualified target industry businesses in the manufacturing, life sciences, information

technology, aviation and aerospace, homeland security and defense, cloud information technology, marine sciences, materials science, and nanotechnology industries may qualify for a tax credit under this section. A business applying for a credit pursuant to this section shall include a letter from the Department of Economic Opportunity certifying whether the business meets the requirements of this subparagraph with its application for credit. The Department of Economic Opportunity shall provide such a letter upon receiving a request.

Section 6. Paragraphs (a), (b), and (e) of subsection (2) of section 288.0001, Florida Statutes, are amended to read:

288.0001 Economic Development Programs Evaluation.—The Office of Economic and Demographic Research and the Office of Program Policy Analysis and Government Accountability (OPPAGA) shall develop and present to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of the legislative appropriations committees the Economic Development Programs Evaluation.

(2) The Office of Economic and Demographic Research and OPPAGA shall provide a detailed analysis of economic development programs as provided in the following schedule:

(a) By January 1, 2014, and every 3 years thereafter, an analysis of the following:

1. The capital investment tax credit established under s. 220.191.

2. The qualified target industry tax refund established under s. 288.106.

3. The brownfield redevelopment bonus refund established under s. 288.107.

4. High-impact business performance grants established under s. 288.108.

5. The Florida Enterprise ~~Quick Action Closing~~ Fund established under s. 288.1088.

6. The Innovation Incentive Program established under s. 288.1089.

7. Enterprise Zone Program incentives established under ss. 212.08(5) and (15), 212.096, 220.181, and 220.182.

8. The New Markets Development Program established under ss. 288.991-288.9922.

(b) By January 1, 2015, and every 3 years thereafter, an analysis of the following:

1. The entertainment industry financial incentive program established under s. 288.1254.

2. The entertainment industry sales tax exemption program established under s. 288.1258.

3. The Florida Tourism Industry Marketing Corporation ~~VISIT Florida~~ and its programs established or funded under ss. 288.122, 288.1226, 288.12265, and 288.124.

4. The Florida Sports Foundation and related programs established under ss. 288.1162, 288.11621, 288.1166, 288.1167, 288.1168, ~~288.1169,~~ and 288.1171.

(e) Beginning January 1, 2018, and every 3 years thereafter, an analysis of the Sports Development Program established under s. 288.11625 and the retention of Major League Baseball spring training baseball franchises under s. 288.11631.

Section 7. Present subsection (1) of section 288.005, Florida Statutes, is amended, and present subsections (3) through (6) of that section are redesignated as subsections (4)

through (7), respectively, and a new subsection (1) is added to that section, to read:

288.005 Definitions.—As used in this chapter, the term:

(1) "Average private sector wage in the area" means the statewide average wage in the private sector or the average of all private sector wages in the county or in the standard metropolitan area in which the project is located, as determined by the department.

(3)~~(1)~~ "Economic benefits" means the direct, indirect, and induced gains in state revenues as a percentage of the state's investment. The state's investment includes all state funds spent or foregone to benefit a business, including state funds appropriated to public and private entities, state grants, tax exemptions, tax refunds, tax credits, and other state incentives.

Section 8. Subsections (2) and (3) of section 288.061, Florida Statutes, are amended to read:

288.061 Economic development incentive application process.—

(2)(a) ~~Beginning July 1, 2013,~~ The department shall review and evaluate each economic development incentive application for the economic benefits of the proposed award of state incentives proposed for the project.

(b) As used in this subsection, the term "economic benefits" has the same meaning as in s. 288.005. The Office of Economic and Demographic Research shall establish the methodology and model used to calculate the economic benefits, including guidelines for the appropriate application of the department's internal model. For purposes of this requirement,

an amended definition of the term "economic benefits" may be developed by the Office of Economic and Demographic Research. However, the amended definition must reflect the requirement of s. 288.005 that the calculation of the state's investment include all state funds spent or foregone to benefit the business, including state funds appropriated to public and private entities, to the extent that those funds should reasonably be known to the department at the time of approval.

(c) For the purpose of calculating the economic benefits of the proposed award of state incentives for the project, the department may not attribute to the business any capital investment made by the business using state funds. However, for the purpose of evaluating an economic development incentive application, the department shall consider the cumulative capital investment, as defined in s. 220.191.

(3) Within 10 business days after the department receives a complete ~~the submitted~~ economic development incentive application, the executive director shall approve or disapprove the application and issue a letter of certification to the applicant which includes a justification of that decision, unless the business requests an extension of ~~that~~ time.

(a) The ~~contract or~~ agreement or contract with the applicant must specify the total amount of the award, the performance conditions that must be met to obtain the award, the schedule for payment, and sanctions that would apply for failure to meet performance conditions. Any agreement or contract that requires the business to make a capital investment must also require that such investment remain in this state for the duration of the agreement or contract, with the exception of an

investment made in transportation-related assets specifically used for the purpose of transporting goods or employees. The department may enter into one agreement or contract covering all of the state incentives that are being provided to the applicant. The agreement or contract must provide that release of funds is contingent upon sufficient appropriation of funds by the Legislature.

(b) The department may not enter into an agreement or a contract that has a term of more than 10 years. However, the department may enter into a successive agreement or contract for a specific project to extend the initial 10-year term if each successive agreement or contract is contingent upon the successful completion of the previous agreement or contract. This paragraph does not apply to an agreement or a contract for a project receiving a capital investment tax credit under s. 220.191 or an Innovation Incentive Program award under s. 288.1089.

(c) The department shall provide a notice, including an updated description and evaluation, to the Legislature upon the final execution of each contract or agreement. Any contract or agreement executed by the department for a project under s. 288.108, s. 288.1088, or s. 288.1089 must embody performance criteria and timelines that were in the written description and evaluation submitted to the Legislature.

(d) ~~(b)~~ The release of funds for the incentive or incentives awarded to the applicant depends upon the statutory requirements of the particular incentive program.

Section 9. Paragraphs (a), (c), and (e) of subsection (1), paragraph (e) of subsection (3), and subsection (6) of section

288.076, Florida Statutes, are amended to read:

288.076 Return on investment reporting for economic development programs.—

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

(a) "Jobs" has the same meaning as provided in s. 288.106(2) ~~s. 288.106(2)(i)~~.

(c) "Project" has the same meaning as provided in s. 288.106(2) ~~s. 288.106(2)(m)~~.

(e) "State investment" means all state funds spent or foregone to benefit a business, including state funds appropriated to public and private entities, ~~any~~ state grants, tax exemptions, tax refunds, tax credits, and any other source of state funds which should reasonably be known to the department at the time of approval ~~or other state incentives provided to a business under a program administered by the department~~, including the capital investment tax credit under s. 220.191.

(3) Within 48 hours after expiration of the period of confidentiality for project information deemed confidential and exempt pursuant to s. 288.075, the department shall publish the following information pertaining to each project:

(e) *Project performance goals.*—

1. The incremental direct jobs attributable to the project, identifying the number of jobs generated and the number of jobs retained.

2. The number of jobs generated and the number of jobs retained by the project, and for projects commencing after October 1, 2013, the average annual wage of persons holding such jobs and the number of jobs generated and the number of jobs

retained which provide health benefits for the employee.

3. The incremental direct capital investment in the state generated by the project.

(6) Annually, the department shall publish information relating to the progress of Florida Enterprise ~~Quick Action Closing~~ Fund projects, including the average number of days between the date the department receives a completed application and the date on which the application is approved.

Section 10. Subsection (2) and paragraph (c) of subsection (3) of section 288.095, Florida Statutes, are amended to read:

288.095 Economic Development Trust Fund.—

(2) There is created, within the Economic Development Trust Fund, the Economic Development Incentives Account. The Economic Development Incentives Account consists of moneys appropriated to the account for purposes of the tax incentives programs authorized under ss. 288.1045 and 288.106, and local financial support provided under ss. 288.1045, ~~and~~ 288.106, and 288.1088. Moneys in the Economic Development Incentives Account shall be subject to the provisions of s. 216.301(1)(a).

(3)

(c) Moneys in the Economic Development Incentives Account may be used only to pay tax refunds and make other payments authorized under s. 288.1045, s. 288.106, or s. 288.107 and payments authorized under s. 288.1088.

Section 11. Paragraph (b) of subsection (1) and paragraph (e) of subsection (3) of section 288.1045, Florida Statutes, are amended, paragraph (i) is added to subsection (5) of that section, and subsection (7) of that section is amended, to read:

288.1045 Qualified defense contractor and space flight

business tax refund program.—

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

~~(b) "Average wage in the area" means the average of all wages and salaries in the state, the county, or in the standard metropolitan area in which the business unit is located.~~

(3) APPLICATION PROCESS; REQUIREMENTS; AGENCY DETERMINATION.—

(e) To qualify for review by the department, the application of an applicant must, at a minimum, establish the following to the satisfaction of the department:

1. The jobs proposed to be provided under the application, pursuant to subparagraph (b)6., subparagraph (c)6., or subparagraph (j)6., must pay an estimated annual average wage equaling at least 115 percent of the average private sector wage in the area where the project is to be located.

2. The consolidation of a Department of Defense contract must result in a net increase of at least 25 percent in the number of jobs at the applicant's facilities in this state or the addition of at least 80 jobs at the applicant's facilities in this state.

3. The conversion of defense production jobs to nondefense production jobs must result in net increases in nondefense employment at the applicant's facilities in this state.

4. The Department of Defense contract or the space flight business contract does not ~~cannot~~ allow the business to include the costs of relocation or retooling in its base as allowable costs under a cost-plus, or similar, contract.

5. A business unit of the applicant must have derived not less than 60 percent of its gross receipts in this state from

Department of Defense contracts or space flight business contracts over the applicant's last fiscal year, and must have derived not less than an average of 60 percent of its gross receipts in this state from Department of Defense contracts or space flight business contracts over the 5 years preceding the date an application is submitted pursuant to this section. This subparagraph does not apply to any application for certification based on a contract for reuse of a defense-related facility.

6. The reuse of a defense-related facility will ~~must~~ result in the creation of at least 100 jobs at such facility.

7. A new space flight business contract or the consolidation of a space flight business contract will ~~must~~ result in net increases in space flight business employment at the applicant's facilities in this state.

(5) ANNUAL CLAIM FOR REFUND.—

(i) If a business fails to timely submit documentation requested by the department as required in the agreement between the business and the department and such failure results in the department withholding an otherwise approved refund, the business may receive the approved refund if:

1. The business submits the documentation to the department.

2. The business provides a written statement to the department detailing the extenuating circumstances that resulted in the failure to timely submit the documentation required by the agreement.

3. Funds appropriated under this section remain available.

4. The business was scheduled under the terms of the agreement to submit information to the department between

January 1, 2014, and December 31, 2014.

5. The business has met all other requirements of the agreement.

(7) EXPIRATION.—An applicant may not be certified as qualified under this section after June 30, 2018 ~~2014~~. A tax refund agreement existing on that date shall continue in effect in accordance with its terms.

Section 12. Paragraph (c) of subsection (2) and paragraph (b) of subsection (4) of section 288.106, Florida Statutes, are amended, present subsection is redesignated as subsection (10), and a new subsection is added to that section, to read:

288.106 Tax refund program for qualified target industry businesses.—

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

~~(c) "Average private sector wage in the area" means the statewide private sector average wage or the average of all private sector wages and salaries in the county or in the standard metropolitan area in which the business is located.~~

(4) APPLICATION AND APPROVAL PROCESS.—

(b) To qualify for review by the department, the application of a target industry business must, at a minimum, establish the following to the satisfaction of the department:

1.a. The jobs proposed to be created under the application, pursuant to subparagraph (a)4., must pay an estimated annual average wage equaling at least 115 percent of the average private sector wage in the area where the business is to be located ~~or the statewide private sector average wage~~. The governing board of the local governmental entity providing the local financial support of the jurisdiction where the qualified

target industry business is to be located shall notify the department and Enterprise Florida, Inc., which calculation of the average private sector wage in the area must be used as the basis for the business's wage commitment. In determining the average annual wage, the department shall include only new proposed jobs, and wages for existing jobs shall be excluded from this calculation.

b. The department may waive the average wage requirement at the request of the local governing body recommending the project and Enterprise Florida, Inc. The department may waive the wage requirement for a project located in a brownfield area designated under s. 376.80, in a rural city, in a rural community, in an enterprise zone, or for a manufacturing project at any location in the state if the jobs proposed to be created pay an estimated annual average wage equaling at least 100 percent of the average private sector wage in the area where the business is to be located, only if the merits of the individual project or the specific circumstances in the community in relationship to the project warrant such action. If the local governing body and Enterprise Florida, Inc., make such a recommendation, it must be transmitted in writing and must include an explanation of~~, and~~ the specific justification for the waiver recommendation ~~must be explained~~. If the department elects to waive the wage requirement, the waiver must be stated in writing and must include an explanation of~~, and~~ the reasons for granting the waiver ~~must be explained~~.

2. The target industry business's project must result in the creation of at least 10 jobs at the project and, in the case of an expansion of an existing business, must result in a net

increase in employment of at least 10 percent at the business. At the request of the local governing body recommending the project and Enterprise Florida, Inc., the department may waive this requirement for a business in a rural community or enterprise zone if the merits of the individual project or the specific circumstances in the community in relationship to the project warrant such action. If the local governing body and Enterprise Florida, Inc., make such a request, the request must be transmitted in writing and must include an explanation of~~,~~ ~~and~~ the specific justification for the request ~~must be explained~~. If the department elects to grant the request, the grant must be stated in writing~~,~~ and explain why the request was granted ~~the reason for granting the request must be explained~~.

3. The business activity or product for the applicant's project must be within an industry identified by the department as a target industry business that contributes to the economic growth of the state and the area in which the business is located, that produces a higher standard of living for residents of this state in the new global economy, or that can be shown to make an equivalent contribution to the area's and state's economic progress.

(9) INCENTIVE PAYMENTS.—The incentive payments made to a business pursuant to this section are not repayments of the actual taxes paid to the state or to a local government by the business. The amount of state and local government taxes paid by a business serve as a limitation on the amount of incentive payments a business may receive.

Section 13. Paragraph (b) of subsection (2) of section 288.108, Florida Statutes, is amended to read:

288.108 High-impact business.—

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

(b) "Cumulative investment" means the total investment in buildings and equipment made by a qualified high-impact business since the beginning of construction of such facility. The term does not include funds granted to or spent on behalf of the qualifying business by the state, a local government, or other governmental entity; funds appropriated in the General Appropriations Act; or funds otherwise provided to the qualifying business by a state agency, local government, or other governmental entity.

Section 14. Section 288.1088, Florida Statutes, are amended to read:

288.1088 Florida Enterprise ~~Quick Action Closing~~ Fund.—

(1)(a) The Legislature finds that attracting, retaining, and providing favorable conditions for the growth of certain high-impact business facilities, privately developed critical rural infrastructure, or key facilities in economically distressed urban or rural communities which provide widespread economic benefits to the public through high-quality employment opportunities in such facilities or in related facilities attracted to the state, through the increased tax base provided by the high-impact facility and related businesses, through an enhanced entrepreneurial climate in the state and the resulting business and employment opportunities, and through the stimulation and enhancement of the state's universities and community colleges. In the global economy, there exists serious and fierce international competition for these facilities, and in most instances, when all available resources for economic

development have been used, the state continues to encounter severe competitive disadvantages in vying for these business facilities. Florida's rural areas must provide a competitive environment for business in the information age. This often requires an incentive to make it feasible for private investors to provide infrastructure in those areas.

(b) The Legislature finds that the conclusion of the space shuttle program and the gap in civil human space flight will result in significant job losses that will negatively impact families, companies, the state and regional economies, and the capability level of this state's aerospace workforce. Thus, the Legislature also finds that this loss of jobs is a matter of state interest and great public importance. The Legislature further finds that it is in the state's interest for provisions to be made in incentive programs for economic development to maximize the state's ability to mitigate these impacts and to develop a more diverse aerospace economy.

(c) The Legislature therefore declares that sufficient resources shall be available to respond to extraordinary economic opportunities and to compete effectively for these high-impact business facilities, critical private infrastructure in rural areas, and key businesses in economically distressed urban or rural communities, and that up to 20 percent of these resources may be used for projects to retain or create high-technology jobs that are directly associated with developing a more diverse aerospace economy in this state.

(2) There is created within the department the Florida Enterprise ~~Quick Action Closing~~ Fund. Except as provided in subsection (3), projects eligible for receipt of funds from the

Florida Enterprise ~~Quick Action Closing~~ Fund must ~~shall~~:

(a) Be in an industry as referenced in s. 288.106.

(b) Have a positive economic benefit ratio of at least 3 to 1 ~~5 to 1~~.

(c) Be an inducement to the project's location or expansion in the state.

(d) Pay an average annual wage of at least 125 percent of the average ~~areawide or statewide~~ private sector ~~average~~ wage in the area.

(e) Be supported by the local community in which the project is to be located. Support must include a resolution adopted by the governing board of the county or municipality in which the project will be located, which resolution recommends that the project be approved and specifies that the commitments of local financial support necessary for the business exist. Before the passage of such resolution, the department may also accept an official letter from an authorized local economic development agency that endorses the proposed project and pledges that sources of local financial support for such project exist. For the purposes of making pledges of local financial support under this paragraph, the authorized local economic development agency shall be officially designated by the passage of a one-time resolution by the local governing board. For purposes of this section, the term "local financial support" means funding from local sources, public or private, which is paid to the Economic Development Trust Fund and which is equal to 20 percent of the Florida Enterprise Fund award to a business.

1. A business may not provide, directly or indirectly, more

than 5 percent of such funding in any fiscal year. The sources of such funding may not include, directly or indirectly, state funds appropriated from the General Revenue Fund or any state trust fund, excluding tax revenues shared with local governments pursuant to law.

2. A business may not receive more than 80 percent of its total award under this section from state funds.

(f) Create at least 10 new jobs.

(3)(a) The department and Enterprise Florida, Inc., shall jointly review applications pursuant to s. 288.061 and determine the eligibility of each project consistent with the criteria in subsection (2).

(b) If the local governing body and Enterprise Florida, Inc., decide to request a waiver of the criteria in subsection (2), the request must be transmitted in writing to the department with an explanation of the specific justification for the request. If the department approves the request, the decision must be stated in writing with an explanation of the reason for approving the request. A waiver of the criteria in subsection (2) ~~these criteria~~ may be considered for ~~under~~ the following reasons ~~criteria~~:

1. Based on extraordinary circumstances;

2. In order to mitigate the impact of the conclusion of the space shuttle program; or

3. In rural areas of opportunity if the project would significantly benefit the local or regional economy.

(4) ~~(b)~~ The department shall evaluate individual proposals for high-impact business facilities. Such evaluation must include, but need not be limited to:

(a) ~~1.~~ A description of the type of facility or infrastructure, its operations, and the associated product or service associated with the facility.

(b) ~~2.~~ The number of full-time-equivalent jobs that will be created by the facility and the total estimated average annual wages of those jobs or, in the case of privately developed rural infrastructure, the types of business activities and jobs stimulated by the investment.

(c) ~~3.~~ The cumulative amount of investment to be dedicated to the facility within a specified period.

(d) ~~4.~~ A statement of any special impacts the facility is expected to stimulate in a particular business sector in the state or regional economy or in the state's universities and community colleges.

(e) ~~5.~~ A statement of the role the incentive is expected to play in the decision of the applicant business to locate or expand in this state or for the private investor to provide critical rural infrastructure.

(f) ~~6.~~ A report evaluating the quality and value of the company submitting a proposal. The report must include:

1. ~~a.~~ A financial analysis of the company, including an evaluation of the company's short-term liquidity ratio as measured by its assets to liabilities ~~liability~~, the company's profitability ratio, and the company's long-term solvency as measured by its debt-to-equity ratio;

2. ~~b.~~ The historical market performance of the company;

3. ~~c.~~ A review of any independent evaluations of the company;

4. ~~d.~~ A review of the latest audit of the company's

financial statement and the related auditor's management letter; and

5. ~~e.~~ A review of any other types of audits that are related to the internal and management controls of the company.

(g) The amount of local financial support for the project.

(5) ~~(c) 1.~~ Within 7 business days after evaluating a project, the department shall recommend to the Governor approval or disapproval of the ~~a~~ project for receipt of funds from the Florida Enterprise ~~Quick Action Closing~~ Fund. In recommending a project, the department shall include proposed performance conditions that the project must meet to obtain incentive funds.

(a) ~~2.~~ The Governor may approve projects without consulting the Legislature for projects requiring less than $2 million in funding.

(b) ~~3.~~ For projects requiring funding in the amount of $2 million to $5 million, the Governor shall provide a written description and evaluation of a project recommended for approval to the chair and vice chair of the Legislative Budget Commission at least 10 days before ~~prior to~~ giving final approval for the ~~a~~ project. The recommendation must include proposed performance conditions that the project must meet in order to obtain funds.

(c) ~~4.~~ If the chair or vice chair of the Legislative Budget Commission or the President of the Senate or the Speaker of the House of Representatives timely advises the Executive Office of the Governor, in writing, that such action or proposed action exceeds the delegated authority of the Executive Office of the Governor or is contrary to legislative policy or intent, the Executive Office of the Governor shall void the release of funds and instruct the department to immediately change such action or

proposed action until the Legislative Budget Commission or the Legislature addresses the issue. Notwithstanding such requirement, any project exceeding $5 million must be approved by the Legislative Budget Commission before ~~prior to~~ the funds are ~~being~~ released.

(6)~~(d)~~ Upon the approval of the Governor, the department shall issue a letter certifying the applicant as qualified for an award. The department and the business shall enter into a contract that sets forth the performance conditions for payment of moneys from the fund. Such payment may not be made to the business until the scheduled performance conditions have been met. The contract must include the total amount of funds awarded; the performance conditions that must be met to obtain the award, including, but not limited to, net new employment in the state, average salary, and total capital investment; demonstrate a baseline of current service and a measure of enhanced capability; the methodology for validating performance; the schedule of payments from the fund; the amount of local financial support that will be annually available and that will be paid into the Economic Development Trust Fund; and sanctions for failure to meet performance conditions. The contract must provide that payment of moneys from the fund is contingent upon sufficient appropriation of funds by the Legislature. The department may not enter into a contract with a business if the local financial support resolution is not passed by the local governing body within 90 days after the department has issued the letter of certification.

(7)~~(e)~~ The department shall validate contractor performance and report such validation in the annual incentives report

required under s. 288.907.

(8)(a)~~(4)~~ Funds appropriated by the Legislature for purposes of implementing this section shall be placed in reserve and may only be released pursuant to the legislative consultation and review requirements set forth in this section.

(b) A scheduled payment from the fund may not be approved for a business unless the required local financial support has been paid into the account for that project. Funding from local sources includes any tax abatement granted to that business under s. 196.1995 or the appraised market value of municipal or county land conveyed or provided at a discount to that business. The amount of any scheduled payment from the fund to such business approved under this section must be reduced by the amount of any such tax abatement granted or the value of the land granted. A report listing all sources of the local financial support shall be provided to the department when such support is paid to the account.

Section 15. Paragraph (b) of subsection (2), paragraphs (a) and (d) of subsection (4), and paragraph (b) of subsection (8) of section 288.1089, Florida Statutes, are amended to read:

288.1089 Innovation Incentive Program.—

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

~~(b) "Average private sector wage" means the statewide average wage in the private sector or the average of all private sector wages in the county or in the standard metropolitan area in which the project is located as determined by the department.~~

(4) To qualify for review by the department, the applicant must, at a minimum, establish the following to the satisfaction of the department:

(a) The jobs created by the project must pay an estimated annual average wage equaling at least 130 percent of the average private sector wage in the area. The department may waive this average wage requirement at the request of Enterprise Florida, Inc., for a project located in a rural area, a brownfield area, or an enterprise zone, when the merits of the individual project or the specific circumstances in the community in relationship to the project warrant such action. A recommendation for waiver by Enterprise Florida, Inc., must include a specific justification for the waiver and be transmitted to the department in writing. If the department elects to waive the wage requirement, the waiver must be stated in writing and explain the reasons for granting the waiver ~~must be explained~~.

(d) For an alternative and renewable energy project in this state, the project must:

1. Demonstrate a plan for significant collaboration with an institution of higher education;

2. Provide the state, at a minimum, a cumulative break-even economic benefit within a 20-year period;

3. Include matching funds provided by the applicant or other available sources. The match requirement may be reduced or waived in rural areas of opportunity or reduced in rural areas, brownfield areas, and enterprise zones;

4. Be located in this state; and

5. Provide at least 35 direct, new jobs that pay an estimated annual average wage that equals at least 130 percent of the average private sector wage in the area.

(8)

(b) Additionally, agreements ~~signed on or after July 1, 2009,~~ must include the following provisions:

1. Notwithstanding subsection (4), a requirement that the jobs created by the recipient of the incentive funds pay an annual average wage at least equal to the relevant industry's annual average wage or at least 130 percent of the average private sector wage in the area, whichever is greater.

2. A reinvestment requirement. Each recipient of an award shall reinvest up to 15 percent of net royalty revenues, including revenues from spin-off companies and the revenues from the sale of stock it receives from the licensing or transfer of inventions, methods, processes, and other patentable discoveries conceived or reduced to practice using its facilities in Florida or its Florida-based employees, in whole or in part, and to which the recipient of the grant becomes entitled during the 20 years following the effective date of its agreement with the department. Each recipient of an award also shall reinvest up to 15 percent of the gross revenues it receives from naming opportunities associated with any facility it builds in this state. Reinvestment payments shall commence no later than 6 months after the recipient of the grant has received the final disbursement under the contract and shall continue until the maximum reinvestment, as specified in the contract, has been paid. Reinvestment payments shall be remitted to the department for deposit in the Biomedical Research Trust Fund for companies specializing in biomedicine or life sciences, or in the Economic Development Trust Fund for companies specializing in fields other than biomedicine or the life sciences. If these trust funds no longer exist at the time of the reinvestment, the state's share of reinvestment shall be deposited in their

successor trust funds as determined by law. Each recipient of an award shall annually submit a schedule of the shares of stock held by it as payment of the royalty required by this paragraph and report on any trades or activity concerning such stock. Each recipient's reinvestment obligations survive the expiration or termination of its agreement with the state.

3. Requirements for the establishment of internship programs or other learning opportunities for educators and secondary, postsecondary, graduate, and doctoral students.

4. A requirement that the recipient submit quarterly reports and annual reports related to activities and performance to the department, according to standardized reporting periods.

5. A requirement for an annual accounting to the department of the expenditure of funds disbursed under this section.

6. A process for amending the agreement.

Section 16. Effective July 1, 2016, subsection (7) of section 288.11621, Florida Statutes, is amended to read:

288.11621 Spring training baseball franchises.—

(7) STRATEGIC PLANNING.—The department shall request assistance from the Florida Sports Foundation ~~Enterprise Florida, Inc.,~~ and the Florida Grapefruit League Association to develop a comprehensive strategic plan to:

(a) Finance spring training facilities.

(b) Monitor and oversee the use of state funds awarded to applicants.

(c) Identify the financial impact that spring training has on the state and ways in which to maintain or improve that impact.

(d) Identify opportunities to develop public-private

partnerships to engage in marketing activities and advertise spring training baseball.

(e) Identify efforts made by other states to maintain or develop partnerships with baseball spring training teams.

(f) Develop recommendations for the Legislature to sustain or improve this state's spring training tradition.

Section 17. Subsections (1) and (3), paragraph (a) of subsection (5), paragraph (e) of subsection (7), and subsections (11) through (14) of section 288.11625, Florida Statutes, are amended to read:

288.11625 Sports development.—

(1) ADMINISTRATION.—The department shall serve as the state agency responsible for screening applicants for state funding under s. 212.20(6)(d)6.e. ~~s. 212.20(6)(d)6.f.~~

(3) PURPOSE.—The purpose of this section is to provide applicants state funding under s. 212.20(6)(d)6.e. ~~s. 212.20(6)(d)6.f.~~ for the public purpose of constructing, reconstructing, renovating, or improving a facility.

(5) EVALUATION PROCESS.—

(a) Before recommending an applicant to receive a state distribution under s. 212.20(6)(d)6.e. ~~s. 212.20(6)(d)6.f.~~, the department must verify that:

1. The applicant or beneficiary is responsible for the construction, reconstruction, renovation, or improvement of a facility and obtained at least three bids for the project.

2. If the applicant is not a unit of local government, a unit of local government holds title to the property on which the facility and project are, or will be, located.

3. If the applicant is a unit of local government in whose

jurisdiction the facility is, or will be, located, the unit of local government has an exclusive intent agreement to negotiate in this state with the beneficiary.

4. A unit of local government in whose jurisdiction the facility is, or will be, located supports the application for state funds. Such support must be verified by the adoption of a resolution, after a public hearing, that the project serves a public purpose.

5. The applicant or beneficiary has not previously defaulted or failed to meet any statutory requirements of a previous state-administered sports-related program under s. 288.1162, s. 288.11621, s. 288.11631, or this section. Additionally, the applicant or beneficiary is not currently receiving state distributions under s. 212.20 for the facility that is the subject of the application, unless the applicant demonstrates that the franchise that applied for a distribution under s. 212.20 no longer plays at the facility that is the subject of the application.

6. The applicant or beneficiary has sufficiently demonstrated a commitment to employ residents of this state, contract with Florida-based firms, and purchase locally available building materials to the greatest extent possible.

7. If the applicant is a unit of local government, the applicant has a certified copy of a signed agreement with a beneficiary for the use of the facility. If the applicant is a beneficiary, the beneficiary must enter into an agreement with the department. The applicant's or beneficiary's agreement must also require the following:

a. The beneficiary must reimburse the state for state funds

that will be distributed if the beneficiary relocates or no longer occupies or uses the facility as the facility's primary tenant before the agreement expires. Reimbursements must be sent to the Department of Revenue for deposit into the General Revenue Fund.

b. The beneficiary must pay for signage or advertising within the facility. The signage or advertising must be placed in a prominent location as close to the field of play or competition as is practicable, must be displayed consistent with signage or advertising in the same location and of like value, and must feature Florida advertising approved by the Florida Tourism Industry Marketing Corporation.

8. The project will commence within 12 months after receiving state funds or did not commence before January 1, 2013.

(7) CONTRACT.—An applicant approved by the Legislature and certified by the department must enter into a contract with the department which:

(e) Requires the applicant to reimburse the state by electing to do one of the following:

1. After all distributions have been made, reimburse at the end of the contract term any amount by which the total distributions made under s. 212.20(6)(d)6.e. ~~s. 212.20(6)(d)6.f.~~ exceed actual new incremental state sales taxes generated by sales at the facility during the contract, plus a 5 percent penalty on that amount.

2. After the applicant begins to submit the independent analysis under paragraph (c), reimburse each year any amount by which the previous year's annual distribution exceeds 75 percent

of the actual new incremental state sales taxes generated by sales at the facility.

Any reimbursement due to the state must be made within 90 days after the applicable distribution under this paragraph. If the applicant is unable or unwilling to reimburse the state for such amount, the department may place a lien on the applicant's facility. If the applicant is a municipality or county, it may reimburse the state from its half-cent sales tax allocation, as provided in s. 218.64(3). Reimbursements must be sent to the Department of Revenue for deposit into the General Revenue Fund.

~~(11) APPLICATION RELATED TO NEW FACILITIES OR PROJECTS COMMENCED BEFORE JULY 1, 2014. Notwithstanding paragraph (4)(e), the Legislative Budget Commission may approve an application for state funds by an applicant for a new facility or a project commenced between March 1, 2013, and July 1, 2014. Such an application may be submitted after May 1, 2014. The department must review the application and recommend approval to the Legislature or deny the application. The Legislative Budget Commission may approve applications on or after January 1, 2015. The department must certify the applicant within 45 days of approval by the Legislative Budget Commission. State funds may not be distributed until the department notifies the Department of Revenue that the applicant was approved by the Legislative Budget Commission and certified by the department. An applicant certified under this subsection is subject to the provisions and requirements of this section. An applicant that fails to meet the conditions of this subsection may reapply during future application periods.~~

(11)~~(12)~~ REPAYMENT OF DISTRIBUTIONS.—An applicant that is certified under this section may be subject to repayment of distributions upon the occurrence of any of the following:

(a) An applicant's beneficiary has broken the terms of its agreement with the applicant and relocated from the facility or no longer occupies or uses the facility as the facility's primary tenant. The beneficiary must reimburse the state for state funds that will be distributed, plus a 5 percent penalty on that amount, if the beneficiary relocates before the agreement expires.

(b) A determination by the department that an applicant has submitted information or made a representation that is determined to be false, misleading, deceptive, or otherwise untrue. The applicant must reimburse the state for state funds that have been and will be distributed, plus a 5 percent penalty on that amount, if such determination is made. If the applicant is a municipality or county, it may reimburse the state from its half-cent sales tax allocation, as provided in s. 218.64(3).

(c) Repayment of distributions must be sent to the Department of Revenue for deposit into the General Revenue Fund.

(12)~~(13)~~ HALTING OF PAYMENTS.—The applicant may request in writing at least 20 days before the next monthly distribution that the department halt future payments. The department shall immediately notify the Department of Revenue to halt future payments.

(13)~~(14)~~ RULEMAKING.—The department may adopt rules to implement this section.

Section 18. Paragraph (c) of subsection (2) and paragraphs (a), (c), and (d) of subsection (3) of section 288.11631,

Florida Statutes, are amended to read:

288.11631 Retention of Major League Baseball spring training baseball franchises.—

(2) CERTIFICATION PROCESS.—

(c) Each applicant certified on or after July 1, 2013, shall enter into an agreement with the department which:

1. Specifies the amount of the state incentive funding to be distributed. The amount of state incentive funding per certified applicant may not exceed $20 million. However, if a certified applicant's facility is used by more than one spring training franchise, the maximum amount may not exceed $50 million, and the Department of Revenue shall make distributions to the applicant pursuant to s. 212.20(6)(d)6.d. ~~s. 212.20(6)(d)6.c.~~

2. States the criteria that the certified applicant must meet in order to remain certified. These criteria must include a provision stating that the spring training franchise must reimburse the state for any funds received if the franchise does not comply with the terms of the contract. If bonds were issued to construct or renovate a facility for a spring training franchise, the required reimbursement must be equal to the total amount of state distributions expected to be paid from the date the franchise violates the agreement with the applicant through the final maturity of the bonds.

3. States that the certified applicant is subject to decertification if the certified applicant fails to comply with this section or the agreement.

4. States that the department may recover state incentive funds if the certified applicant is decertified.

5. Specifies the information that the certified applicant must report to the department.

6. Includes any provision deemed prudent by the department.

(3) USE OF FUNDS.—

(a) A certified applicant may use funds provided under s. 212.20(6)(d)6.d. ~~s. 212.20(6)(d)6.c.~~ only to:

1. Serve the public purpose of constructing or renovating a facility for a spring training franchise.

2. Pay or pledge for the payment of debt service on, or to fund debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect thereto, bonds issued for the construction or renovation of such facility, or for the reimbursement of such costs or the refinancing of bonds issued for such purposes.

(c) The Department of Revenue may not distribute funds under s. 212.20(6)(d)6.d. ~~s. 212.20(6)(d)6.c.~~ until July 1, 2016. Further, the Department of Revenue may not distribute funds to an applicant certified on or after July 1, 2013, until it receives notice from the department that:

1. The certified applicant has encumbered funds under either subparagraph (a)1. or subparagraph (a)2.; and

2. If applicable, any existing agreement with a spring training franchise for the use of a facility has expired.

(d)1. All certified applicants shall place unexpended state funds received pursuant to s. 212.20(6)(d)6.d. ~~s. 212.20(6)(d)6.c.~~ in a trust fund or separate account for use only as authorized in this section.

2. A certified applicant may request that the department notify the Department of Revenue to suspend further

distributions of state funds made available under s. 212.20(6)(d)6.d. ~~s. 212.20(6)(d)6.c.~~ for 12 months after expiration of an existing agreement with a spring training franchise to provide the certified applicant with an opportunity to enter into a new agreement with a spring training franchise, at which time the distributions shall resume.

3. The expenditure of state funds distributed to an applicant certified after July 1, 2013, must begin within 48 months after the initial receipt of the state funds. In addition, the construction or renovation of a spring training facility must be completed within 24 months after the project's commencement.

Section 19. Section 288.1169, Florida Statutes, is repealed.

Section 20. Effective July 1, 2016, notwithstanding the repeal of section 288.1229, Florida Statutes, in s. 485, chapter 2011-142, Laws of Florida, section 288.1229, Florida Statutes, is revived, reenacted, and amended to read:

288.1229 Promotion and development of sports-related industries and amateur athletics; direct-support organization established; powers and duties.—

(1) The Department of Economic Opportunity shall establish a direct-support organization known as the Florida Sports Foundation. The foundation shall ~~The Office of Tourism, Trade, and Economic Development may authorize a direct-support organization to~~ assist the department ~~office~~ in:

(a) The promotion and development of the sports industry and related industries for the purpose of improving the economic presence of these industries in Florida.

(b) The promotion of amateur athletic participation for the citizens of Florida and the promotion of Florida as a host for national and international amateur athletic competitions for the purpose of encouraging and increasing the direct and ancillary economic benefits of amateur athletic events and competitions.

(c) The retention of professional sports franchises, including the spring training operations of Major League Baseball.

(2) The Florida Sports Foundation ~~To be authorized as a direct-support organization, an organization~~ must:

(a) Be incorporated as a corporation not for profit pursuant to chapter 617.

(b)1. Be governed by a board of directors, which must consist of 20 ~~up to 15~~ members appointed by the Governor, which include:

a. Ten members representing Florida major league franchises of Major League Baseball, National Basketball Association, National Football League, Arena Football League, National Hockey League, and Major League Soccer teams domiciled in this state.

b. A member representing Florida Sports Commissions.

c. A member representing the boating and fishing industries in Florida.

d. A member representing the golf industry in Florida.

e. A member representing Major League Baseball spring training.

f. A member representing the auto racing industry in Florida.

g. Five members at-large ~~and up to 15 members appointed by the existing board of directors~~. In making at-large

appointments, the governor ~~board~~ must consider a potential member's background in community service and sports activism in, and financial support of, the sports industry, professional sports, or organized amateur athletics. Members must be residents of the state and highly knowledgeable about or active in professional or organized amateur sports.

2. The board must contain representatives of all geographical regions of the state and must represent ethnic and gender diversity. The terms of office of the members shall be 4 years. No member may serve more than two consecutive terms. The Governor may remove any member for cause and shall fill all vacancies that occur.

(c) Have as its purpose, as stated in its articles of incorporation, to receive, hold, invest, and administer property; to raise funds and receive gifts; and to promote and develop the sports industry and related industries for the purpose of increasing the economic presence of these industries in Florida.

(d) Have a prior determination by the department ~~Office of Tourism, Trade, and Economic Development~~ that the organization will benefit the department ~~office~~ and act in the best interests of the state as a direct-support organization to the department ~~office~~.

(3) The Florida Sports Foundation shall operate under contract with the department. The department shall enter into a contract with the foundation by July 1, 2016. The contract must provide ~~Office of Tourism, Trade, and Economic Development shall contract with the organization and shall include in the contract~~ that:

(a) The department ~~office~~ may review the foundation's ~~organization's~~ articles of incorporation.

(b) The foundation ~~organization~~ shall submit an annual budget proposal to the department ~~office~~, on a form provided by the department ~~office~~, in accordance with department ~~office~~ procedures for filing budget proposals based upon the recommendation of the department ~~office~~.

(c) Any funds that the foundation ~~organization~~ holds in trust will revert to the state upon the expiration or cancellation of the contract.

(d) The foundation ~~organization~~ is subject to an annual financial and performance review by the department ~~office~~ to determine whether the foundation ~~organization~~ is complying with the terms of the contract and whether it is acting in a manner consistent with the goals of the department ~~office~~ and in the best interests of the state.

(e) The fiscal year of the foundation begins ~~organization will begin~~ July 1 of each year and ends ~~end~~ June 30 of the next ensuing year.

(4) The department ~~Office of Tourism, Trade, and Economic Development~~ may allow the foundation ~~organization~~ to use the property, facilities, personnel, and services of the department ~~office~~ if the foundation ~~organization~~ provides equal employment opportunities to all persons regardless of race, color, religion, sex, age, or national origin, subject to the approval of the executive director of the department ~~office~~.

(5) The foundation ~~organization~~ shall provide for an annual financial audit in accordance with s. 215.981.

(6) The foundation ~~organization~~ is not granted any taxing

power.

~~(7) In exercising the power provided in this section, the Office of Tourism, Trade, and Economic Development may authorize and contract with the direct-support organization existing on June 30, 1996, and authorized by the former Florida Department of Commerce to promote sports-related industries. An appointed member of the board of directors of such direct-support organization as of June 30, 1996, may serve the remainder of his or her unexpired term.~~

(7)~~(8)~~ To promote amateur sports and physical fitness, the foundation ~~direct-support organization~~ shall:

(a) Develop, foster, and coordinate services and programs for amateur sports for the people of Florida.

(b) Sponsor amateur sports workshops, clinics, conferences, and other similar activities.

(c) Give recognition to outstanding developments and achievements in, and contributions to, amateur sports.

(d) Encourage, support, and assist local governments and communities in the development of or hosting of local amateur athletic events and competitions.

(e) Promote Florida as a host for national and international amateur athletic competitions.

(f) Develop ~~a~~ statewide programs ~~program~~ of amateur athletic competition to be known as the "Florida Senior Games" and the "Sunshine State Games."

(g) Continue the successful amateur sports programs previously conducted by the Florida Governor's Council on Physical Fitness and Amateur Sports created under former s. 14.22.

(h) Encourage and continue the use of volunteers in its amateur sports programs to the maximum extent possible.

(i) Develop, foster, and coordinate services and programs designed to encourage the participation of Florida's youth in Olympic sports activities and competitions.

(j) Foster and coordinate services and programs designed to contribute to the physical fitness of the citizens of Florida.

(8)~~(9)~~(a) The Sunshine State Games and Florida Senior Games shall both be patterned after the Summer Olympics with variations as necessitated by availability of facilities, equipment, and expertise. The games shall be designed to encourage the participation of athletes representing a broad range of age groups, skill levels, and Florida communities. ~~Participants shall be residents of this state. Regional competitions shall be held throughout the state, and the top qualifiers in each sport shall proceed to the final competitions to be held at a site in the state with the necessary facilities and equipment for conducting the competitions.~~

(b) The department ~~Executive Office of the Governor~~ is authorized to permit the use of property, facilities, and personal services of or at any State University System facility or institution by the direct-support organization operating the Sunshine State Games and Florida Senior Games. For the purposes of this paragraph, personal services includes full-time or part-time personnel as well as payroll processing.

Section 21. Section 288.125, Florida Statutes, is amended to read:

288.125 Definition of term "entertainment industry."—For the purposes of ss. 288.1254, 288.1256, 288.1258, 288.913,

288.914, and 288.915 ~~ss. 288.1251-288.1258~~, the term "entertainment industry" means those persons or entities engaged in the operation of motion picture or television studios or recording studios; those persons or entities engaged in the preproduction, production, or postproduction of motion pictures, made-for-television movies, television programming, digital media projects, commercial advertising, music videos, or sound recordings; and those persons or entities providing products or services directly related to the preproduction, production, or postproduction of motion pictures, made-for-television movies, television programming, digital media projects, commercial advertising, music videos, or sound recordings, including, but not limited to, the broadcast industry.

Section 22. Section 288.1251, Florida Statutes, is renumbered as section 288.913, Florida Statutes, and amended to read:

288.913 ~~288.1251~~ Promotion and development of entertainment industry; Division ~~Office~~ of Film and Entertainment; creation; purpose; powers and duties.—

(1) CREATION.—

~~(a)~~ The Division of Film and Entertainment ~~There~~ is ~~hereby~~ created within Enterprise Florida, Inc., ~~the department the Office of Film and Entertainment~~ for the purpose of developing, recruiting, marketing, promoting, and providing services to the state's entertainment industry. The division shall serve as a liaison between the entertainment industry and other state and local governmental agencies, local film commissions, and labor organizations.

(2)~~(b)~~ COMMISSIONER.—The president of Enterprise Florida,

Inc., shall appoint the film and entertainment commissioner, who is subject to confirmation by the Senate, within 90 days after the effective date of this act ~~department shall conduct a national search for a qualified person to fill the position of Commissioner of Film and Entertainment when the position is vacant. The executive director of the department has the responsibility to hire the film commissioner~~. The commissioner is subject to the requirements of s. 288.901(1)(c). Qualifications for the film commissioner include, but are not limited to, the following:

(a)~~1.~~ At least 5 years' ~~A~~ working knowledge of and experience with the equipment, personnel, financial, and day-to-day production operations of the industries to be served by the division ~~Office of Film and Entertainment~~;

(b)~~2.~~ Marketing and promotion experience related to the film and entertainment industries to be served;

(c)~~3.~~ Experience working with a variety of individuals representing large and small entertainment-related businesses, industry associations, local community entertainment industry liaisons, and labor organizations; ~~and~~

(d)~~4.~~ Experience working with a variety of state and local governmental agencies; and~~.~~

(e) A record of high-level involvement in production deals and contacts with industry decisionmakers.

(3)~~(2)~~ POWERS AND DUTIES.—

(a) In the performance of its duties, the Division ~~Office~~ of Film and Entertainment~~, in performance of its duties,~~ shall develop and periodically~~:~~

~~1. In consultation with the Florida Film and Entertainment~~

~~Advisory Council,~~ update a 5-year ~~the~~ strategic plan ~~every 5 years~~ to guide the activities of the division ~~Office of Film and Entertainment~~ in the areas of entertainment industry development, marketing, promotion, liaison services, field office administration, and information. The plan must ~~shall:~~

~~a.~~ be annual in construction and ongoing in nature.

1. At a minimum, the plan must address the following:

a.~~b. Include recommendations relating to~~ The organizational structure of the division, including any field offices outside the state ~~office~~.

b. The coordination of the division with local or regional offices maintained by counties and regions of the state, local film commissions, and labor organizations, and the coordination of such entities with each other to facilitate a working relationship.

c. Strategies to identify, solicit, and recruit entertainment production opportunities for the state, including implementation of programs for rural and urban areas designed to develop and promote the state's entertainment industry.

d.~~c. Include~~ An annual budget projection for the division ~~office~~ for each year of the plan.

~~d. Include an operational model for the office to use in implementing programs for rural and urban areas designed to:~~

~~(I) develop and promote the state's entertainment industry.~~

~~(II) Have the office serve as a liaison between the entertainment industry and other state and local governmental agencies, local film commissions, and labor organizations.~~

~~(III) Gather statistical information related to the state's entertainment industry.~~

e.~~(IV)~~ Provision of ~~Provide~~ information and service to businesses, communities, organizations, and individuals engaged in entertainment industry activities.

~~(V) Administer field offices outside the state and coordinate with regional offices maintained by counties and regions of the state, as described in sub-sub-subparagraph (II), as necessary.~~

f.~~e. Include~~ Performance standards and measurable outcomes for the programs to be implemented by the division ~~office~~.

2. The plan shall be annually reviewed and approved by the board of directors of Enterprise Florida, Inc.

~~f. Include an assessment of, and make recommendations on, the feasibility of creating an alternative public-private partnership for the purpose of contracting with such a partnership for the administration of the state's entertainment industry promotion, development, marketing, and service programs.~~

~~2. Develop, market, and facilitate a working relationship between state agencies and local governments in cooperation with local film commission offices for out-of-state and indigenous entertainment industry production entities.~~

~~3. Implement a structured methodology prescribed for coordinating activities of local offices with each other and the commissioner's office.~~

(b) The division shall also:

1.~~4.~~ Represent the state's indigenous entertainment industry to key decisionmakers within the national and international entertainment industry, and to state and local officials.

2.~~5.~~ Prepare an inventory and analysis of the state's entertainment industry, including, but not limited to, information on crew, related businesses, support services, job creation, talent, and economic impact and coordinate with local offices to develop an information tool for common use.

3.~~6.~~ Identify, solicit, and recruit entertainment production opportunities for the state.

4.~~7.~~ Assist rural communities and other small communities in the state in developing the expertise and capacity necessary for such communities to develop, market, promote, and provide services to the state's entertainment industry.

(c)~~(b)~~ The division ~~Office of Film and Entertainment~~, in the performance of its duties, may:

1. Conduct or contract for specific promotion and marketing functions, including, but not limited to, production of a statewide directory, production and maintenance of a ~~an Internet~~ website, establishment and maintenance of a toll-free telephone number, organization of trade show participation, and appropriate cooperative marketing opportunities.

2. Conduct its affairs, carry on its operations, establish offices, and exercise the powers granted by this act in any state, territory, district, or possession of the United States.

3. Carry out any program of information, special events, or publicity designed to attract the entertainment industry to Florida.

4. Develop relationships and leverage resources with other public and private organizations or groups in their efforts to publicize to the entertainment industry in this state, other states, and other countries the depth of Florida's entertainment

industry talent, crew, production companies, production equipment resources, related businesses, and support services, including the establishment of and expenditure for a program of cooperative advertising with these public and private organizations and groups in accordance with the provisions of chapter 120.

5. Provide and arrange for reasonable and necessary promotional items and services for such persons as the division ~~office~~ deems proper in connection with the performance of the promotional and other duties of the division ~~office~~.

6. Prepare an ~~annual~~ economic impact analysis on entertainment industry-related activities in the state.

7. Request or accept any grant, payment, or gift of funds or property made by this state, the United States, or any department or agency thereof, or by any individual, firm, corporation, municipality, county, or organization, for ~~any or all of~~ the purposes of the division's ~~Office of Film and Entertainment's~~ 5-year strategic plan or those ~~permitted~~ activities authorized by ~~enumerated in~~ this paragraph. Such funds shall be deposited in a separate account with Enterprise Florida, Inc., ~~the Grants and Donations Trust Fund of the Executive Office of the Governor~~ for use by the division ~~Office of Film and Entertainment~~ in carrying out its responsibilities and duties ~~as delineated in law~~. The division ~~office~~ may expend such funds in accordance with the terms and conditions of any such grant, payment, or gift in the pursuit of its administration or in support of fulfilling its duties and responsibilities. The division ~~office~~ shall separately account for the public funds and the private funds deposited into the

account ~~trust fund~~.

Section 23. Section 288.1252, Florida Statutes, is renumbered as section 288.914, Florida Statutes, and amended to read:

288.914 ~~288.1252~~ Florida Film and Entertainment Advisory Council; ~~creation;~~ purpose; membership; powers and duties.—

~~(1) CREATION.—There is created within the department, for administrative purposes only, the Florida Film and Entertainment Advisory Council.~~

(1)~~(2)~~ CREATION AND PURPOSE.—The Florida Film and Entertainment Advisory Council is created ~~purpose of the Council is~~ to serve as an advisory body to the Division of Film and Entertainment within Enterprise Florida, Inc., and ~~department and to the Office of Film and Entertainment~~ to provide ~~these offices with~~ industry insight and expertise related to developing, marketing, and promoting~~, and providing service to~~ the state's entertainment industry.

(2)~~(3)~~ MEMBERSHIP.—

(a) The council shall consist of 11 ~~17~~ members, 5 ~~7~~ to be appointed by the Governor, 3 ~~5~~ to be appointed by the President of the Senate, and 3 ~~5~~ to be appointed by the Speaker of the House of Representatives.

(b) When making appointments to the council, the Governor, the President of the Senate, and the Speaker of the House of Representatives shall appoint persons who are residents of the state and who are highly knowledgeable of, active in, and recognized as leaders in Florida's motion picture, television, video, sound recording, or other entertainment industries. These persons must ~~shall~~ include, but need not be limited to,

representatives of local film commissions, representatives of entertainment associations, a representative of the broadcast industry, representatives of labor organizations in the entertainment industry, and board chairs, presidents, chief executive officers, chief operating officers, or persons of comparable executive position or stature of leading or otherwise important entertainment industry businesses and offices. Council members must ~~shall~~ be appointed in such a manner as to equitably represent the broadest spectrum of the entertainment industry and geographic areas of the state.

(c) Council members shall serve for 4-year terms. A council member serving as of July 1, 2016, may serve the remainder of his or her term, but upon the conclusion of the term or upon vacancy, the appointment must be made in accordance with this section.

(d) Subsequent appointments shall be made by the official who appointed the council member whose expired term is to be filled.

(e) In addition to the 11 ~~17~~ appointed members ~~of the council~~, 1 representative from each of Enterprise Florida, Inc., CareerSource Florida, Inc., and VISIT Florida shall serve as ex officio, nonvoting members of the council.

(f) Absence from three consecutive meetings shall result in automatic removal from the council.

(g) A vacancy on the council shall be filled for the remainder of the unexpired term by the official who appointed the vacating member.

(h) No more than one member of the council may be an employee of any one company, organization, or association.

(i) Any member shall be eligible for reappointment but may not serve more than two consecutive terms.

(3) ~~(4)~~ MEETINGS; ORGANIZATION.—

(a) The council shall meet at least ~~no less frequently than~~ once each quarter of the calendar year, and ~~but~~ may meet more often as determined necessary ~~set~~ by the council.

(b) The council shall annually elect from its appointed membership one member to serve as chair ~~of the council~~ and one member to serve as vice chair. The Division ~~Office~~ of Film and Entertainment shall provide staff assistance to the council, which must ~~shall~~ include, but need not be limited to, keeping records of the proceedings of the council~~,~~ and serving as custodian of all books, documents, and papers filed with the council.

(c) A majority of the members of the council constitutes ~~shall constitute~~ a quorum.

(d) Members of the council shall serve without compensation, but are ~~shall be~~ entitled to reimbursement for per diem and travel expenses in accordance with s. 112.061 while in performance of their duties.

(4) ~~(5)~~ POWERS AND DUTIES.—The Florida Film and Entertainment Advisory Council has ~~shall have all~~ the power ~~powers necessary or convenient~~ to carry out ~~and effectuate the purposes and provisions of~~ this act, including, but not limited to, the power to:

(a) Adopt bylaws for the governance of its affairs and the conduct of its business.

(b) Advise the Division ~~and consult with the Office~~ of Film and Entertainment on the content, development, and

implementation of the division's 5-year strategic plan ~~to guide the activities of the office~~.

(c) ~~Review the Commissioner of Film and Entertainment's administration of the programs related to the strategic plan, and~~ Advise the Division of Film and Entertainment ~~commissioner~~ on the division's programs and any changes that might be made to better meet the strategic plan.

(d) Consider and study the needs of the entertainment industry for the purpose of advising the Division of Film and Entertainment ~~film commissioner and the department~~.

(e) Identify ~~and make recommendations on~~ state ~~agency~~ and local government actions that may have an impact on the entertainment industry or that may appear to industry representatives as ~~an~~ official state or local actions ~~action~~ affecting production in the state, and advise the Division of Film and Entertainment of such actions.

(f) Consider all matters submitted to it by the Division of Film and Entertainment ~~film commissioner and the department~~.

~~(g) Advise and consult with the film commissioner and the department, at their request or upon its own initiative, regarding the promulgation, administration, and enforcement of all laws and rules relating to the entertainment industry.~~

(g) ~~(h)~~ Suggest policies and practices ~~for the conduct of business by the Office of Film and Entertainment or by the department~~ that will improve interaction with ~~internal operations affecting~~ the entertainment industry and will enhance related state ~~the~~ economic development initiatives ~~of the state for the industry~~.

~~(i) Appear on its own behalf before boards, commissions,~~

~~departments, or other agencies of municipal, county, or state government, or the Federal Government.~~

Section 24. Section 288.1253, Florida Statutes, is renumbered as section 288.915, Florida Statutes, and amended to read:

288.915 ~~288.1253~~ Travel and entertainment expenses.—

(1) As used in this section, the term "travel expenses" means the actual, necessary, and reasonable costs of transportation, meals, lodging, and incidental expenses normally incurred by an employee of the Division ~~Office~~ of Film and Entertainment within Enterprise Florida, Inc., as ~~which costs are~~ defined and prescribed by ~~rules adopted by the~~ department rule, subject to approval by the Chief Financial Officer.

(2) Notwithstanding ~~the provisions of~~ s. 112.061, the department shall adopt rules by which the Division of Film and Entertainment ~~it~~ may make expenditures by reimbursement to~~:~~ the Governor, the Lieutenant Governor, security staff of the Governor or Lieutenant Governor, the Commissioner of Film and Entertainment, or staff of the Division ~~Office~~ of Film and Entertainment for travel expenses or entertainment expenses incurred by such individuals solely and exclusively in connection with the performance of the statutory duties of the division ~~Office of Film and Entertainment~~. The rules are subject to approval by the Chief Financial Officer before adoption. The rules shall require the submission of paid receipts, or other proof of expenditure prescribed by the Chief Financial Officer, with any claim for reimbursement.

(3) The Division ~~Office~~ of Film and Entertainment shall include in the annual report for the entertainment industry

~~financial incentive~~ program required under s. 288.1256(10) ~~s. 288.1254(10)~~ a report of the division's ~~office's~~ expenditures for the previous fiscal year. The report must consist of a summary of all travel, entertainment, and incidental expenses incurred within the United States and all travel, entertainment, and incidental expenses incurred outside the United States, as well as a summary of all successful projects that developed from such travel.

(4) The Division ~~Office~~ of Film and Entertainment and its employees and representatives, when authorized, may accept and use complimentary travel, accommodations, meeting space, meals, equipment, transportation, and any other goods or services necessary for or beneficial to the performance of the division's ~~office's~~ duties and purposes, so long as such acceptance or use is not in conflict with part III of chapter 112. The department shall, by rule, develop internal controls to ensure that such goods or services accepted or used pursuant to this subsection are limited to those that will assist solely and exclusively in the furtherance of the division's ~~office's~~ goals and are in compliance with part III of chapter 112. Notwithstanding this subsection, the division and its employees and representatives may not accept any complimentary travel, accommodations, meeting space, meals, equipment, transportation, or other goods or services from an entity or a party, including an employee, a designee, or a representative of such entity or party, which has received, has applied to receive, or anticipates that it will receive through an application, funds under s. 288.1256. If the division or its employee or representative accepts such goods or services, the division or its employee or representative is

subject to the penalties provided in s. 112.317.

(5) A ~~Any~~ claim submitted under this section is not required to be sworn to before a notary public or other officer authorized to administer oaths, but a ~~any~~ claim authorized or required to be made under any provision of this section shall contain a statement that the expenses were actually incurred as necessary travel or entertainment expenses in the performance of official duties of the Division ~~Office~~ of Film and Entertainment and shall be verified by written declaration that it is true and correct as to every material matter. A ~~Any~~ person who willfully makes and subscribes to a ~~any~~ claim that ~~which~~ he or she does not believe to be true and correct as to every material matter or who willfully aids or assists in, procures, or counsels or advises with respect to, the preparation or presentation of a claim pursuant to this section which ~~that~~ is fraudulent or false as to any material matter, whether such falsity or fraud is with the knowledge or consent of the person authorized or required to present the claim, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Whoever receives a reimbursement by means of a false claim is civilly liable, in the amount of the overpayment, for the reimbursement of the public fund from which the claim was paid.

Section 25. Paragraph (a) of subsection (5), paragraph (c) of subsection (9), and subsections (10) and (11) of section 288.1254, Florida Statutes, are amended to read:

288.1254 Entertainment industry financial incentive program.—

(5) TRANSFER OF TAX CREDITS.—

(a) *Authorization.*—Upon application to ~~the Office of Film~~

~~and Entertainment~~ and approval by the department, a certified production company, or a partner or member that has received a distribution under paragraph (4)(g), may elect to transfer, in whole or in part, any unused credit amount granted under this section. An election to transfer any unused tax credit amount under chapter 212 or chapter 220 must be made no later than 5 years after the date the credit is awarded, after which period the credit expires and may not be used. The department shall notify the Department of Revenue of the election and transfer.

(9) AUDIT AUTHORITY; REVOCATION AND FORFEITURE OF TAX CREDITS; FRAUDULENT CLAIMS.—

(c) *Forfeiture of tax credits.*—A determination by the Department of Revenue, as a result of an audit pursuant to paragraph (a) or from information received from the department ~~Office of Film and Entertainment~~, that an applicant received tax credits pursuant to this section to which the applicant was not entitled is grounds for forfeiture of previously claimed and received tax credits. The applicant is responsible for returning forfeited tax credits to the Department of Revenue, and such funds shall be paid into the General Revenue Fund of the state. Tax credits purchased in good faith are not subject to forfeiture unless the transferee submitted fraudulent information in the purchase or failed to meet the requirements in subsection (5).

(10) ANNUAL REPORT.—Each November 1, the department ~~Office of Film and Entertainment~~ shall submit an annual report for the previous fiscal year to the Governor, the President of the Senate, and the Speaker of the House of Representatives which outlines the incentive program's return on investment and

economic benefits to the state. The report must also include an estimate of the full-time equivalent positions created by each production that received tax credits under this section and information relating to the distribution of productions receiving credits by geographic region and type of production. The report must also include the expenditures report required under s. 288.915(3) ~~s. 288.1253(3)~~ and the information describing the relationship between tax exemptions and incentives to industry growth required under s. 288.1258(5).

(11) REPEAL.—This section is repealed April 1, 2016 ~~July 1, 2016~~, except that:

(a) Tax credits certified under paragraph (3)(d) before April 1, 2016 ~~July 1, 2016~~, may not be awarded under paragraph (3)(f) on or after April 1, 2016, and the Department of Revenue shall deny any credit claimed on a tax return when that credit was awarded under paragraph (3)(f) on or after April 1, 2016 ~~July 1, 2016, if the other requirements of this section are met~~.

(b) Tax credits carried forward under paragraph (4)(e) remain valid for the period specified.

(c) Subsections (5), (8), and (9) shall remain in effect until July 1, 2021.

Section 26. Section 288.1256, Florida Statutes, is created to read:

288.1256 Entertainment Action Fund.—

(1) The Entertainment Action Fund is created within the department in order to respond to extraordinary opportunities and to compete effectively with other states to attract and retain production companies and to provide favorable conditions for the growth of the entertainment industry in this state.

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

(a) "Division" means the Division of Film and Entertainment within Enterprise Florida, Inc.

(b) "Principal photography" means the filming of major or significant components of a project which involve lead actors.

(c) "Production" means a theatrical, direct-to-video, or direct-to-Internet motion picture; a made-for-television motion picture; visual effects or digital animation sequences produced in conjunction with a motion picture; a commercial; a music video; an industrial or educational film; an infomercial; a documentary film; a television pilot program; a presentation for a television pilot program; a television series, including, but not limited to, a drama, a reality show, a comedy, a soap opera, a telenovela, a game show, an awards show, or a miniseries production; a direct-to-Internet television series; or a digital media project by the entertainment industry. One season of a television series is considered one production. The term does not include a weather or market program; a sporting event or a sporting event broadcast; a gala; a production that solicits funds; a home shopping program; a political program; a political documentary; political advertising; a gambling-related project or production; a concert production; a local, a regional, or an Internet-distributed-only news show or current-events show; a sports news or a sports recap show; a pornographic production; or any production deemed obscene under chapter 847. A production may be produced on or by film, tape, or otherwise by means of a motion picture camera; an electronic camera or device; a tape device; a computer; any combination of the foregoing; or any other means, method, or device.

(d) "Production company" means a corporation, limited liability company, partnership, or other legal entity engaged in one or more productions in this state.

(e) "Production expenditures" means the costs of tangible and intangible property used for, and services performed primarily and customarily in, production, including preproduction and postproduction, but excluding costs for development, marketing, and distribution. The term includes, but is not limited to:

1. Wages, salaries, or other compensation paid to legal residents of this state, including amounts paid through payroll service companies, for technical and production crews, directors, producers, and performers.

2. Net expenditures for sound stages, backlots, production editing, digital effects, sound recordings, sets, and set construction. As used in this paragraph, the term "net expenditures" means the actual amount of money a project spent for equipment or other tangible personal property, after subtracting any consideration received for reselling or transferring the item after the production ends, if applicable.

3. Net expenditures for rental equipment, including, but not limited to, cameras and grip or electrical equipment.

4. Up to $300,000 of the costs of newly purchased computer software and hardware unique to the project, including servers, data processing, and visualization technologies, which are located in and used exclusively in this state for the production of digital media.

5. Expenditures for meals, travel, and accommodations.

(f) "Project" means a production in this state meeting the

requirements of this section. The term does not include a production:

1. In which less than 70 percent of the positions that make up its production cast and below-the-line production crew are filled by legal residents of this state, whose residency is demonstrated by a valid Florida driver license or other state-issued identification confirming residency, or students enrolled full-time in an entertainment-related course of study at an institution of higher education in this state; or

2. That contains obscene content as defined in s. 847.001(10).

(g) "Qualified expenditures" means production expenditures incurred in this state by a production company for:

1. Goods purchased or leased from, or services, including, but not limited to, insurance costs and bonding, payroll services, and legal fees, which are provided by a vendor or supplier in this state which is registered with the Department of State or the Department of Revenue, has a physical location in this state, and employs one or more legal residents of this state. This does not include rebilled goods or services provided by an in-state company from out-of-state vendors or suppliers. If services provided by the vendor or supplier include personal services or labor, only personal services or labor provided by residents of this state, evidenced by the required documentation of residency in this state, qualify.

2. Payments to legal residents of this state in the form of salary, wages, or other compensation up to a maximum of $400,000 per resident. A completed declaration of residency in this state must accompany the documentation submitted to the department for

reimbursement.

For a project involving an event, such as an awards show, the term does not include expenditures solely associated with the event itself and not directly required by the production. The term does not include expenditures incurred before the agreement is signed. The production company may not include in the calculation for qualified expenditures the original purchase price for equipment or other tangible property that is later sold or transferred by the production company for consideration. In such cases, the qualified expenditure is the net of the original purchase price minus the consideration received upon sale or transfer.

(h) "Underutilized county" means a county in which less than $500,000 in qualified expenditures were made in the last 2 fiscal years.

(3) A production company may apply for funds from the Entertainment Action Fund for a production or successive seasons of a production. The division shall review and evaluate applications to determine the eligibility of each project consistent with the requirements of this section. The division shall leverage funds to select projects that maximize the return to the state. The division must accept applications for at least 3 months, and shall provide public notice of the application period. The division may allow multiple, nonoverlapping application periods in a fiscal year subject to the availability of funds. The division shall review and evaluate applications timely received during the application period to identify any competitive projects to recommend for approval as provided in

this section. The division may determine that no applications were submitted which meet the requirements of this section and maximize the return to the state.

(4) The division, in its review and evaluation of applications, must consider the following criteria, which are listed in order of priority, with the highest priority given to paragraph (a):

(a) The number of state residents who will be employed in full-time equivalent and part-time positions related to the project, the duration of such employment, and the average wages paid to such residents. Preference shall be given to a project that expects to pay higher than the statewide average wage.

(b) The amount of qualified and nonqualified expenditures that will be made in this state.

(c) Planned or executed contracts with production facilities or soundstages in this state and the percentage of principal photography or production activity that will occur at each location.

(d) Planned preproduction and postproduction to occur in this state.

(e) The amount of capital investment, especially fixed capital investment, to be made directly by the production company in this state related to the project and the amount of any other capital investment to be made in this state related to the project.

(f) The duration of the project in this state.

(g) The amount and duration of principal photography or production activity that will occur in an underutilized county.

(h) The extent to which the production company will promote

Florida, including the production of marketing materials promoting this state as a tourist destination or a film and entertainment production destination; placement of state agency logos in the production and credits; authorized use of production assets, characters, and themes by this state; promotional videos for this state included on optical disc formats; and other marketing integration.

(i) The employment of students enrolled full-time in an entertainment-related course of study at an institution of higher education in this state or of graduates from such an institution within 12 months after graduation.

(j) Plans to work with entertainment industry-related courses of study at an institution of higher education in this state.

(k) Local support and any local financial commitment for the project.

(l) The project is about this state or shows this state in a positive light.

(m) A review of the production company's past activities in this state or other states.

(n) The length of time the production company has made productions in this state, the number of productions the production company has made in this state, and the production company's overall commitment to this state. This includes a production company that is based in this state.

(o) Expected contributions to this state's economy, consistent with the state strategic economic development plan prepared by the department.

(p) The expected effect of the award on the viability of

the project and the probability that the project would be undertaken in this state if funds are granted to the production company.

(5) A production company must have financing in place for a project before it applies for funds under this section.

(6) The department shall prescribe a form upon which an application must be made to the division. At a minimum, the application must include:

(a) The applicant's federal employer identification number, reemployment assistance account number, and state sales tax registration number, as applicable. If such numbers are not available at the time of application, they must be submitted to the department in writing before the disbursement of any payments.

(b) The signature of the applicant.

(c) A detailed budget of planned qualified and nonqualified expenditures in this state.

(d) The type and amount of capital investment that will be made in this state.

(e) The locations in this state where the project will occur.

(f) The anticipated commencement date and duration of the project.

(g) The proposed number of state residents and nonstate residents who will be employed in full-time equivalent and part-time positions related to the project and wages paid to such persons.

(h) The total number of full-time equivalent employees employed by the production company in this state, if applicable.

(i) Proof of financing for the project.

(j) The amount of promotion of Florida which the production company will provide for the state.

(k) An attestation verifying that the information provided on the application is true and accurate.

(l) Any additional information requested by the department or division.

(7) The division and department must make a recommendation to the Governor to approve or deny an award within 7 days after completion of the review and evaluation. An award of funds may constitute up to 30 percent of qualified expenditures in this state and may not fund wages paid to nonresidents. The division may recommend an award of funds that is less than 30 percent of qualified expenditures in this state. A production must start within 1 year after the date the project is approved by the Governor. The recommendation must include the performance conditions that the project must meet to obtain funds.

(a) The Governor may approve projects without consulting the Legislature for projects requiring less than $2 million in funding.

(b) For projects requiring funding of at least $2 million but not more than $5 million, the Governor must provide a written description and evaluation of a project recommended for approval to the chair and vice chair of the Legislative Budget Commission at least 10 days before giving final approval for the project. The recommendation must include the performance conditions that the project must meet in order to obtain funds.

(c) If the chair or vice chair of the Legislative Budget Commission, the President of the Senate, or the Speaker of the

House of Representatives timely advises the Executive Office of the Governor, in writing, that an action or a proposed action exceeds the delegated authority of the Executive Office of the Governor or is contrary to legislative policy or intent, the Executive Office of the Governor shall void the release of funds and instruct the department to immediately change such action or proposed action until the Legislative Budget Commission or the Legislature addresses the issue.

(d) A project requiring more than $5 million in funding must be approved by the Legislative Budget Commission before the funds are released.

(8) Upon the approval of the Governor, the department and the production company shall enter into an agreement that specifies, at a minimum:

(a) The total amount of funds awarded and the schedule of payment.

(b) The performance conditions the production company must meet to obtain payment of moneys from the fund. Performance conditions must include the criteria considered in the review and evaluation of the application. Performance conditions must relate to activity that occurs in this state.

(c) The methodology for validating performance and the date by which the production company must submit proof of performance to the department.

(d) That the department may review and verify any records of the production company to ascertain whether that company is in compliance with this section and the agreement.

(e) Sanctions for failure to meet performance conditions.

(f) That payment of moneys from the fund is contingent upon

sufficient appropriation of funds by the Legislature.

(9) The agreement must be finalized and signed by an authorized officer of the production company within 90 days after the Governor's approval. A production company that receives funds under this section may not receive benefits under s. 288.1258 for the same production.

(10) The department shall validate contractor performance and report such validation in an annual report. Each November 1, the department and the division shall submit an annual report for the previous fiscal year to the Governor, the President of the Senate, and the Speaker of the House of Representatives which outlines the program's return on investment and economic benefits to the state. The report must also include an estimate of the full-time equivalent positions created by each production that received a grant under this section and information relating to the distribution of productions receiving credits by geographic region and type of production. In addition, the report must include the expenditures report required under s. 288.915, the information describing the relationship between tax exemptions and incentives to industry growth required under s. 288.1258(5), and program performance information required under this section.

(11) The department may not approve awards in excess of the amount appropriated for a fiscal year. The department must maintain a schedule of funds to be paid from the appropriation for the fiscal year that begins on July 1. For the first 6 months of each fiscal year, the department shall set aside 50 percent of the amount appropriated for the fund by the Legislature. At the end of the 6-month period, these funds are

available to provide funding under this section for applications submitted on or after January 1. The department or division may not accept any applications or conditionally commit funds or grant priority to a production company if funds are not available in the current period.

(12) A production company that submits fraudulent information under this section is liable for reimbursement of the reasonable costs and fees associated with the review, processing, investigation, and prosecution of the fraudulent claim. A production company that receives a payment under this section through a claim that is fraudulent is liable for reimbursement of the payment amount, plus a penalty in an amount double the payment amount. The penalty is in addition to any criminal penalty for which the production company is liable for the same acts. The production company is also liable for costs and fees incurred by the state in investigating and prosecuting the fraudulent claim.

(13) The department or division may not waive any provision or provide an extension of time to meet any requirement of this section.

(14) This section expires on July 1, 2026. An agreement in existence on that date shall continue in effect in accordance with its terms.

Section 27. Section 288.1258, Florida Statutes, is amended to read:

288.1258 Entertainment industry qualified production companies; application procedure; categories; duties of the Department of Revenue; records and reports.—

(1) PRODUCTION COMPANIES AUTHORIZED TO APPLY.—

(a) Any production company engaged in this state in the production of motion pictures, made-for-TV motion pictures, television series, commercial advertising, music videos, or sound recordings may submit an application for exemptions under ss. 212.031, 212.06, and 212.08 to the Department of Revenue to be approved by the Department of Economic Opportunity ~~Office of Film and Entertainment~~ as a qualified production company for the purpose of receiving a sales and use tax certificate of exemption from the Department of Revenue to exempt purchases on or after the date that the completed application is filed with the Department of Revenue.

(b) As used in ~~For the purposes of~~ this section, the term "qualified production company" means any production company that has submitted a properly completed application to the Department of Revenue and that is subsequently qualified by the Department of Economic Opportunity ~~Office of Film and Entertainment~~.

(2) APPLICATION PROCEDURE.—

(a) The Department of Revenue shall ~~will~~ review all submitted applications for the required information. Within 10 working days after the receipt of a properly completed application, the Department of Revenue shall ~~will~~ forward the completed application to the Department of Economic Opportunity ~~Office of Film and Entertainment~~ for approval.

(b)1. The Department of Economic Opportunity ~~Office of Film and Entertainment~~ shall establish a process by which an entertainment industry production company may be approved by the department ~~office~~ as a qualified production company and may receive a certificate of exemption from the Department of Revenue for the sales and use tax exemptions under ss. 212.031,

212.06, and 212.08. A production company that receives a sales tax exemption certificate under this section for a production may not receive benefits under s. 288.1256 for the same production.

2. Upon determination by the department ~~Office of Film and Entertainment~~ that a production company meets the established approval criteria and qualifies for exemption, the department ~~Office of Film and Entertainment~~ shall return the approved application or application renewal or extension to the Department of Revenue, which shall issue a certificate of exemption.

3. The department ~~Office of Film and Entertainment~~ shall deny an application or application for renewal or extension from a production company if it determines that the production company does not meet the established approval criteria.

(c) The department ~~Office of Film and Entertainment~~ shall develop, with the cooperation of the Department of Revenue, the Division of Film and Entertainment within Enterprise Florida, Inc., and local government entertainment industry promotion agencies, a standardized application form for use in approving qualified production companies.

1. The application form shall include, but not be limited to, production-related information on employment, proposed budgets, planned purchases of items exempted from sales and use taxes under ss. 212.031, 212.06, and 212.08, a signed affirmation from the applicant that any items purchased for which the applicant is seeking a tax exemption are intended for use exclusively as an integral part of entertainment industry preproduction, production, or postproduction activities engaged

in primarily in this state, and a signed affirmation from the department ~~Office of Film and Entertainment~~ that the information on the application form has been verified and is correct. In lieu of information on projected employment, proposed budgets, or planned purchases of exempted items, a production company seeking a 1-year certificate of exemption may submit summary historical data on employment, production budgets, and purchases of exempted items related to production activities in this state. Any information gathered from production companies for the purposes of this section shall be considered confidential taxpayer information and shall be disclosed only as provided in s. 213.053.

2. The application form may be distributed to applicants by the department, the Division ~~Office~~ of Film and Entertainment, or local film commissions.

(d) All applications, renewals, and extensions for designation as a qualified production company shall be processed by the department ~~Office of Film and Entertainment~~.

(e) If ~~In the event that~~ the Department of Revenue determines that a production company no longer qualifies for a certificate of exemption, or has used a certificate of exemption for purposes other than those authorized by this section and chapter 212, the Department of Revenue shall revoke the certificate of exemption of that production company, and any sales or use taxes exempted on items purchased or leased by the production company during the time such company did not qualify for a certificate of exemption or improperly used a certificate of exemption shall become immediately due to the Department of Revenue, along with interest and penalty as provided by s.

212.12. In addition to the other penalties imposed by law, any person who knowingly and willfully falsifies an application, or uses a certificate of exemption for purposes other than those authorized by this section and chapter 212, commits a felony of the third degree, punishable as provided in ss. 775.082, 775.083, and 775.084.

(3) CATEGORIES.—

(a)1. A production company may be qualified for designation as a qualified production company for a period of 1 year if the company has operated a business in Florida at a permanent address for a period of 12 consecutive months. Such a qualified production company shall receive a single 1-year certificate of exemption from the Department of Revenue for the sales and use tax exemptions under ss. 212.031, 212.06, and 212.08, which certificate shall expire 1 year after issuance or upon the cessation of business operations in the state, at which time the certificate shall be surrendered to the Department of Revenue.

2. ~~The Office of Film and Entertainment shall develop a method by which~~ A qualified production company may submit a new application for ~~annually renew~~ a 1-year certificate of exemption upon the expiration of that company's certificate of exemption; however, upon approval of the department, such qualified production company may annually renew the 1-year certificate of exemption for a period of up to 5 years without submitting ~~requiring the production company to resubmit~~ a new application during that 5-year period.

3. Each year, or upon surrender of the certificate of exemption to the Department of Revenue, the ~~Any~~ qualified production company shall ~~may~~ submit to the department aggregate

data for production-related information on employment, expenditures in this state, capital investment, and purchases of items exempted from sales and use taxes under ss. 212.031, 212.06, and 212.08 for inclusion in the annual report required under subsection (5) ~~a new application for a 1-year certificate of exemption upon the expiration of that company's certificate of exemption~~.

(b)1. A production company may be qualified for designation as a qualified production company for a period of 90 days. Such production company shall receive a single 90-day certificate of exemption from the Department of Revenue for the sales and use tax exemptions under ss. 212.031, 212.06, and 212.08, which certificate shall expire 90 days after issuance or upon the cessation of business operations in the state, at which time~~,~~ ~~with extensions contingent upon approval of the Office of Film and Entertainment.~~ the certificate shall be surrendered to the Department of Revenue ~~upon its expiration~~.

2. A qualified production company may submit a new application for a 90-day certificate of exemption each quarter upon the expiration of that company's certificate of exemption; however, upon approval of the department, such qualified production company may renew the 90-day certificate of exemption for a period of up to 1 year without submitting a new application during that 1-year period.

3.~~2.~~ Each 90 days, or upon surrender of the certificate of exemption to the Department of Revenue, the qualified ~~Any~~ production company shall ~~may~~ submit to the department aggregate data for production-related information on employment, expenditures in this state, capital investment, and purchases of

items exempted from sales and use taxes under ss. 212.031, 212.06, and 212.08 for inclusion in the annual report required under subsection (5) ~~a new application for a 90-day certificate of exemption upon the expiration of that company's certificate of exemption~~.

(4) DUTIES OF THE DEPARTMENT OF REVENUE.—

(a) The Department of Revenue shall review the initial application and notify the applicant of any omissions and request additional information if needed. An application shall be complete upon receipt of all requested information. The Department of Revenue shall forward all complete applications to the department ~~Office of Film and Entertainment~~ within 10 working days.

(b) The Department of Revenue shall issue a numbered certificate of exemption to a qualified production company within 5 working days of the receipt of an approved application, application renewal, or application extension from the department ~~Office of Film and Entertainment~~.

(c) The Department of Revenue may adopt ~~promulgate~~ such rules and shall prescribe and publish such forms as may be necessary to effectuate the purposes of this section or any of the sales tax exemptions which are reasonably related to the provisions of this section.

(d) The Department of Revenue is authorized to establish audit procedures in accordance with the provisions of ss. 212.12, 212.13, and 213.34 which relate to the sales tax exemption provisions of this section.

(5) RELATIONSHIP OF TAX EXEMPTIONS AND INCENTIVES TO INDUSTRY GROWTH; REPORT TO THE LEGISLATURE.—The department

~~Office of Film and Entertainment~~ shall keep annual records from the information provided on taxpayer applications for tax exemption certificates and regularly reported as required in this section ~~beginning January 1, 2001~~. These records also must reflect a ratio of the annual amount of sales and use tax exemptions under this section~~,~~ plus the funds granted ~~incentives awarded~~ pursuant to s. 288.1256 ~~s. 288.1254~~ to the estimated amount of funds expended by certified productions. In addition, the department ~~office~~ shall maintain data showing annual growth in Florida-based entertainment industry companies and entertainment industry employment and wages. The employment information must include ~~an estimate of~~ the full-time equivalent positions created by each production that received funds ~~tax credits~~ pursuant to s. 288.1256 ~~s. 288.1254~~. The department ~~Office of Film and Entertainment~~ shall include this information in the annual report for the entertainment industry ~~financial incentive~~ program required under s. 288.1256(10) ~~s. 288.1254(10)~~.

Section 28. Paragraph (b) of subsection (5) of section 288.901, Florida Statutes, is amended to read:

288.901 Enterprise Florida, Inc.—

(5) APPOINTED MEMBERS OF THE BOARD OF DIRECTORS.—

(b) In making their appointments, the Governor, the President of the Senate, and the Speaker of the House of Representatives shall ensure that the composition of the board of directors reflects the diversity of Florida's business community and is representative of the economic development goals in subsection (2). The board must include at least one director for each of the following areas of expertise:

international business, tourism marketing, the space or aerospace industry, managing or financing a minority-owned business, manufacturing, and finance and accounting~~, and sports marketing~~.

Section 29. Subsection (1) of section 288.9015, Florida Statutes, is amended to read:

288.9015 Powers of Enterprise Florida, Inc.; board of directors.—

(1) Enterprise Florida, Inc., shall integrate its efforts in business recruitment and expansion, job creation, marketing the state for tourism ~~and sports~~, and promoting economic opportunities for minority-owned businesses and promoting economic opportunities for rural and distressed urban communities with those of the department, to create an aggressive, agile, and collaborative effort to reinvigorate the state's economy.

Section 30. Paragraph (c) of subsection (1), paragraph (d) of subsection (2), and subsection (3) of section 288.907, Florida Statutes, are amended to read:

288.907 Annual incentives report.—By December 30 of each year, Enterprise Florida, Inc., in conjunction with the department, shall provide the Governor, the President of the Senate, and the Speaker of the House of Representatives a detailed incentives report quantifying the economic benefits for all of the economic development incentive programs marketed by Enterprise Florida, Inc. The annual incentives report must include:

(1) For each incentive program:

(c) The actual amount of private capital invested, the

actual number of jobs created, the actual number of jobs created which provide health benefits for the employee, the actual number of jobs retained, the actual number of jobs retained which provide health benefits for the employee, and actual wages paid for incentive agreements completed during the previous 3 years for each target industry sector.

(2) For projects completed during the previous state fiscal year:

(d) The projects for which a tax refund, tax credit, or cash grant agreement was executed, identifying for each project:

1. The number of jobs committed to be created and the number of those jobs that will provide health benefits for the employee.

2. The number of jobs committed to be retained and the number of those jobs that will provide health benefits for the employee.

3.~~2.~~ The amount of capital investments committed to be made.

4.~~3.~~ The annual average wage committed to be paid.

5.~~4.~~ The amount of state economic development incentives committed to the project from each incentive program under the project's terms of agreement with the Department of Economic Opportunity.

6.~~5.~~ The amount and type of local matching funds committed to the project.

(3) For economic development projects that received tax refunds, tax credits, or cash grants under the terms of an agreement for incentives:

(a) The number of jobs actually created and the number of

those jobs that provided health benefits for the employee.

(b) The number of jobs actually retained and the number of those jobs that provided health benefits for the employee.

(c)~~(b)~~ The amount of capital investments actually made.

(d)~~(c)~~ The annual average wage paid.

Section 31. Subsection (1) of section 288.92, Florida Statutes, is amended to read:

288.92 Divisions of Enterprise Florida, Inc.—

(1) Enterprise Florida, Inc., may create and dissolve divisions as necessary to carry out its mission. Each division shall have distinct responsibilities and complementary missions. At a minimum, Enterprise Florida, Inc., shall have divisions related to the following areas:

(a) International Trade and Business Development;

(b) Business Retention and Recruitment;

(c) Tourism Marketing;

(d) Minority Business Development; and

(e) Film and Entertainment ~~Sports Industry Development~~.

Section 32. Paragraph (c) of subsection (3) and subsection (4) of section 288.980, Florida Statutes, are amended to read:

288.980 Military base retention; legislative intent; grants program.—

(3)

(c) The department shall require that an applicant:

1. Represent a local government with a military installation or military installations that could be adversely affected by federal actions.

2. ~~Agree to match at least 30 percent of any grant awarded.~~

~~3.~~ Prepare a coordinated program or plan of action

delineating how the eligible project will be administered and accomplished.

3.~~4.~~ Provide documentation describing the potential for changes to the mission of a military installation located in the applicant's community and the potential impacts such changes will have on the applicant's community.

(4) The Florida Defense Reinvestment Grant Program is established to respond to the need for this state to work in conjunction with defense-dependent communities in developing and implementing strategies and approaches that will help communities support the missions of military installations, and in developing and implementing alternative economic diversification strategies to transition from a defense economy to a nondefense economy. The department shall administer the program.

(a) Eligible applicants include defense-dependent counties and cities, and local economic development councils located within such communities. ~~The program shall be administered by the department and~~ Grant awards may be provided to support community-based activities that:

1.~~(a)~~ Protect existing military installations;

2.~~(b)~~ Diversify or grow the economy of a defense-dependent community; or

3.~~(c)~~ Develop plans for the reuse of closed or realigned military installations, including any plans necessary for infrastructure improvements needed to facilitate reuse and related marketing activities.

(b) Applications for grants under paragraph (a) ~~this subsection~~ must include a coordinated program of work or plan of

action delineating how the eligible project will be administered and accomplished, which must include a plan for ensuring close cooperation between civilian and military authorities in the conduct of the funded activities and a plan for public involvement. An applicant must agree to match at least 30 percent of any grant awarded.

Section 33. Effective July 1, 2016, paragraph (a) of subsection (6), paragraph (b) of subsection (9), paragraph (a) of subsection (35), subsection (60), and paragraph (b) of subsection (64) of section 320.08058, Florida Statutes, are amended to read:

320.08058 Specialty license plates.—

(6) FLORIDA UNITED STATES OLYMPIC COMMITTEE LICENSE PLATES.—

(a) Because the United States Olympic Committee has selected this state to participate in a combined fundraising program that provides for one-half of all money raised through volunteer giving to stay in this state and be administered by the Florida Sports Foundation ~~Enterprise Florida, Inc.,~~ to support amateur sports, and because the United States Olympic Committee and the Florida Sports Foundation ~~Enterprise Florida, Inc.,~~ are nonprofit organizations dedicated to providing athletes with support and training and preparing athletes of all ages and skill levels for sports competition, and because the Florida Sports Foundation ~~Enterprise Florida, Inc.,~~ assists in the bidding for sports competitions that provide significant impact to the economy of this state, and the Legislature supports the efforts of the United States Olympic Committee and the Florida Sports Foundation ~~Enterprise Florida, Inc.~~, the

Legislature establishes a Florida United States Olympic Committee license plate for the purpose of providing a continuous funding source to support this worthwhile effort. Florida United States Olympic Committee license plates must contain the official United States Olympic Committee logo and must bear a design and colors that are approved by the department. The word "Florida" must be centered at the top of the plate.

(9) FLORIDA PROFESSIONAL SPORTS TEAM LICENSE PLATES.—

(b) The license plate annual use fees are to be annually distributed as follows:

1. Fifty-five percent of the proceeds from the Florida Professional Sports Team plate must be deposited into the Professional Sports Development Trust Fund within the Department of Economic Opportunity. These funds must be used solely to attract and support major sports events in this state. As used in this subparagraph, the term "major sports events" means, but is not limited to, championship or all-star contests of Major League Baseball, the National Basketball Association, the National Football League, the National Hockey League, Major League Soccer, the men's and women's National Collegiate Athletic Association championships ~~Final Four basketball championship~~, or a horseracing or dogracing Breeders' Cup. All funds must be used to support and promote major sporting events, and the uses must be approved by the Department of Economic Opportunity.

2. The remaining proceeds of the Florida Professional Sports Team license plate must be allocated to the Florida Sports Foundation ~~Enterprise Florida, Inc~~. These funds must be

deposited into the Professional Sports Development Trust Fund within the Department of Economic Opportunity. These funds must be used by the Florida Sports Foundation ~~Enterprise Florida, Inc.,~~ to promote the economic development of the sports industry; to distribute licensing and royalty fees to participating professional sports teams; ~~to promote education programs in Florida schools that provide an awareness of the benefits of physical activity and nutrition standards; to partner with the Department of Education and the Department of Health to develop a program that recognizes schools whose students demonstrate excellent physical fitness or fitness improvement;~~ to institute a grant program for communities bidding on minor sporting events that create an economic impact for the state; to distribute funds to Florida-based charities designated by the Florida Sports Foundation ~~Enterprise Florida, Inc.,~~ and the participating professional sports teams; and to fulfill the sports promotion responsibilities of the Department of Economic Opportunity.

3. The Florida Sports Foundation ~~Enterprise Florida, Inc.,~~ shall provide an annual financial audit in accordance with s. 215.981 of its financial accounts and records by an independent certified public accountant pursuant to the contract established by the Department of Economic Opportunity as specified in s. 288.1229(5). The auditor shall submit the audit report to the Department of Economic Opportunity for review and approval. If the audit report is approved, the Department of Economic Opportunity shall certify the audit report to the Auditor General for review.

4. Notwithstanding the provisions of subparagraphs 1. and

2. proceeds from the Professional Sports Development Trust Fund may also be used for operational expenses of the Florida Sports Foundation ~~Enterprise Florida, Inc.,~~ and financial support of the Sunshine State Games and Florida Senior Games.

(35) FLORIDA GOLF LICENSE PLATES.—

(a) The Department of Highway Safety and Motor Vehicles shall develop a Florida Golf license plate as provided in this section. The word "Florida" must appear at the bottom of the plate. The Dade Amateur Golf Association, following consultation with the PGA TOUR, the Florida Sports Foundation ~~Enterprise Florida, Inc.~~, the LPGA, and the PGA of America may submit a revised sample plate for consideration by the department.

(60) FLORIDA NASCAR LICENSE PLATES.—

(a) The department shall develop a Florida NASCAR license plate as provided in this section. Florida NASCAR license plates must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the term "NASCAR" must appear at the bottom of the plate. The National Association for Stock Car Auto Racing, following consultation with the Florida Sports Foundation ~~Enterprise Florida, Inc.~~, may submit a sample plate for consideration by the department.

(b) The license plate annual use fees shall be distributed to the Florida Sports Foundation ~~Enterprise Florida, Inc~~. The license plate annual use fees shall be annually allocated as follows:

1. Up to 5 percent of the proceeds from the annual use fees may be used by the Florida Sports Foundation ~~Enterprise Florida, Inc.,~~ for the administration of the NASCAR license plate program.

2. The National Association for Stock Car Auto Racing shall receive up to $60,000 in proceeds from the annual use fees to be used to pay startup costs, including costs incurred in developing and issuing the plates. Thereafter, 10 percent of the proceeds from the annual use fees shall be provided to the association for the royalty rights for the use of its marks.

3. The remaining proceeds from the annual use fees shall be distributed to the Florida Sports Foundation ~~Enterprise Florida, Inc~~. The Florida Sports Foundation ~~Enterprise Florida, Inc.,~~ will retain 15 percent to support its regional grant program, attracting sporting events to Florida; 20 percent to support the marketing of motorsports-related tourism in the state; and 50 percent to be paid to the NASCAR Foundation, a s. 501(c)(3) charitable organization, to support Florida-based charitable organizations.

(c) The Florida Sports Foundation ~~Enterprise Florida, Inc.,~~ shall provide an annual financial audit in accordance with s. 215.981 of its financial accounts and records by an independent certified public accountant pursuant to the contract established by the Department of Economic Opportunity as specified in s. 288.1229(5). The auditor shall submit the audit report to the Department of Economic Opportunity for review and approval. If the audit report is approved, the Department of Economic Opportunity shall certify the audit report to the Auditor General for review.

(64) FLORIDA TENNIS LICENSE PLATES.—

(b) The department shall distribute the annual use fees to the Florida Sports Foundation ~~Enterprise Florida, Inc~~. The license plate annual use fees shall be annually allocated as

follows:

1. Up to 5 percent of the proceeds from the annual use fees may be used by the Florida Sports Foundation ~~Enterprise Florida, Inc.,~~ to administer the license plate program.

2. The United States Tennis Association Florida Section Foundation shall receive the first $60,000 in proceeds from the annual use fees to reimburse it for startup costs, administrative costs, and other costs it incurs in the development and approval process.

3. Up to 5 percent of the proceeds from the annual use fees may be used for promoting and marketing the license plates. The remaining proceeds shall be available for grants by the United States Tennis Association Florida Section Foundation to nonprofit organizations to operate youth tennis programs and adaptive tennis programs for special populations of all ages, and for building, renovating, and maintaining public tennis courts.

Section 34. Subsection (5) of section 477.0135, Florida Statutes, is amended to read:

477.0135 Exemptions.—

(5) A license is not required of any individual providing makeup, special effects, or cosmetology services to an actor, stunt person, musician, extra, or other talent during a production recognized by the Department of Economic Opportunity ~~Office of Film and Entertainment~~ as a project ~~qualified production~~ as defined in s. 288.1256 ~~s. 288.1254(1)~~. Such services are not required to be performed in a licensed salon. Individuals exempt under this subsection may not provide such services to the general public.

Section 35. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/2016
Meeting Date

1646
Bill Number (if applicable)

Topic Economic Development

Amendment Barcode (if applicable)

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Speaking: ☐ For ☐ Against ☐ Information

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

Representing Americans for Prosperity

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/16
Meeting Date

SB 1646
Bill Number (if applicable)

Topic Eco Devlp.

Amendment Barcode (if applicable)

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

Representing Associated Industries of Florida

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/16
Meeting Date

1646
Bill Number (if applicable)

Topic Economic Development

Amendment Barcode (if applicable)

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Speaking: ☐ For ☐ Against ☐ Information

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

Representing Broward County

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	PCS/SB 7054 (366342)
INTRODUCER:	Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services); and Children, Families, and Elder Affairs Committee
SUBJECT:	Agency for Persons with Disabilities
DATE:	March 2, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
		Hendon		**CF Submitted as Committee Bill**
1.	Crosier	Pigott	AHS	**Recommend: Fav/CS**
2.	Brown	Kynoch	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 7054 creates and amends certain statutes to provide the Agency for Persons with Disabilities (APD) with the ability to assign priority to clients on the waiting list for receiving services from the home and community-based services Medicaid waiver; to allow family members of active duty service members to receive waiver services; conduct utilization reviews; to allow contractors to use APD data management systems; to allow annual reviews of persons involuntarily admitted to residential services; and to allow for the use of video and audio monitoring of the comprehensive transitional education program facilities. The bill also allows APD to contract with more than one provider for specialized residential services. Additionally, the bill requires new specialized residential programs to be limited to 15 beds or less.

The bill's fiscal impact is indeterminate.

The bill has an effective date of June 30, 2016, or, if this act fails to become a law until after that date, it will take effect upon becoming a law and operate retroactively to June 30, 2016.

II. Present Situation:

The Agency for Persons with Disabilities (APD) is responsible for providing services to persons with developmental disabilities. A developmental disability is defined as a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, or Prader-Willi

syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.[1]

Individuals who meet Medicaid eligibility requirements, including individuals who have Down syndrome,[2] may choose to receive services in the community through the state's Medicaid home and community-based services (HCBS) waiver for individuals with developmental disabilities administered by the APD or in an intermediate care facility for the developmentally disabled (ICF/DD).

The HCBS waiver, known as iBudget Florida, offers 27 supports and services to assist individuals to live in their community. Such services are not covered under the regular Medicaid program. Examples of HCBS waiver services include residential habilitation, behavioral services, companion, adult day training, employment services, and physical therapy.[3] Services provided through the HCBS waiver enable children and adults to live in the community in their own home, a family home, or in a licensed residential setting, thereby avoiding institutionalization.

While the majority of individuals served by the APD live in the community, a small number live in ICF/DDs, which are defined in s. 393.063(22), F.S., as residential facilities licensed and certified by the Agency for Health Care Administration (AHCA). ICF/DDs are considered institutional placements and provide intermediate nursing care. There are approximately 2,866 private and public ICF/DD beds in Florida.[4]

Because ICF/DDs are considered institutional placements, the federal government requires routine utilization reviews for individuals in ICF/DDs to ensure that individuals are not inappropriately institutionalized. Utilization reviews must be conducted by a group of professionals referred to as the Utilization Review Committee, which must include at least one physician and one individual knowledgeable in the treatment of intellectual disabilities. The APD performs this utilization review function through an interagency agreement with the AHCA.[5]

Home and Community-Based Services Waiver (iBudget Florida)

The iBudget Florida program was developed in response to legislative direction requiring a plan for an individual budgeting approach for improving the management of the HCBS waiver program.[6] iBudget Florida involves the use of an algorithm, or formula, to set individuals' funding allocations for waiver services. The law provides for individuals to receive funding in

[1] *See* s. 393.063(9), F.S.

[2] *See* s. 393.0662(1), F.S., provides eligibility for individuals with a diagnosis of Down syndrome.

[3] Agency for Persons with Disabilities, Quarterly Report on Agency Services to Floridians with Developmental Disabilities and Their Costs: First Quarter Fiscal Year 2015-16, November 2015.

[4] *Id.*

[5] *Id.*

[6] Agency for Persons with Disabilities, Report to the Legislature on the Agency's Plan for Implementing Individual Budgeting "iBudget Florida" (February 1 2010), *available at* http://apd.myflorida.com/ibudget/rules-regs.htm (last accessed Dec. 15, 2015).

addition to that allocated through the algorithm under certain conditions, such as when they have a temporary or permanent change in need or an extraordinary need that the algorithm does not address.[7] The APD phased-in the implementation of iBudget Florida, which was finalized on July 1, 2013.[8]

However, the iBudget Florida program has been the subject of litigation. In September 2014, in response to a ruling by the 1st District Court of Appeal that that the program's rules were invalid, the APD reset approximately 14,000 individuals' budget allocations to higher amounts.[9] The APD began rulemaking to adopt new rules to replace the invalid ones.[10] The APD, in conjunction with stakeholders, reviewed the algorithm and has filed for the adoption of rules providing a revised algorithm and related funding calculation methods.[11]

iBudget statutes were amended in 2015 to allow additional funding beyond that allocated by the algorithm for transportation to a waiver-funded adult day training program or to employment under certain conditions. However, the 2015 amendment sunsets July 1, 2016.

Waiver Enrollment Prioritization

As of December 14, 2015, 31,665 individuals were enrolled on the iBudget Florida waiver.[12] The majority of waiver enrollees live in a family home with a parent, relative, or guardian. The Legislature appropriated $994,793,906 for Fiscal Year 2015-2016 to provide services through the HCBS waiver program, including federal match of $601,153,957[13]. However, this funding is insufficient to serve all persons seeking waiver services. To enable the APD to remain within legislative appropriations, waiver enrollment is limited. Accordingly, the APD maintains a waiting list for waiver services. Prioritization for the wait list is provided in s. 393.065(5), F.S. Medicaid-eligible persons on the waiting list continue to receive Medicaid services not offered through iBudget Florida.

Waiting list prioritization statutory language has been changed, notwithstanding s. 393.065(5), F.S., in the past two legislative sessions. For example, s. 20 of ch. 2015-222, Laws of Florida, provides that:

- Youth with developmental disabilities who are in extended foster care may be served by both the waiver and the child welfare system;[14] and

[7] *See* s. 393.0662, F.S.
[8] *Supra*, note 3.
[9] Agency for Persons with Disabilities, iBudget Florida, http://apd.myflorida.com/ibudget/ (last visited December 15, 2015).
[10] Department of State, Florida Administrative Register, Vol. 40, No. 207, Oct. 23, 2014, pg. 4703-4706.
[11] These rules have been challenged as well. *See* DOAH Case No. 15-005803RP.
[12] E-mail from Caleb Hawkes, Deputy Legislative Affairs Director, Agency for Persons with Disabilities. RE: Requested information for bill analysis for APD agency bill (Dec. 14, 2015). On file with the Senate Committee on Children, Families and Seniors.
[13] *See* Specific Appropriation 251, ch. 2015-232, Laws of Florida.
[14] This provision also specifies the services that APD and the child welfare system must provide such enrollees. Since July 1, 2015, 30 individuals in extended foster care have been enrolled for HCBS waiver services.

- An individual who has been receiving HCBS waiver services in other states may receive Florida HCBS waiver services if his or her parent or guardian is on active military duty and transfers to Florida.[15]

The provisions of s. 20 of ch. 2015-222, Laws of Florida, sunset on July 1, 2016.

Client Data Management System

In 2015, the Legislature appropriated a total of $2.86 million[16] for Fiscal Year 2015-2016 for the development of a client data management system to provide electronic verification of service delivery to recipients by providers, electronic billings for waiver services, and electronic processing of claims.[17] The APD must also meet federal requirements for administering the iBudget HCBS waiver, such as tracking, measuring, reporting, and providing quality improvement processes for 32 specific program performance measures in order to ensure the program funding can continue. The federal Centers for Medicaid & Medicare Services further requires the state maintain a quality improvement system that includes data collection, data analysis, and reporting. However, the APD currently relies heavily on manual processes and disparate systems to collect, analyze, and report data consistently.

The APD anticipates providers will begin using the system during Fiscal Year 2016-2017. Providers will need standard software and technology in order to log into the system.[18]

Direct Service Provider Staff Training and Professional Development

Under the waiver agreement with the federal government, the APD must coordinate, develop, and provide specialized training for providers and their employees to promote health and well-being of individuals served.[19] These requirements are currently included in the Developmental Disabilities Individual Budgeting Waiver Services Coverage and Limitations Handbook. For example, the handbook outlines required basic training and required in-service training and continuing education for direct service providers on topics such as person-centered planning, maintaining health and safety, reporting to the abuse hotline, and first aid. Providers of certain services, such as supported employment or supported living, are required to take additional pre-service certification training. Training is typically offered several ways, such as through the Internet, DVD, and live classroom training.[20]

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[15] This provision has been in effect since July 1, 2014, and since that time, 10 such individuals have been enrolled in the HCBS waiver. *Supra*, note 12.
[16] *See* Specific Appropriation 265 and section 41, ch. 2015-232, Laws of Florida.
[17] *See* Specific Appropriation 265, ch. 2015-232, Laws of Florida.
[18] Agency for Persons with Disabilities, *Agency Analysis of SB 7054* (on file with the Senate Committee on Children, Families, and Elder Affairs.
[19] *Id.*
[20] Rule 59G-13.070, F.A.C. Handbook may be accessed at http://apd.myflorida.com/ibudget/

Involuntary Admission to Residential Services

Courts have jurisdiction to conduct a hearing and enter an order that a person with a developmental disability requiring involuntary admission to residential services, is provided with care, treatment, habilitation, and rehabilitation services from the APD.[21] When a court receives a petition for such involuntary admission, the APD and an examining committee (comprising at least three disinterested experts in the diagnosis, evaluation, and treatment of persons who have intellectual disabilities) must examine the person and provide a written report for the court. The report must explicitly document the extent to which the person meets the criteria for involuntary admission.[22]

A person charged with a felony and found to be incompetent to proceed due to an intellectual disability is required be committed to the APD. The APD is required to provide appropriate training for the person. The court may order the person into a forensic facility designated by the APD for persons with intellectual disability or autism.

A person who has an intellectual disability must be represented by counsel at all stages of these judicial proceedings, and, if the person is indigent and cannot afford counsel, a public defender must be appointed at least 20 days before a scheduled hearing.[23] The person must be physically present throughout the entire proceeding; however, if the person's attorney believes that the person's presence at the hearing is not in his or her best interest, the requirement may be waived by the court once the court has seen the person and the hearing has commenced.[24]

The court that enters the initial order for involuntary admission to residential services has continuing jurisdiction to enter orders to ensure the person is receiving adequate care, treatment, habilitation, and rehabilitation services.[25] The committing court may order a conditional release of the person based on an approved plan for providing community-based training. If at any time it is determined in a court hearing that the person on conditional release no longer requires court supervision and follow-up care, the court must terminate its jurisdiction and discharge the person.

At any time and without notice, a person involuntarily admitted into residential services, or the person's parent or legal guardian, is entitled to file a petition for a writ of habeas corpus to question the cause, legality, and appropriateness of the involuntary admission.[26]

Comprehensive Transitional Education Program

A private entity known as AdvoServ currently operates Carlton Palms, the only provider of comprehensive transitional education programs (CTEP) in Florida.[27] This program, operating in

[21] *See* s. 393.11(1), F.S.
[22] *See* s. 393.11(4),(5), F.S.
[23] *See* s .393.11(6), F.S.
[24] *See* s. 393.11(7), F.S.
[25] *See* s. 393.11(11), F.S.
[26] *See* s. 393.11(13), F.S.
[27] *See* AdvoServ: Carlton Palms Educational Center, available at http://www.advoserv.com/programs/florida-program/carlton-palms-education-center/ (last visited Feb. 4, 2016).

Lake County, is a group of jointly operating centers and provides educational care, training, treatment, habilitation, and rehabilitation services to persons who have developmental disabilities and who have severe or moderate maladaptive behaviors.[28] All services are to be temporary and delivered in a structured residential setting with the primary goal of incorporating the principle of self-determination in establishing permanent residence not associated with the comprehensive transitional education program.[29]

Carlton Palms is the CTEP provider for the APD as established in s. 393.18, F.S. As of December 31, 2015, the program served 151 APD clients and 40 out-of-state clients. The total number of residents with maladaptive behaviors being provided with services may not exceed the licensed capacity of 120 residents.[30] AdvoServ holds two licenses for the provision of these services, allowing it to serve up to 240 individuals.

Under s. 25 of ch. 2015-222, Laws of Florida, the Legislature amended s. 393.18, F.S., to provide that, for CTEPs, each residential unit within a CTEP's component centers may not in any instance exceed 15 residents, except that CTEPs authorized to operate residential units with more than 15 residents before July 1, 2015, may continue to operate such units. The 2015 legislation also deleted provisions authorizing the licensure of CTEPs that met certain criteria on July 1, 1989, and other provisions relating to the maximization of federal funds and providing for children needing special behavioral services. These 2015 amendments to s. 393.18, F.S., will sunset on July 1, 2016, under s. 26 of ch. 2015-222, Laws of Florida.

III. Effect of Proposed Changes:

Section 1 amends s. 393.063, F.S., to update current definitions and add new terms.

Section 2 repeals s. 393.0641, F.S., which currently provides a program for the prevention and treatment of clients exhibiting severe self-injurious behavior. The APD currently serves individuals with self-injurious behaviors in the community in licensed homes that are specifically for intensive behavior issues. These services are funded under the iBudget waiver program.

Section 3 amends s. 393.065, F.S., to provide prioritization in the APD's home and community-based waiver relating to individuals with developmental disabilities in extended foster care and allows such individuals to receive both HCBS waiver services and child welfare services. The bill also provides that if an individual meets eligibility requirements, was receiving home and community-based waiver services in another state, and is the son or daughter or ward of an active duty military service member who is transferred to this state, the individual is eligible to receive such services in this state.

Additionally, after individuals formerly on the waiting list are enrolled in the waiver, individuals remaining on the waiting list are not substantially affected by APD action and are not entitled to a hearing under s. 393.125, F.S., or administrative proceedings under chapter 120, F.S.

[28] *See* s. 393.18, F.S.
[29] *Id.*
[30] *See* s. 393.18(4), Note (4), F.S.

Section 4 amends s. 393.066, F.S., to require persons or entities under contract with the APD to use APD data management systems for documenting service provision to APD clients. Providers need to have the hardware and software necessary to use these systems, as established by the APD. Such contractors must also ensure that any staff directly serving clients must meet APD requirements for training and professional development.

Section 5 amends s. 393.0662, F.S., to add transportation needs to the list of circumstances that may qualify individuals to receive additional funding beyond that calculated through the algorithm. The bill provides that the APD may grant a funding increase to individuals whose iBudget allocation is insufficient to pay for transportation services to a waiver-funded adult day training program or employment services and who have no other reasonable transportation options.

Section 6 creates s. 393.0679, F.S., to require the APD to conduct utilization reviews in intermediate care facilities for individuals with developmental disabilities (ICF/DDs), both public and private, and requires ICF/DDs to cooperate with these reviews, including requests for information, documentation, and inspection. This will ensure that Florida continues to meet federal requirements for conducting utilization reviews.

Section 7 amends s. 393.11, F.S. to include a person with autism as a person who may require involuntary admission to residential services provided by the APD.

Section 393.11(14), F.S., is created to provide a framework for an annual review of a court's order for involuntary admission to residential services. Reviews are required annually by a qualified evaluator either in the employ of or under contract with the APD. A qualified evaluator may be a psychiatrist licensed under chapter 458 or chapter 459 or a psychologist licensed under chapter 490. The review must consider whether the person continues to meet the criteria for involuntary admission for residential services. If the person is determined to meet the criteria, the court must determine whether the person is in the most appropriate and least restrictive setting. The court must also determine whether the person is receiving adequate care, treatment, habilitation, and rehabilitation in the residential setting. The bill provides for notice requirements of the hearing to the appropriate state's attorney, if applicable, and the person's attorney and guardian or guardian advocate, if one is appointed.

Section 8 reenacts s. 393.067, F.S., to allow the APD to contract with more than one provider for specialized residential services.

Section 9 repeals Section 26 of chapter 2015-222, Laws of Florida.

Section 10 reenacts and amends s. 393.18, F.S., to provide that a CTEP serve individuals who have developmental disabilities, severe maladaptive behaviors, and co-occurring complex medical conditions, or has a dual diagnosis of developmental disability and mental illness. The bill provides that the supervisor of the clinical director of the program licensee must hold a doctoral degree with a primary focus in behavior analysis, be a certified behavior analyst, and have at least one year of experience in providing behavior analysis services for individuals with developmental disabilities.

Additionally, the bill requires a CTEP to include components of intensive treatment and education, intensive training and education, and transition services to avoid regression to more restrictive environments while preparing individuals for independent living. Any educational components of the program, including individual education plans, must be integrated with the local school district to the extent possible. The individual education plans must be developed for each school-aged person and must be integrated with the referring school district.

Beginning July 1, 2016, the APD may approve proposed admission or readmission of individuals into a CTEP for up to two years. The APD may allow an individual to reside in a CTEP for a longer period of time subject to a clinical review conducted by the APD. To improve resident and staff safety, CTEPs must provide continuous recorded video and audio monitoring in all residential common areas, and those recordings must be maintained for at least 60 days. The programs must operate and maintain video and audio monitoring systems that allow authorized APD staff to monitor program activities in real-time from off-site locations.

The APD is authorized to license a facility that provides residential services for children with developmental disabilities and intensive behavioral problems as defined by the APD and which, as of July 1, 2010, serves children who have been served by the child welfare system and who have an open case in the State Automated Child Welfare Information System. Such a facility must be in compliance with all program criteria and local land use and zoning requirements and may not exceed a capacity of 15 children.

Section 11 amends s. 393.501, F.S., to clarify that rules adopted by the APD regarding CTEPs meet certain criteria.

Section 12 amends s. 383.141, F.S., to correct cross-references.

Section 13 amends s. 1002.385, F.S., to correct cross-references.

Section 14 provides an effective date of June 30, 2016, or if this act fails to become a law until after that date, it shall take effect upon becoming a law and operate retroactively to June 30, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Under PCS/SB 7054, direct care providers may see increased costs to provide data to the new APD client data management system. It is unknown what training and career development requirements or hardware and software requirements the APD will establish, or the extent to which providers will have to acquire hardware and software to meet those requirements.

C. Government Sector Impact:

The APD may experience increased costs of conducting additional involuntary commitment reviews. This cost is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 393.063, 303.065, 393.066, 303.0662, 393.11, 393.18, 393.501, 383.141, and 1002.385.

This bill creates section 393.0679 of the Florida Statutes.

This bill repeals section 393.0641 of the Florida Statutes and Chapter 2015-222, section 26, Laws of Florida.

IX. Additional Information:

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

Recommended CS by Appropriations Subcommittee on Health and Human Services on February 11, 2016:
The committee substitute:

- Reenacts s. 393.067, F.S., to allow the APD to contract with more than one provider for specialized residential services;
- Requires new specialized residential programs to be limited to 15 beds or less;
- Repeals s. 26 of ch. 2015-222, Laws of Florida;

- Allows a qualified evaluator to be either in the employ or under contract with the APD and requires the qualified evaluator may be a psychiatrist licensed under chapter 458 or chapter 459 or a psychologist licensed under chapter 490;
- Provides that if an individual meets eligibility requirements, was receiving home and community-based waiver services in another state, and is the son or daughter or ward of an active duty military service member who is transferred to this state, the individual is eligible to receive such services in this state; and
- Requires individual education plans be developed for each school-aged person in the specialized residential program and also requires that individual education plan for the school-aged person must be integrated with the referring school district.

B. Amendments:

None.

500696

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/03/2016	.	
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The Committee on Appropriations (Garcia) recommended the following:

Senate Amendment

Delete lines 495 - 578
and insert:
~~(b)~~ The allocation methodology shall determine ~~provide the algorithm that determines~~ the amount of funds allocated to a client's iBudget.
(b) The agency may authorize funding ~~approve an increase in the amount of funds allocated, as determined by the algorithm,~~ based on a ~~the~~ client having one or more of the following needs

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that cannot be accommodated within the funding ~~as~~ determined by the algorithm and having no other resources, supports, or services available to meet the need:

1. An extraordinary need that would place the health and safety of the client, the client's caregiver, or the public in immediate, serious jeopardy unless the increase is approved. However, the presence of an extraordinary need in and of itself does not warrant authorized funding by the agency. An extraordinary need may include, but is not limited to:

a. The loss of or a change in the client's caregiver arrangement or a documented need based on a medical, behavioral, or psychological assessment;

b.~~a.~~ A documented history of significant, potentially life-threatening behaviors, such as recent attempts at suicide, arson, nonconsensual sexual behavior, or self-injurious behavior requiring medical attention;

c.~~b.~~ A complex medical condition that requires active intervention by a licensed nurse on an ongoing basis that cannot be taught or delegated to a nonlicensed person;

d.~~c.~~ A chronic comorbid condition. As used in this subparagraph, the term "comorbid condition" means a medical condition existing simultaneously but independently with another medical condition in a patient; or

e.~~d.~~ A need for total physical assistance with activities such as eating, bathing, toileting, grooming, and personal hygiene.

~~However, the presence of an extraordinary need alone does not warrant an increase in the amount of funds allocated to a~~

~~client's iBudget as determined by the algorithm~~.

2. A significant need for one-time or temporary support or services that, if not provided, would place the health and safety of the client, the client's caregiver, or the public in serious jeopardy~~, unless the increase is approved~~. A significant need may include, but is not limited to, the provision of environmental modifications, durable medical equipment, services to address the temporary loss of support from a caregiver, or special services or treatment for a serious temporary condition when the service or treatment is expected to ameliorate the underlying condition. As used in this subparagraph, the term "temporary" means a period of fewer than 12 continuous months. However, the presence of such significant need for one-time or temporary supports or services alone does not in and of itself warrant authorized funding by the agency ~~an increase in the amount of funds allocated to a client's iBudget as determined by the algorithm~~.

3. A significant increase in the need for services after the beginning of the service plan year which ~~that~~ would place the health and safety of the client, the client's caregiver, or the public in serious jeopardy because of substantial changes in the client's circumstances, including, but not limited to, permanent or long-term loss or incapacity of a caregiver, loss of services authorized under the state Medicaid plan due to a change in age, or a significant change in medical or functional status which requires the provision of additional services on a permanent or long-term basis that cannot be accommodated within the client's current iBudget. As used in this subparagraph, the term "long-term" means a period of 12 or more continuous months.

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However, such significant increase in need for services of a permanent or long-term nature ~~alone~~ does not in and of itself warrant authorized funding by the agency ~~warrant an increase in the amount of funds allocated to a client's iBudget as determined by the algorithm~~.

4. A significant need for transportation services to a waiver-funded adult day training program or to waiver-funded employment services when such need cannot be accommodated within a client's iBudget as determined by the algorithm without affecting the health and safety of the client, when public transportation is not an option due to the unique needs of the client, or when other transportation resources are not reasonably available.

The agency shall reserve portions of the appropriation for the home and community-based services Medicaid waiver program for adjustments required pursuant to this paragraph and may use the services of an independent actuary in determining the amount ~~of the portions~~ to be reserved.

(c) ~~A client's iBudget shall be the total of the amount~~

607676

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/03/2016	.	
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The Committee on Appropriations (Hays) recommended the following:

Senate Amendment (with title amendment)

Between lines 642 and 643
insert:
Section 6. Section 393.0663, Florida Statutes, is created to read:
393.0663 The Arc Dental Program.—
(1) The Legislature finds that many individuals with intellectual or developmental disabilities in this state are in need of dental treatment and that such individuals often lack

607676

access to such services. The Legislature further finds that The Arc of Florida, a not-for-profit organization that maintains programs to assist in the delivery of needed services to individuals with intellectual or developmental disabilities, operates The Arc of Florida Dental Program to provide dental services to such individuals. Since the 2012-2013 fiscal year, the Legislature has appropriated general revenue funds to the organization to allow it to recruit 180 dental practices to provide dental services to hundreds of individuals with intellectual or developmental disabilities. Such services include X-rays, cleanings, fluoride treatments, fillings, root canals, crowns, extractions, and dentures. The Legislature finds that it is in the public interest to establish a program to assist The Arc of Florida in providing dental services to individuals with intellectual or developmental disabilities.

(2) The Arc Dental Program is established in the Agency for Persons with Disabilities. The agency shall enter into a memorandum of agreement with and provide assistance to The Arc of Florida in operating and expanding The Arc of Florida Dental Program. The memorandum of agreement entered into between the agency and The Arc of Florida shall require quantifiable, measurable, and verifiable units of deliverables and require The Arc of Florida to submit an annual accounting of the funding allocated by the agency.

(3) Beginning January 1, 2018, and each January 1 thereafter, the agency shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives which summarizes contract performance by The Arc of Florida for the previous fiscal year.

607676

(4) The Legislature shall annually appropriate funds from the General Revenue Fund to the agency to fund The Arc of Florida Dental Program.

Section 7. For the 2016-2017 fiscal year, and each fiscal year thereafter, the sum of $4 million in recurring funds is appropriated from the General Revenue Fund to the Agency for Persons with Disabilities for the purpose of implementing s. 393.0663, Florida Statutes, as created by this act.

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

And the title is amended as follows:

Delete line 27

and insert:

iBudget system; creating s. 393.0663, F.S.; providing legislative findings; establishing The Arc Dental Program in the Agency for Persons with Disabilities; authorizing the agency to enter into a memorandum of agreement with and assist The Arc of Florida; providing requirements for the memorandum of agreement; requiring the agency to submit an annual report to the Governor and the Legislature; providing for an annual appropriation; appropriating funds; creating s. 393.0679, F.S.; requiring

577968

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/03/2016	.	
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The Committee on Appropriations (Hays) recommended the following:

Senate Amendment to Amendment (607676) (with title amendment)

Delete lines 40 - 47
and insert:
(4) Implementation of the Arc Dental Program is contingent upon appropriation.

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

577968

Delete lines 60 - 61

and insert:

report to the Governor and the Legislature; providing that implementation of the program is contingent upon an appropriation;

712692

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/03/2016	.	
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The Committee on Appropriations (Garcia) recommended the following:

Senate Amendment (with title amendment)

Delete lines 806 - 961

and insert:

Section 8. Effective June 30, 2016, or, if this act fails to become a law until after that date, effective upon becoming a law and operating retroactively to June 30, 2016, sections 24 and 26 of chapter 2015-222, Laws of Florida, are repealed.

Section 9. Subsection (15) of section 393.067, Florida Statutes, is reenacted to read:

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393.067 Facility licensure.—

(15) The agency is not required to contract with facilities licensed pursuant to this chapter.

Section 10. Section 393.18, Florida Statutes, is reenacted and amended to read:

393.18 Comprehensive transitional education program.—A comprehensive transitional education program serves individuals ~~is a group of jointly operating centers or units, the collective purpose of which is to provide a sequential series of educational care, training, treatment, habilitation, and rehabilitation services to persons~~ who have developmental disabilities, ~~and who have~~ severe ~~or moderate~~ maladaptive behaviors, severe maladaptive behaviors and co-occurring complex medical conditions, or a dual diagnosis of developmental disability and mental illness. ~~However, this section does not require such programs to provide services only to persons with developmental disabilities. All such~~ Services provided by the program must ~~shall~~ be temporary in nature and delivered in a manner designed to achieve ~~structured residential setting, having~~ the primary goal of incorporating the principles ~~principle~~ of self-determination and person-centered planning to transition individuals to the most appropriate, least restrictive community living option of their choice which is not operated as a ~~in establishing permanent residence for persons with maladaptive behaviors in facilities that are not associated with the~~ comprehensive transitional education program. The supervisor of the clinical director of the program licensee must hold a doctorate degree with a primary focus in behavior analysis from an accredited university, be a certified behavior

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analyst pursuant to s. 393.17, and have at least 1 year of experience in providing behavior analysis services for individuals with developmental disabilities. The staff must ~~shall~~ include behavior analysts and teachers, as appropriate, who shall be available to provide services in each component center or unit of the program. A behavior analyst must be certified pursuant to s. 393.17.

(1) Comprehensive transitional education programs must ~~shall~~ include ~~a minimum of two component centers or units, one of which shall be an intensive treatment and educational center or a transitional training and educational center, which provides services to persons with maladaptive behaviors in~~ the following components ~~sequential order~~:

(a) *Intensive treatment and education* ~~*educational center.*~~—This component provides ~~is a self-contained residential unit providing~~ intensive behavioral and educational programming for individuals whose conditions ~~persons with severe maladaptive behaviors whose behaviors~~ preclude placement in a less restrictive environment due to the threat of danger or injury to themselves or others. Continuous-shift staff are ~~shall be~~ required for this component.

(b) *Intensive* ~~*Transitional*~~ *training and education* ~~*educational center.*~~—This component provides ~~is a residential unit for persons with moderate maladaptive behaviors providing~~ concentrated psychological and educational programming that emphasizes a transition toward a less restrictive environment. Continuous-shift staff are ~~shall be~~ required for this component.

(c) ~~*Community*~~ *Transition* ~~*residence.*~~—This component provides ~~is a residential center providing~~ educational programs and any

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support services, training, and care that are needed ~~to assist persons with maladaptive behaviors~~ to avoid regression to more restrictive environments while preparing individuals ~~them~~ for more independent living. Continuous-shift staff are ~~shall be~~ required for this component.

~~(d) *Alternative living center.*—This component is a residential unit providing an educational and family living environment for persons with maladaptive behaviors in a moderately unrestricted setting. Residential staff shall be required for this component.~~

~~(e) *Independent living education center.*—This component is a facility providing a family living environment for persons with maladaptive behaviors in a largely unrestricted setting and includes education and monitoring that is appropriate to support the development of independent living skills.~~

(2) Components of a comprehensive transitional education program are subject to the license issued under s. 393.067 to a comprehensive transitional education program and may be located on a single site or multiple sites as long as such components are located within the same agency region.

(3) Comprehensive transitional education programs shall develop individual education plans for each school-aged person with maladaptive behaviors, severe maladaptive behaviors and co-occurring complex medical conditions, or a dual diagnosis of development disability and mental illness who receives services from the program. Each individual education plan shall be developed in accordance with the criteria specified in 20 U.S.C. ss. 401 et seq., and 34 C.F.R. part 300. To the extent possible, educational components of the program, including individual

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education plans, must be integrated with the referring school district of each school-aged resident.

(4) ~~For comprehensive transitional education programs,~~ The total number of persons in a comprehensive transitional education program ~~residents~~ who are being provided with services may not ~~in any instance~~ exceed ~~the licensed capacity of~~ 120 residents, and each residential unit within the component centers of a ~~the~~ program authorized under this section may not ~~in any instance~~ exceed 15 residents. However, a program that was authorized to operate residential units with more than 15 residents before July 1, 2015, may continue to operate such units.

(5) Any licensee that has executed a settlement agreement with the agency which is enforceable by the court must comply with the terms of the settlement agreement or be subject to grounds for discipline as provided by law and rule.

(6) Beginning July 1, 2016, the agency may approve the proposed admission or readmission of individuals into a comprehensive transitional education program for up to 2 years, subject to a specific review process. The agency may allow an individual to live in this setting for a longer period of time if, after a clinical review is conducted by the agency, it is determined that remaining in the program for a longer period of time is in the best interest of the individual.

Delete lines 1006 - 1009

and insert:

Section 14. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon

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this act becoming a law, this act shall take effect July 1, 2016.

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

And the title is amended as follows:

Delete lines 39 - 59

and insert:

defining a term; repealing s. 24 of chapter 2015-222, Laws of Florida, relating to the abrogation of the scheduled expiration of an amendment to s. 393.067(15), F.S., and the scheduled reversion of the text of that section; repealing s. 26 of chapter 2015-222, Laws of Florida, relating to the abrogation of the scheduled expiration of an amendment to s. 393.18, F.S., and the scheduled reversion of the text of that section; reenacting s. 393.067(15), F.S., relating to contracts between the agency and licensed facilities; reenacting and amending s. 393.18, F.S.; revising the purposes of comprehensive transitional education programs; requiring the supervisor of the clinical director of such programs to meet specified requirements; requiring such programs to include specified components; revising the organization and operation of the components; requiring components of a program to be located within the same agency region; providing for the integration of educational components with the local school district of school-aged residents; requiring licensees that have entered into settlement agreements with the agency to comply

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with the agreement or face disciplinary action; authorizing the agency to approve the proposed admission or readmission of an individual to a program for a specified period of time; providing for an extended stay under certain circumstances; amending s. 393.501, F.S.;

Delete line 62

and insert:

cross references; providing effective dates.

366342

576-03409-16

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Health and Human Services)

A bill to be entitled

An act relating to the Agency for Persons with Disabilities; amending s. 393.063, F.S.; redefining and defining terms; repealing s. 393.0641, F.S., relating to a program for the prevention and treatment of severe self-injurious behavior; amending s. 393.065, F.S.; providing for the assignment of priority to clients waiting for waiver services; requiring the agency to allow an individual to receive specified services if the individual's parent or legal guardian is an active duty military servicemember, under certain circumstances; requiring the agency to send an annual letter requesting updated information to clients, their guardians, or their families; providing that certain agency action does not establish a right to a hearing or an administrative proceeding; amending s. 393.066, F.S.; providing for the use of an agency data management system; providing requirements for persons or entities under contract with the agency; amending s. 393.0662, F.S.; revising the allocations methodology that the agency is required to use to develop each client's iBudget; adding client needs that qualify as extraordinary needs, which may result in the approval of an increase in a client's allocated funds; revising duties of the Agency for Health Care Administration relating to the iBudget system; creating s. 393.0679, F.S.; requiring

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576-03409-16

the Agency for Persons with Disabilities to conduct a certain utilization review; requiring specified intermediate care facilities to comply with certain requests and inspections by the agency; amending s. 393.11, F.S.; providing for annual reviews for persons involuntarily committed to residential services; requiring the agency to employ or contract with a qualified evaluator; providing requirements for annual reviews; requiring a hearing to be held to consider the results of an annual review; requiring the agency to provide a copy of the review to certain persons; defining a term; reenacting s. 393.067(15), F.S., relating to contracts between the Agency for Persons with Disabilities and licensed facilities, to incorporate the amendments made to s. 393.18, F.S., in a reference thereto; repealing s. 26 of ch. 2015-222, Laws of Florida, relating to the abrogation of the scheduled expiration of an amendment to s. 393.18, F.S., and the scheduled reversion of the text of that section; reenacting and amending s. 393.18, F.S.; revising the purposes of comprehensive transitional education programs; providing qualification requirements for the supervisor of the clinical director of a specified licensee; revising the organization and operation of components of a program; providing for the integration of educational components with the local school district; authorizing the agency to approve the admission or readmission of an individual to a program; providing for video and

audio recording and monitoring of common areas and program activities and facilities; providing for licensure of such programs; amending s. 393.501, F.S.; conforming provisions to changes made by the act; amending ss. 383.141 and 1002.385, F.S.; conforming cross references; providing an effective date.

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

Section 1. Section 393.063, Florida Statutes, is reordered and amended to read:

393.063 Definitions.—For the purposes of this chapter, the term:

(2) ~~(1)~~ "Agency" means the Agency for Persons with Disabilities.

(1) ~~(2)~~ "Adult day training" means training services that ~~which~~ take place in a nonresidential setting, separate from the home or facility in which the client resides, and~~;~~ are intended to support the participation of clients in daily, meaningful, and valued routines of the community. Such training~~; and~~ may be provided in ~~include~~ work-like settings that do not meet the definition of supported employment.

(3) "Algorithm" means the mathematical formula used by the agency to calculate a budget amount for clients using variables that have statistically validated relationships to clients' needs for services provided by the home and community-based Medicaid waiver program.

(4) "Allocation methodology" means the process used to determine a client's iBudget by summing the amount generated by

the algorithm and, if applicable, any funding authorized by the agency for the client pursuant to s. 393.0662(1)(b).

(5) ~~(3)~~ "Autism" means a pervasive, neurologically based developmental disability of extended duration which causes severe learning, communication, and behavior disorders with age of onset during infancy or childhood. Individuals with autism exhibit impairment in reciprocal social interaction, impairment in verbal and nonverbal communication and imaginative ability, and a markedly restricted repertoire of activities and interests.

(6) ~~(4)~~ "Cerebral palsy" means a group of disabling symptoms of extended duration which results from damage to the developing brain that may occur before, during, or after birth and that results in the loss or impairment of control over voluntary muscles. For the purposes of this definition, cerebral palsy does not include those symptoms or impairments resulting solely from a stroke.

(7) ~~(5)~~ "Client" means any person determined eligible by the agency for services under this chapter.

(8) ~~(6)~~ "Client advocate" means a friend or relative of the client, or of the client's immediate family, who advocates for the best interests of the client in any proceedings under this chapter in which the client or his or her family has the right or duty to participate.

(9) ~~(7)~~ "Comprehensive assessment" means the process used to determine eligibility for services under this chapter.

(10) ~~(8)~~ "Comprehensive transitional education program" means the program established in s. 393.18.

(12) ~~(9)~~ "Developmental disability" means a disorder or

syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, Down syndrome, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.

(11)~~(10)~~ "Developmental disabilities center" means a state-owned and state-operated facility, formerly known as a "Sunland Center," providing for the care, habilitation, and rehabilitation of clients with developmental disabilities.

(13)~~(11)~~ "Direct service provider" means a person 18 years of age or older who has direct face-to-face contact with a client while providing services to the client or has access to a client's living areas or to a client's funds or personal property.

(14)~~(12)~~ "Domicile" means the place where a client legally resides and~~,~~ which ~~place~~ is his or her permanent home. Domicile may be established as provided in s. 222.17. Domicile may not be established in Florida by a minor who has no parent domiciled in Florida, or by a minor who has no legal guardian domiciled in Florida, or by any alien not classified as a resident alien.

(15)~~(13)~~ "Down syndrome" means a disorder caused by the presence of an extra chromosome 21.

(16)~~(14)~~ "Express and informed consent" means consent voluntarily given in writing with sufficient knowledge and comprehension of the subject matter to enable the person giving consent to make a knowing decision without any element of force, fraud, deceit, duress, or other form of constraint or coercion.

(17)~~(15)~~ "Family care program" means the program established in s. 393.068.

(18)~~(16)~~ "Foster care facility" means a residential facility licensed under this chapter which provides a family living environment including supervision and care necessary to meet the physical, emotional, and social needs of its residents. The capacity of such a facility may not be more than three residents.

(19)~~(17)~~ "Group home facility" means a residential facility licensed under this chapter which provides a family living environment including supervision and care necessary to meet the physical, emotional, and social needs of its residents. The capacity of such a facility shall be at least 4 but not more than 15 residents.

(20) "Guardian" has the same meaning as in s. 744.102.

(21)~~(18)~~ "Guardian advocate" means a person appointed by a written order of the court to represent a person with developmental disabilities under s. 393.12.

(22)~~(19)~~ "Habilitation" means the process by which a client is assisted in acquiring and maintaining ~~to acquire and maintain~~ those life skills that ~~which~~ enable the client to cope more effectively with the demands of his or her condition and environment and to raise the level of his or her physical, mental, and social efficiency. The term ~~It~~ includes, but is not limited to, programs of formal structured education and treatment.

(23)~~(20)~~ "High-risk child" means, for the purposes of this chapter, a child from 3 to 5 years of age with one or more of the following characteristics:

(a) A developmental delay in cognition, language, or physical development.

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576-03409-16

(b) A child surviving a catastrophic infectious or traumatic illness known to be associated with developmental delay, when funds are specifically appropriated.

(c) A child with a parent or guardian with developmental disabilities who requires assistance in meeting the child's developmental needs.

(d) A child who has a physical or genetic anomaly associated with developmental disability.

(24) ~~(21)~~ "Intellectual disability" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior which manifests before the age of 18 and can reasonably be expected to continue indefinitely. For the purposes of this definition, the term:

(a) "Adaptive behavior" means the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected of his or her age, cultural group, and community.

(b) "Significantly subaverage general intellectual functioning" means performance that is two or more standard deviations from the mean score on a standardized intelligence test specified in the rules of the agency.

For purposes of the application of the criminal laws and procedural rules of this state to matters relating to pretrial, trial, sentencing, and any matters relating to the imposition and execution of the death penalty, the terms "intellectual disability" or "intellectually disabled" are interchangeable with and have the same meaning as the terms "mental retardation" or "retardation" and "mentally retarded" as defined in this

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576-03409-16

section before July 1, 2013.

(25) ~~(22)~~ "Intermediate care facility for the developmentally disabled" ~~or "ICF/DD"~~ means a residential facility licensed and certified under part VIII of chapter 400.

(26) ~~(23)~~ "Medical/dental services" means medically necessary services that are provided or ordered for a client by a person licensed under chapter 458, chapter 459, or chapter 466. Such services may include, but are not limited to, prescription drugs, specialized therapies, nursing supervision, hospitalization, dietary services, prosthetic devices, surgery, specialized equipment and supplies, adaptive equipment, and other services as required to prevent or alleviate a medical or dental condition.

(27) ~~(24)~~ "Personal care services" means individual assistance with or supervision of essential activities of daily living for self-care, including ambulation, bathing, dressing, eating, grooming, and toileting, and other similar services that are incidental to the care furnished and essential to the health, safety, and welfare of the client if no one else is available to perform those services.

(28) ~~(25)~~ "Prader-Willi syndrome" means an inherited condition typified by neonatal hypotonia with failure to thrive, hyperphagia or an excessive drive to eat which leads to obesity usually at 18 to 36 months of age, mild to moderate intellectual disability, hypogonadism, short stature, mild facial dysmorphism, and a characteristic neurobehavior.

(29) ~~(26)~~ "Relative" means an individual who is connected by affinity or consanguinity to the client and who is 18 years of age or older.

(30)~~(27)~~ "Resident" means a person who has a developmental disability and resides at a residential facility, whether or not such person is a client of the agency.

(31)~~(28)~~ "Residential facility" means a facility providing room and board and personal care for persons who have developmental disabilities.

(32)~~(29)~~ "Residential habilitation" means supervision and training with the acquisition, retention, or improvement in skills related to activities of daily living, such as personal hygiene skills, homemaking skills, and the social and adaptive skills necessary to enable the individual to reside in the community.

(33)~~(30)~~ "Residential habilitation center" means a community residential facility licensed under this chapter which provides habilitation services. The capacity of such a facility may not be fewer than nine residents. After October 1, 1989, new residential habilitation centers may not be licensed and the licensed capacity for any existing residential habilitation center may not be increased.

(34)~~(31)~~ "Respite service" means appropriate, short-term, temporary care that is provided to a person who has a developmental disability in order to meet the planned or emergency needs of the person or the family or other direct service provider.

(35)~~(32)~~ "Restraint" means a physical device, method, or drug used to control dangerous behavior.

(a) A physical restraint is any manual method or physical or mechanical device, material, or equipment attached or adjacent to an individual's body so that he or she cannot easily

remove the restraint and which restricts freedom of movement or normal access to one's body.

(b) A drug used as a restraint is a medication used to control the person's behavior or to restrict his or her freedom of movement and is not a standard treatment for the person's medical or psychiatric condition. Physically holding a person during a procedure to forcibly administer psychotropic medication is a physical restraint.

(c) Restraint does not include physical devices, such as orthopedically prescribed appliances, surgical dressings and bandages, supportive body bands, or other physical holding necessary for routine physical examinations and tests; for purposes of orthopedic, surgical, or other similar medical treatment; to provide support for the achievement of functional body position or proper balance; or to protect a person from falling out of bed.

(36)~~(33)~~ "Seclusion" means the involuntary isolation of a person in a room or area from which the person is prevented from leaving. The prevention may be by physical barrier or by a staff member who is acting in a manner, or who is physically situated, so as to prevent the person from leaving the room or area. For the purposes of this chapter, the term does not mean isolation due to the medical condition or symptoms of the person.

(37)~~(34)~~ "Self-determination" means an individual's freedom to exercise the same rights as all other citizens, authority to exercise control over funds needed for one's own support, including prioritizing these funds when necessary, responsibility for the wise use of public funds, and self-advocacy to speak and advocate for oneself in order to gain

independence and ensure that individuals with a developmental disability are treated equally.

(38) ~~(35)~~ "Specialized therapies" means those treatments or activities prescribed by and provided by an appropriately trained, licensed, or certified professional or staff person and may include, but are not limited to, physical therapy, speech therapy, respiratory therapy, occupational therapy, behavior therapy, physical management services, and related specialized equipment and supplies.

(39) ~~(36)~~ "Spina bifida" means~~, for purposes of this chapter,~~ a person with a medical diagnosis of spina bifida cystica or myelomeningocele.

(40) ~~(37)~~ "Support coordinator" means a person who is designated by the agency to assist individuals and families in identifying their capacities, needs, and resources, as well as finding and gaining access to necessary supports and services; coordinating the delivery of supports and services; advocating on behalf of the individual and family; maintaining relevant records; and monitoring and evaluating the delivery of supports and services to determine the extent to which they meet the needs and expectations identified by the individual, family, and others who participated in the development of the support plan.

(41) ~~(38)~~ "Supported employment" means employment located or provided in an integrated work setting, with earnings paid on a commensurate wage basis, and for which continued support is needed for job maintenance.

(42) ~~(39)~~ "Supported living" means a category of individually determined services designed and coordinated in such a manner as to provide assistance to adult clients who

require ongoing supports to live as independently as possible in their own homes, to be integrated into the community, and to participate in community life to the fullest extent possible.

(43) ~~(40)~~ "Training" means a planned approach to assisting a client to attain or maintain his or her maximum potential and includes services ranging from sensory stimulation to instruction in skills for independent living and employment.

(44) ~~(41)~~ "Treatment" means the prevention, amelioration, or cure of a client's physical and mental disabilities or illnesses.

Section 2. Section 393.0641, Florida Statutes, is repealed.

Section 3. Present subsections (6) and (7) of section 393.065, Florida Statutes, are redesignated as subsections (7) and (9), respectively, subsections (3) and (5) and present subsections (6) and (7) of that section are amended, and new subsections (6) and (8) are added to that section, to read:

393.065 Application and eligibility determination.—

(3) The agency shall notify each applicant, in writing, of its eligibility decision. Any applicant determined by the agency to be ineligible for ~~developmental~~ services has the right to appeal this decision pursuant to ss. 120.569 and 120.57.

(5) ~~Except as otherwise directed by law, beginning July 1, 2010,~~ The agency shall assign and provide priority to clients waiting for waiver services in the following order:

(a) Category 1, which includes clients deemed to be in crisis as described in rule, shall be given first priority in moving from the waiting list to the waiver.

(b) Category 2, which includes clients on the waiting ~~children on the wait~~ list who are:

1. From the child welfare system with an open case in the Department of Children and Families' statewide automated child welfare information system and who are:

a. Transitioning out of the child welfare system at the finalization of an adoption, a reunification with a family member, a permanent placement with a relative, or a guardianship with a nonrelative; or

b. At least 18 years old, but not yet 22 years old, and who need both waiver services and extended foster care services; or

2. At least 18 years old, but not yet 22 years old, and who withdrew consent pursuant to s. 39.6251(5)(c) to remain in extended foster care.

For clients who are eligible under sub-subparagraph 1.b., the agency shall provide waiver services, including residential habilitation, and the community-based care lead agency shall fund room and board at the rates established in s. 409.145(4) and provide case management and related services as defined in s. 409.986(3). Such clients may receive both waiver services and services under s. 39.6251 which may not duplicate services available through the Medicaid state plan.

(c) Category 3, which includes, but is not required to be limited to, clients:

1. Whose caregiver has a documented condition that is expected to render the caregiver unable to provide care within the next 12 months and for whom a caregiver is required but no alternate caregiver is available;

2. At substantial risk of incarceration or court commitment without supports;

3. Whose documented behaviors or physical needs place them or their caregiver at risk of serious harm and other supports are not currently available to alleviate the situation; or

4. Who are identified as ready for discharge within the next year from a state mental health hospital or skilled nursing facility and who require a caregiver but for whom no caregiver is available, or whose caregiver cannot provide the care needed.

(d) Category 4, which includes, but is not required to be limited to, clients whose caregivers are 70 years of age or older and for whom a caregiver is required but no alternate caregiver is available.

(e) Category 5, which includes, but is not required to be limited to, clients who are expected to graduate within the next 12 months from secondary school and need support to obtain a meaningful day activity, ~~or~~ maintain competitive employment, or to pursue an accredited program of postsecondary education to which they have been accepted.

(f) Category 6, which includes clients 21 years of age or older who do not meet the criteria for category 1, category 2, category 3, category 4, or category 5.

(g) Category 7, which includes clients younger than 21 years of age who do not meet the criteria for category 1, category 2, category 3, or category 4.

Within categories 3, 4, 5, 6, and 7, the agency shall maintain a waiting ~~wait~~ list of clients placed in the order of the date that the client is determined eligible for waiver services.

(6) The agency shall allow an individual who meets the eligibility requirements pursuant to subsection (1) to receive

home and community-based services in this state if the individual's parent or legal guardian is an active duty military servicemember and if at the time of the servicemember's transfer to this state, the individual was receiving home and community-based services in another state.

(7) ~~(6)~~ The client, the client's guardian, or the client's family must ensure that accurate, up-to-date contact information is provided to the agency at all times. Notwithstanding s. 393.0651, the agency shall send an annual letter requesting updated information from the client, the client's guardian, or the client's family. The agency shall remove from the waiting ~~wait~~ list any individual who cannot be located using the contact information provided to the agency, fails to meet eligibility requirements, or becomes domiciled outside the state.

(8) Agency action that selects individuals to receive waiver services pursuant to this section does not establish a right to a hearing or an administrative proceeding under chapter 120 for individuals remaining on the waiting list.

(9) ~~(7)~~ The agency and the Agency for Health Care Administration may adopt rules specifying application procedures, criteria associated with the waiting list ~~wait-list~~ categories, procedures for administering the waiting ~~wait~~ list, including tools for prioritizing waiver enrollment within categories, and eligibility criteria as needed to administer this section.

Section 4. Subsection (2) of section 393.066, Florida Statutes, is amended to read:

393.066 Community services and treatment.—

(2) Necessary ~~All~~ services ~~needed~~ shall be purchased, rather than ~~instead of~~ provided directly by the agency, when the purchase of services ~~such arrangement~~ is more cost-efficient than providing them ~~having those services provided~~ directly. All purchased services must be approved by the agency. Persons or entities under contract with the agency to provide services shall use agency data management systems to document service provision to clients. Contracted persons and entities shall meet the minimum hardware and software technical requirements established by the agency for the use of such systems. Such persons or entities shall also meet any requirements established by the agency for training and professional development of staff providing direct services to clients.

Section 5. Section 393.0662, Florida Statutes, is amended to read:

393.0662 Individual budgets for delivery of home and community-based services; iBudget system established.—The Legislature finds that improved financial management of the existing home and community-based Medicaid waiver program is necessary to avoid deficits that impede the provision of services to individuals who are on the waiting list for enrollment in the program. The Legislature further finds that clients and their families should have greater flexibility to choose the services that best allow them to live in their community within the limits of an established budget. Therefore, the Legislature intends that the agency, in consultation with the Agency for Health Care Administration, shall manage ~~develop and implement a comprehensive redesign of~~ the service delivery system using individual budgets as the basis for allocating the funds appropriated for the home and community-based services

Medicaid waiver program among eligible enrolled clients. The service delivery system that uses individual budgets shall be called the iBudget system.

(1) The agency shall administer ~~establish~~ an individual budget, referred to as an iBudget, for each individual served by the home and community-based services Medicaid waiver program. The funds appropriated to the agency shall be allocated through the iBudget system to eligible, Medicaid-enrolled clients. For the iBudget system, eligible clients shall include individuals with ~~a diagnosis of Down syndrome or~~ a developmental disability as defined in s. 393.063. The iBudget system shall ~~be designed to~~ provide for: enhanced client choice within a specified service package; appropriate assessment strategies; an efficient consumer budgeting and billing process that includes reconciliation and monitoring components; a ~~redefined~~ role for support coordinators which ~~that~~ avoids potential conflicts of interest; a flexible and streamlined service review process; and a methodology and process that ensures the equitable allocation of available funds ~~to each client~~ based on the client's level of need, as determined by the ~~variables in the allocation~~ algorithm.

(a) In developing each client's iBudget, the agency shall use the ~~an~~ allocation ~~algorithm and~~ methodology as defined in s. 393.063. ~~The algorithm shall use variables that have been determined by the agency to have a statistically validated relationship to the client's level of need for services provided through the home and community-based services Medicaid waiver program. The algorithm and methodology may consider individual characteristics, including, but not limited to, a client's age~~

~~and living situation, information from a formal assessment instrument that the agency determines is valid and reliable, and information from other assessment processes.~~

(b) The allocation methodology shall determine ~~provide the algorithm that determines~~ the amount of funds allocated to a client's iBudget.

(c) The agency may authorize funding ~~approve an increase in the amount of funds allocated, as determined by the algorithm,~~ based on a ~~the~~ client having one or more of the following needs that cannot be accommodated within the funding ~~as~~ determined by the algorithm and having no other resources, supports, or services available to meet the need:

1. An extraordinary need that would place the health and safety of the client, the client's caregiver, or the public in immediate, serious jeopardy unless the increase is approved. However, the presence of an extraordinary need in and of itself does not warrant authorized funding by the agency. An extraordinary need may include, but is not limited to:

a. The loss of or a change in the client's caregiver arrangement or a documented need based on a medical, behavioral, or psychological assessment;

b.~~a.~~ A documented history of significant, potentially life-threatening behaviors, such as recent attempts at suicide, arson, nonconsensual sexual behavior, or self-injurious behavior requiring medical attention;

c.~~b.~~ A complex medical condition that requires active intervention by a licensed nurse on an ongoing basis that cannot be taught or delegated to a nonlicensed person;

d.~~c.~~ A chronic comorbid condition. As used in this


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subparagraph, the term "comorbid condition" means a medical condition existing simultaneously but independently with another medical condition in a patient; or

e.~~d.~~ A need for total physical assistance with activities such as eating, bathing, toileting, grooming, and personal hygiene.

~~However, the presence of an extraordinary need alone does not warrant an increase in the amount of funds allocated to a client's iBudget as determined by the algorithm~~.

2. A significant need for one-time or temporary support or services that, if not provided, would place the health and safety of the client, the client's caregiver, or the public in serious jeopardy~~, unless the increase is approved~~. A significant need may include, but is not limited to, the provision of environmental modifications, durable medical equipment, services to address the temporary loss of support from a caregiver, or special services or treatment for a serious temporary condition when the service or treatment is expected to ameliorate the underlying condition. As used in this subparagraph, the term "temporary" means a period of fewer than 12 continuous months. However, the presence of such significant need for one-time or temporary supports or services alone does not in and of itself warrant authorized funding by the agency ~~an increase in the amount of funds allocated to a client's iBudget as determined by the algorithm~~.

3. A significant increase in the need for services after the beginning of the service plan year which ~~that~~ would place the health and safety of the client, the client's caregiver, or


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the public in serious jeopardy because of substantial changes in the client's circumstances, including, but not limited to, permanent or long-term loss or incapacity of a caregiver, loss of services authorized under the state Medicaid plan due to a change in age, or a significant change in medical or functional status which requires the provision of additional services on a permanent or long-term basis that cannot be accommodated within the client's current iBudget. As used in this subparagraph, the term "long-term" means a period of 12 or more continuous months. However, such significant increase in need for services of a permanent or long-term nature ~~alone~~ does not in and of itself warrant authorized funding by the agency ~~warrant an increase in the amount of funds allocated to a client's iBudget as determined by the algorithm~~.

4. A significant need for transportation services to a waiver-funded adult day training program or to waiver-funded employment services when such need cannot be accommodated within a client's iBudget as determined by the algorithm without affecting the health and safety of the client, if public transportation is not an option due to the unique needs of the client or other transportation resources are not reasonably available.

The agency shall reserve portions of the appropriation for the home and community-based services Medicaid waiver program for adjustments required pursuant to this paragraph and may use the services of an independent actuary in determining the amount ~~of the portions~~ to be reserved.

(d)~~(c)~~ ~~A client's iBudget shall be the total of the amount~~

~~determined by the algorithm and any additional funding provided pursuant to paragraph (b).~~ A client's annual expenditures for home and community-based ~~services~~ Medicaid waiver services may not exceed the limits of his or her iBudget. The total of all clients' projected annual iBudget expenditures may not exceed the agency's appropriation for waiver services.

(2) The Agency for Health Care Administration, in consultation with the agency, shall seek federal approval to amend current waivers, request a new waiver, and amend contracts as necessary to manage the iBudget system, to improve services for eligible and enrolled clients, and to improve the delivery of services ~~implement the iBudget system to serve eligible, enrolled clients~~ through the home and community-based services Medicaid waiver program and the Consumer-Directed Care Plus Program.

~~(3) The agency shall transition all eligible, enrolled clients to the iBudget system. The agency may gradually phase in the iBudget system.~~

~~(a) While the agency phases in the iBudget system, the agency may continue to serve eligible, enrolled clients under the four-tiered waiver system established under s. 393.065 while those clients await transitioning to the iBudget system.~~

~~(b) The agency shall design the phase-in process to ensure that a client does not experience more than one-half of any expected overall increase or decrease to his or her existing annualized cost plan during the first year that the client is provided an iBudget due solely to the transition to the iBudget system.~~

(3) ~~(4)~~ A client must use all available services authorized

under the state Medicaid plan, school-based services, private insurance and other benefits, and any other resources that may be available to the client before using funds from his or her iBudget to pay for support and services.

(4) ~~(5)~~ The service limitations in s. 393.0661(3)(f)1., 2., and 3. do not apply to the iBudget system.

(5) ~~(6)~~ Rates for any or all services established under rules of the Agency for Health Care Administration must ~~shall~~ be designated as the maximum rather than a fixed amount for individuals who receive an iBudget, except for services specifically identified in those rules that the agency determines are not appropriate for negotiation, which may include, but are not limited to, residential habilitation services.

(6) ~~(7)~~ The agency shall ensure that clients and caregivers have access to training and education that ~~to~~ inform them about the iBudget system and enhance their ability for self-direction. Such training and education must ~~shall~~ be offered in a variety of formats; ~~and~~ at a minimum, must ~~shall~~ address the policies and processes of the iBudget system and~~,~~ the roles and responsibilities of consumers, caregivers, waiver support coordinators, providers, and the agency; must provide~~;~~ information ~~available~~ to help the client make decisions regarding the iBudget system; and must provide examples of support and resources available in the community.

(7) ~~(8)~~ The agency shall collect data to evaluate the implementation and outcomes of the iBudget system.

(8) ~~(9)~~ The agency and the Agency for Health Care Administration may adopt rules specifying the allocation

algorithm and methodology; criteria and processes for clients to access reserved funds for extraordinary needs, temporarily or permanently changed needs, and one-time needs; and processes and requirements for selection and review of services, development of support and cost plans, and management of the iBudget system as needed to administer this section.

Section 6. Section 393.0679, Florida Statutes, is created to read:

393.0679 Utilization review.—The agency shall conduct utilization review activities in intermediate care facilities for individuals with developmental disabilities, both public and private, as necessary to meet the requirements of the approved Medicaid state plan and federal law, and such facilities shall comply with any requests for information and documentation made by the agency and permit any agency inspections in connection with such activities.

Section 7. Subsection (1), paragraphs (a) and (b) of subsection (4), paragraphs (b), (e), (f), (g), and (h) of subsection (5), subsection (6), paragraph (d) of subsection (7), subsection (10), and paragraph (b) of subsection (12) of section 393.11, Florida Statutes, are amended, and subsection (14) is added to that section, to read:

393.11 Involuntary admission to residential services.—

(1) JURISDICTION.—If a person has an intellectual disability or autism and requires involuntary admission to residential services provided by the agency, the circuit court of the county in which the person resides has jurisdiction to conduct a hearing and enter an order involuntarily admitting the person in order for the person to receive the care, treatment,

habilitation, and rehabilitation that the person needs. For the purpose of identifying intellectual disability or autism, diagnostic capability shall be established by the agency. Except as otherwise specified, the proceedings under this section are governed by the Florida Rules of Civil Procedure.

(4) AGENCY PARTICIPATION.—

(a) Upon receiving the petition, the court shall immediately order the ~~developmental services program of the~~ agency to examine the person being considered for involuntary admission to residential services.

(b) Following examination, the agency shall file a written report with the court at least 10 working days before the date of the hearing. The report must be served on the petitioner, the person who has the intellectual disability or autism, and the person's attorney at the time the report is filed with the court.

(5) EXAMINING COMMITTEE.—

(b) The court shall appoint at least three disinterested experts who have demonstrated to the court an expertise in the diagnosis, evaluation, and treatment of persons who have intellectual disabilities or autism. The committee must include at least one licensed and qualified physician, one licensed and qualified psychologist, and one qualified professional who, at a minimum, has a master's degree in social work, special education, or vocational rehabilitation counseling, to examine the person and to testify at the hearing on the involuntary admission to residential services.

(e) The committee shall prepare a written report for the court. The report must explicitly document the extent that the

person meets the criteria for involuntary admission. The report, and expert testimony, must include, but not be limited to:

1. The degree of the person's intellectual disability or autism and whether, using diagnostic capabilities established by the agency, the person is eligible for agency services;

2. Whether, because of the person's degree of intellectual disability or autism, the person:

a. Lacks sufficient capacity to give express and informed consent to a voluntary application for services pursuant to s. 393.065 and lacks basic survival and self-care skills to such a degree that close supervision and habilitation in a residential setting are necessary and, if not provided, would result in a threat of substantial harm to the person's well-being; or

~~b. Lacks basic survival and self-care skills to such a degree that close supervision and habilitation in a residential setting is necessary and if not provided would result in a real and present threat of substantial harm to the person's well-being; or~~

b.~~c.~~ Is likely to physically injure others if allowed to remain at liberty.

3. The purpose to be served by residential care;

4. A recommendation on the type of residential placement which would be the most appropriate and least restrictive for the person; and

5. The appropriate care, habilitation, and treatment.

(f) The committee shall file the report with the court at least 10 working days before the date of the hearing. The report must be served on the petitioner, the person who has the intellectual disability or autism, the person's attorney at the

time the report is filed with the court, and the agency.

(g) Members of the examining committee shall receive a reasonable fee to be determined by the court. The fees shall be paid from the general revenue fund of the county in which the person who has the intellectual disability or autism resided when the petition was filed.

~~(h) The agency shall develop and prescribe by rule one or more standard forms to be used as a guide for members of the examining committee.~~

(6) COUNSEL; GUARDIAN AD LITEM.—

(a) The person who has the intellectual disability or autism must be represented by counsel at all stages of the judicial proceeding. If the person is indigent and cannot afford counsel, the court shall appoint a public defender at least 20 working days before the scheduled hearing. The person's counsel shall have full access to the records of the service provider and the agency. In all cases, the attorney shall represent the rights and legal interests of the person, regardless of who initiates the proceedings or pays the attorney ~~attorney's~~ fee.

(b) If the attorney, during the course of his or her representation, reasonably believes that the person who has the intellectual disability or autism cannot adequately act in his or her own interest, the attorney may seek the appointment of a guardian ad litem. A prior finding of incompetency is not required before a guardian ad litem is appointed pursuant to this section.

(7) HEARING.—

(d) The person who has the intellectual disability or autism must be physically present throughout the entire

proceeding. If the person's attorney believes that the person's presence at the hearing is not in his or her best interest, the person's presence may be waived once the court has seen the person and the hearing has commenced.

(10) COMPETENCY.—

(a) The issue of competency is separate and distinct from a determination of the appropriateness of involuntary admission to residential services due to intellectual disability or autism.

(b) The issue of the competency of a person who has an intellectual disability or autism for purposes of assigning guardianship shall be determined in a separate proceeding according to the procedures and requirements of chapter 744. The issue of the competency of a person who has an intellectual disability or autism for purposes of determining whether the person is competent to proceed in a criminal trial shall be determined in accordance with chapter 916.

(12) APPEAL.—

(b) The filing of an appeal by the person who has an intellectual disability or autism stays admission of the person into residential care. The stay remains in effect during the pendency of all review proceedings in Florida courts until a mandate issues.

(14) REVIEW OF CONTINUED INVOLUNTARY ADMISSION TO RESIDENTIAL SERVICES.—

(a) If a person is involuntarily admitted to residential services provided by the agency, the agency shall employ or, if necessary, contract with a qualified evaluator to conduct a review annually, unless otherwise ordered, to determine the appropriateness of the person's continued involuntary admission

to residential services based on the criteria in paragraph (8)(b). The review must include an assessment of the most appropriate and least restrictive type of residential placement for the person.

(b) A placement resulting from an involuntary admission to residential services must be reviewed by the court at a hearing annually, unless a shorter review period is ordered. The agency shall provide to the court the completed reviews by the qualified evaluator. The review hearing must determine whether the person continues to meet the criteria in paragraph (8)(b) and, if so, whether the person still requires involuntary placement in a residential setting and whether the person is receiving adequate care, treatment, habilitation, and rehabilitation in the residential setting.

(c) The agency shall provide a copy of the annual review and reasonable notice of the hearing to the appropriate state's attorney, if applicable, and the person's attorney and guardian, or guardian advocate if one is appointed.

(d) As used in this subsection, the term "qualified evaluator" means a psychiatrist licensed under chapter 458 or chapter 459, or a psychologist licensed under chapter 490, who has demonstrated to the court an expertise in the diagnosis, evaluation, and treatment of persons with intellectual disabilities.

Section 8. For the purpose of incorporating the amendment made by this act to section 393.18, Florida Statutes, in a reference thereto, subsection (15) of section 393.067, Florida Statutes, is reenacted to read:

393.067 Facility licensure.—

(15) The agency is not required to contract with facilities licensed pursuant to this chapter.

Section 9. Section 26 of chapter 2015-222, Laws of Florida, is repealed.

Section 10. Section 393.18, Florida Statutes, is reenacted and amended to read:

393.18 Comprehensive transitional education program.—A comprehensive transitional education program serves individuals ~~is a group of jointly operating centers or units, the collective purpose of which is to provide a sequential series of educational care, training, treatment, habilitation, and rehabilitation services to persons~~ who have developmental disabilities, ~~and who have~~ severe ~~or moderate~~ maladaptive behaviors, severe maladaptive behaviors and co-occurring complex medical conditions, or a dual diagnosis of developmental disability and mental illness. ~~However, this section does not require such programs to provide services only to persons with developmental disabilities. All such~~ Services provided by the program must ~~shall~~ be temporary in nature and delivered in a manner designed to achieve ~~structured residential setting, having~~ the primary goal of incorporating the principles ~~principle~~ of self-determination and person-centered planning to transition individuals to the most appropriate, least restrictive community living option of their choice which is not operated as a ~~in establishing permanent residence for persons with maladaptive behaviors in facilities that are not associated with the~~ comprehensive transitional education program. The supervisor of the clinical director of the program licensee must hold a doctorate degree with a primary focus in behavior

analysis from an accredited university, be a certified behavior analyst pursuant to s. 393.17, and have at least 1 year of experience in providing behavior analysis services for individuals with developmental disabilities. The staff must ~~shall~~ include behavior analysts and teachers, as appropriate, who must ~~shall~~ be available to provide services in each component center or unit of the program. A behavior analyst must be certified pursuant to s. 393.17.

(1) Comprehensive transitional education programs must ~~shall~~ include ~~a minimum of two component centers or units, one of which shall be an intensive treatment and educational center or a transitional training and educational center, which provides services to persons with maladaptive behaviors in~~ the following components ~~sequential order~~:

(a) *Intensive treatment and education* ~~*educational center*~~.—This component provides ~~is a self-contained residential unit providing~~ intensive behavioral and educational programming for individuals whose conditions ~~persons with severe maladaptive behaviors whose behaviors~~ preclude placement in a less restrictive environment due to the threat of danger or injury to themselves or others. Continuous-shift staff are ~~shall be~~ required for this component.

(b) *Intensive* ~~*Transitional*~~ *training and education* ~~*educational center*~~.—This component provides ~~is a residential unit for persons with moderate maladaptive behaviors providing~~ concentrated psychological and educational programming that emphasizes a transition toward a less restrictive environment. Continuous-shift staff are ~~shall be~~ required for this component.

(c) ~~*Community*~~ *Transition* ~~*residence*~~.—This component provides

~~is a residential center providing~~ educational programs and any support services, training, and care that are needed ~~to assist persons with maladaptive behaviors~~ to avoid regression to more restrictive environments while preparing them for more independent living. Continuous-shift staff are ~~shall~~ be required for this component.

~~(d) *Alternative living center.*—This component is a residential unit providing an educational and family living environment for persons with maladaptive behaviors in a moderately unrestricted setting. Residential staff shall be required for this component.~~

~~(c) *Independent living education center.*—This component is a facility providing a family living environment for persons with maladaptive behaviors in a largely unrestricted setting and includes education and monitoring that is appropriate to support the development of independent living skills.~~

(2) Components of a comprehensive transitional education program are subject to the license issued under s. 393.067 to a comprehensive transitional education program and may be located on a single site or multiple sites as long as such components are located within the same agency region.

(3) Comprehensive transitional education programs shall develop individual education plans for each school-aged person with maladaptive behaviors, severe maladaptive behaviors and co-occurring complex medical conditions, or a dual diagnosis of developmental disability and mental illness who receives services from the program. Each individual education plan shall be developed in accordance with the criteria specified in 20 U.S.C. ss. 401 et seq., and 34 C.F.R. part 300. Educational

components of the program, including individual education plans, must be integrated with the referring school district of each school-aged resident to the extent possible.

(4) ~~For comprehensive transitional education programs,~~ The total number of persons in a comprehensive transitional education program ~~residents~~ who are being provided with services may not ~~in any instance~~ exceed ~~the licensed capacity of~~ 120 residents, and each residential unit within the component centers of a ~~the~~ program authorized under this section may not ~~in any instance~~ exceed 15 residents. However, a program that was authorized to operate residential units with more than 15 residents before July 1, 2015, may continue to operate such units.

(5) Beginning July 1, 2016, the agency may approve the proposed admission or readmission of individuals into a comprehensive transitional education program for up to 2 years subject to a specific review process. The agency may allow an individual to live in this setting for a longer period of time if, after a clinical review is conducted by the agency, it is determined that remaining in the program for a longer period of time is in the best interest of the individual.

(6) Comprehensive transitional education programs shall provide continuous recorded video and audio monitoring in all residential common areas. Recordings must be maintained for at least 60 days during which time the agency may review them at any time. At the request of the agency, the comprehensive transitional education program shall retain specified recordings indefinitely throughout the course of an investigation into allegations of potential abuse or neglect.

(7) Comprehensive transitional education programs shall operate and maintain a video and audio monitoring system that enables authorized agency staff to monitor program activities and facilities in real time from an off-site location. To the extent possible, such monitoring may be in a manner that precludes detection or knowledge of the monitoring by staff who may be present in monitored areas.

(8) Licensure is authorized for a comprehensive transitional education program that, by July 1, 1989:

(a) Was in actual operation; or

(b) Owned a fee simple interest in real property for which a county or municipal government has approved zoning that allows the placement of a facility operated by the program and has registered an intent with the agency to operate a comprehensive transitional education program. However, nothing prohibits the assignment of licensure eligibility by such a registrant to another entity at a different site within the state if the entity is in compliance with the criteria of this subsection and local zoning requirements and each residential facility within the component centers or units of the program authorized under this paragraph does not exceed a capacity of 15 persons.

(9) Notwithstanding subsection (8), in order to maximize federal revenues and provide for children needing special behavioral services, the agency may authorize the licensure of a facility that:

(a) Provides residential services for children who have developmental disabilities and intensive behavioral problems as defined by the agency; and

(b) As of July 1, 2010, served children who were served by

the child welfare system and who have an open case in the State Automated Child Welfare Information System.

The facility must be in compliance with all program criteria and local land use and zoning requirements and may not exceed a capacity of 15 children.

Section 11. Subsection (2) of section 393.501, Florida Statutes, is amended to read:

393.501 Rulemaking.—

(2) Such rules must address the number of facilities on a single lot or on adjacent lots, except that there is no restriction on the number of facilities designated as community residential homes located within a planned residential community as those terms are defined in s. 419.001(1). In adopting rules, comprehensive transitional education programs ~~an alternative living center and an independent living education center~~, as described in s. 393.18, are subject to s. 419.001, except that such program centers are exempt from the 1,000-foot-radius requirement of s. 419.001(2) if:

(a) The program centers are located on a site zoned in a manner that permits all the components of a comprehensive transitional education program center to be located on the site; or

(b) There are no more than three such program centers within a radius of 1,000 feet.

Section 12. Paragraph (b) of subsection (1) of section 383.141, Florida Statutes, is amended to read:

383.141 Prenatally diagnosed conditions; patient to be provided information; definitions; information clearinghouse;

advisory council.—

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

(b) "Developmental disability" includes Down syndrome and other developmental disabilities defined by s. 393.063(12) ~~s. 393.063(9)~~.

Section 13. Paragraph (d) of subsection (2) of section 1002.385, Florida Statutes, is amended to read:

1002.385 Florida personal learning scholarship accounts.—

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

(d) "Disability" means, for a 3- or 4-year-old child or for a student in kindergarten to grade 12, autism spectrum disorder, as defined in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, published by the American Psychiatric Association; cerebral palsy, as defined in s. 393.063(6) ~~s. 393.063(4)~~; Down syndrome, as defined in s. 393.063(15) ~~s. 393.063(13)~~; an intellectual disability, as defined in s. 393.063(24) ~~s. 393.063(21)~~; Prader-Willi syndrome, as defined in s. 393.063(28) ~~s. 393.063(25)~~; or spina bifida, as defined in s. 393.063(39) ~~s. 393.063(36)~~; for a student in kindergarten, being a high-risk child, as defined in s. 393.063(23)(a) ~~s. 393.063(20)(a)~~; muscular dystrophy; and Williams syndrome.

Section 14. This act shall take effect June 30, 2016, or, if this act fails to become a law until after that date, it shall take effect upon becoming a law and operate retroactively to June 30, 2016.

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	CS/SB 7054
INTRODUCER:	Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services); and Children, Families, and Elder Affairs Committee
SUBJECT:	Agency for Persons with Disabilities
DATE:	March 4, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Crosier	Hendon		**CF Submitted as Committee Bill**
1.	Brown	Pigott	AHS	**Recommend: Fav/CS**
2.	Brown	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 7054 creates and amends certain statutes to provide the Agency for Persons with Disabilities (APD) with the ability to assign priority to clients on the waiting list for receiving services from the home and community-based services Medicaid waiver and conduct utilization reviews; to allow family members of active duty service members to receive waiver services; to allow contractors to use APD data management systems; to allow annual reviews of persons involuntarily admitted to residential services; and to create the Arc Dental Program. The bill also allows APD to contract with more than one provider for specialized residential services. Additionally, the bill requires new specialized residential programs to be limited to 15 beds or less.

The bill's fiscal impact is indeterminate.

Except as otherwise expressly provided, the bill takes effect July 1, 2016.

II. Present Situation:

The Agency for Persons with Disabilities (APD) is responsible for providing services to persons with developmental disabilities. A developmental disability is defined as a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, or Prader-Willi

syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.[1]

Individuals who meet Medicaid eligibility requirements, including individuals who have Down syndrome,[2] may choose to receive services in the community through the state's Medicaid home and community-based services (HCBS) waiver for individuals with developmental disabilities administered by the APD or in an intermediate care facility for the developmentally disabled (ICF/DD).

The HCBS waiver, known as iBudget Florida, offers 27 supports and services to assist individuals to live in their community. Such services are not covered under the regular Medicaid program. Examples of HCBS waiver services include residential habilitation, behavioral services, companion, adult day training, employment services, and physical therapy.[3] Services provided through the HCBS waiver enable children and adults to live in the community in their own home, a family home, or in a licensed residential setting, thereby avoiding institutionalization.

While the majority of individuals served by the APD live in the community, a small number live in ICF/DDs, which are defined in s. 393.063(22), F.S., as residential facilities licensed and certified by the Agency for Health Care Administration (AHCA). ICF/DDs are considered institutional placements and provide intermediate nursing care. There are approximately 2,866 private and public ICF/DD beds in Florida.[4]

Because ICF/DDs are considered institutional placements, the federal government requires routine utilization reviews for individuals in ICF/DDs to ensure that individuals are not inappropriately institutionalized. Utilization reviews must be conducted by a group of professionals referred to as the Utilization Review Committee, which must include at least one physician and one individual knowledgeable in the treatment of intellectual disabilities. The APD performs this utilization review function through an interagency agreement with the AHCA.[5]

Home and Community-Based Services Waiver (iBudget Florida)

The iBudget Florida program was developed in response to legislative direction requiring a plan for an individual budgeting approach for improving the management of the HCBS waiver program.[6] iBudget Florida involves the use of an algorithm, or formula, to set individuals' funding allocations for waiver services. The law provides for individuals to receive funding in

[1] *See* s. 393.063(9), F.S.

[2] *See* s. 393.0662(1), F.S., provides eligibility for individuals with a diagnosis of Down syndrome.

[3] Agency for Persons with Disabilities, Quarterly Report on Agency Services to Floridians with Developmental Disabilities and Their Costs: First Quarter Fiscal Year 2015-16, November 2015.

[4] *Id.*

[5] *Id.*

[6] Agency for Persons with Disabilities, Report to the Legislature on the Agency's Plan for Implementing Individual Budgeting "iBudget Florida" (February 1 2010), *available at* http://apd.myflorida.com/ibudget/rules-regs.htm (last accessed Dec. 15, 2015).

addition to that allocated through the algorithm under certain conditions, such as when they have a temporary or permanent change in need or an extraordinary need that the algorithm does not address.[7] The APD phased-in the implementation of iBudget Florida, which was finalized on July 1, 2013.[8]

However, the iBudget Florida program has been the subject of litigation. In September 2014, in response to a ruling by the 1st District Court of Appeal that that the program's rules were invalid, the APD reset approximately 14,000 individuals' budget allocations to higher amounts.[9] The APD began rulemaking to adopt new rules to replace the invalid ones.[10] The APD, in conjunction with stakeholders, reviewed the algorithm and has filed for the adoption of rules providing a revised algorithm and related funding calculation methods.[11]

iBudget statutes were amended in 2015 to allow additional funding beyond that allocated by the algorithm for transportation to a waiver-funded adult day training program or to employment under certain conditions. However, the 2015 amendment sunsets July 1, 2016.

Waiver Enrollment Prioritization

As of December 14, 2015, 31,665 individuals were enrolled on the iBudget Florida waiver.[12] The majority of waiver enrollees live in a family home with a parent, relative, or guardian. The Legislature appropriated $994,793,906 for Fiscal Year 2015-2016 to provide services through the HCBS waiver program, including federal match of $601,153,957[13]. However, this funding is insufficient to serve all persons seeking waiver services. To enable the APD to remain within legislative appropriations, waiver enrollment is limited. Accordingly, the APD maintains a waiting list for waiver services. Prioritization for the wait list is provided in s. 393.065(5), F.S. Medicaid-eligible persons on the waiting list continue to receive Medicaid services not offered through iBudget Florida.

Waiting list prioritization statutory language has been changed, notwithstanding s. 393.065(5), F.S., in the past two legislative sessions. For example, s. 20 of ch. 2015-222, Laws of Florida, provides that:

- Youth with developmental disabilities who are in extended foster care may be served by both the waiver and the child welfare system;[14] and

[7] *See* s. 393.0662, F.S.
[8] *Supra*, note 3.
[9] Agency for Persons with Disabilities, iBudget Florida, http://apd.myflorida.com/ibudget/ (last visited December 15, 2015).
[10] Department of State, Florida Administrative Register, Vol. 40, No. 207, Oct. 23, 2014, pg. 4703-4706.
[11] These rules have been challenged as well. *See* DOAH Case No. 15-005803RP.
[12] E-mail from Caleb Hawkes, Deputy Legislative Affairs Director, Agency for Persons with Disabilities. RE: Requested information for bill analysis for APD agency bill (Dec. 14, 2015). On file with the Senate Committee on Children, Families and Seniors.
[13] *See* Specific Appropriation 251, ch. 2015-232, Laws of Florida.
[14] This provision also specifies the services that APD and the child welfare system must provide such enrollees. Since July 1, 2015, 30 individuals in extended foster care have been enrolled for HCBS waiver services.

- An individual who has been receiving HCBS waiver services in other states may receive Florida HCBS waiver services if his or her parent or guardian is on active military duty and transfers to Florida.[15]

The provisions of s. 20 of ch. 2015-222, Laws of Florida, sunset on July 1, 2016.

Client Data Management System

In 2015, the Legislature appropriated a total of $2.86 million[16] for Fiscal Year 2015-2016 for the development of a client data management system to provide electronic verification of service delivery to recipients by providers, electronic billings for waiver services, and electronic processing of claims.[17] The APD must also meet federal requirements for administering the iBudget HCBS waiver, such as tracking, measuring, reporting, and providing quality improvement processes for 32 specific program performance measures in order to ensure the program funding can continue. The federal Centers for Medicaid & Medicare Services further requires the state maintain a quality improvement system that includes data collection, data analysis, and reporting. However, the APD currently relies heavily on manual processes and disparate systems to collect, analyze, and report data consistently.

The APD anticipates providers will begin using the system during Fiscal Year 2016-2017. Providers will need standard software and technology in order to log into the system.[18]

Direct Service Provider Staff Training and Professional Development

Under the waiver agreement with the federal government, the APD must coordinate, develop, and provide specialized training for providers and their employees to promote health and well-being of individuals served.[19] These requirements are currently included in the Developmental Disabilities Individual Budgeting Waiver Services Coverage and Limitations Handbook. For example, the handbook outlines required basic training and required in-service training and continuing education for direct service providers on topics such as person-centered planning, maintaining health and safety, reporting to the abuse hotline, and first aid. Providers of certain services, such as supported employment or supported living, are required to take additional pre-service certification training. Training is typically offered several ways, such as through the Internet, DVD, and live classroom training.[20]

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[15] This provision has been in effect since July 1, 2014, and since that time, 10 such individuals have been enrolled in the HCBS waiver. *Supra*, note 12.
[16] *See* Specific Appropriation 265 and section 41, ch. 2015-232, Laws of Florida.
[17] *See* Specific Appropriation 265, ch. 2015-232, Laws of Florida.
[18] Agency for Persons with Disabilities, *Agency Analysis of SB 7054* (on file with the Senate Committee on Children, Families, and Elder Affairs.
[19] *Id.*
[20] Rule 59G-13.070, F.A.C. Handbook may be accessed at http://apd.myflorida.com/ibudget/

Involuntary Admission to Residential Services

Courts have jurisdiction to conduct a hearing and enter an order that a person with a developmental disability requiring involuntary admission to residential services, is provided with care, treatment, habilitation, and rehabilitation services from the APD.[21] When a court receives a petition for such involuntary admission, the APD and an examining committee (comprising at least three disinterested experts in the diagnosis, evaluation, and treatment of persons who have intellectual disabilities) must examine the person and provide a written report for the court. The report must explicitly document the extent to which the person meets the criteria for involuntary admission.[22]

A person charged with a felony and found to be incompetent to proceed due to an intellectual disability is required be committed to the APD. The APD is required to provide appropriate training for the person. The court may order the person into a forensic facility designated by the APD for persons with intellectual disability or autism.

A person who has an intellectual disability must be represented by counsel at all stages of these judicial proceedings, and, if the person is indigent and cannot afford counsel, a public defender must be appointed at least 20 days before a scheduled hearing.[23] The person must be physically present throughout the entire proceeding; however, if the person's attorney believes that the person's presence at the hearing is not in his or her best interest, the requirement may be waived by the court once the court has seen the person and the hearing has commenced.[24]

The court that enters the initial order for involuntary admission to residential services has continuing jurisdiction to enter orders to ensure the person is receiving adequate care, treatment, habilitation, and rehabilitation services.[25] The committing court may order a conditional release of the person based on an approved plan for providing community-based training. If at any time it is determined in a court hearing that the person on conditional release no longer requires court supervision and follow-up care, the court must terminate its jurisdiction and discharge the person.

At any time and without notice, a person involuntarily admitted into residential services, or the person's parent or legal guardian, is entitled to file a petition for a writ of habeas corpus to question the cause, legality, and appropriateness of the involuntary admission.[26]

Comprehensive Transitional Education Program

A private entity known as AdvoServ currently operates Carlton Palms, the only provider of comprehensive transitional education programs (CTEP) in Florida.[27] This program, operating in

[21] *See* s. 393.11(1), F.S.
[22] *See* s. 393.11(4),(5), F.S.
[23] *See* s .393.11(6), F.S.
[24] *See* s. 393.11(7), F.S.
[25] *See* s. 393.11(11), F.S.
[26] *See* s. 393.11(13), F.S.
[27] *See* AdvoServ: Carlton Palms Educational Center, available at http://www.advoserv.com/programs/florida-program/carlton-palms-education-center/ (last visited Feb. 4, 2016).

Lake County, is a group of jointly operating centers and provides educational care, training, treatment, habilitation, and rehabilitation services to persons who have developmental disabilities and who have severe or moderate maladaptive behaviors.[28] All services are to be temporary and delivered in a structured residential setting with the primary goal of incorporating the principle of self-determination in establishing permanent residence not associated with the comprehensive transitional education program.[29]

Carlton Palms is the CTEP provider for the APD as established in s. 393.18, F.S. As of December 31, 2015, the program served 151 APD clients and 40 out-of-state clients. The total number of residents with maladaptive behaviors being provided with services may not exceed the licensed capacity of 120 residents.[30] AdvoServ holds two licenses for the provision of these services, allowing it to serve up to 240 individuals.

Under s. 25 of ch. 2015-222, Laws of Florida, the Legislature amended s. 393.18, F.S., to provide that, for CTEPs, each residential unit within a CTEP's component centers may not in any instance exceed 15 residents, except that CTEPs authorized to operate residential units with more than 15 residents before July 1, 2015, may continue to operate such units. The 2015 legislation also deleted provisions authorizing the licensure of CTEPs that met certain criteria on July 1, 1989, and other provisions relating to the maximization of federal funds and providing for children needing special behavioral services. These 2015 amendments to s. 393.18, F.S., will sunset on July 1, 2016, under s. 26 of ch. 2015-222, Laws of Florida.

III. Effect of Proposed Changes:

Section 1 amends s. 393.063, F.S., to update current definitions and add new terms.

Section 2 repeals s. 393.0641, F.S., which currently provides a program for the prevention and treatment of clients exhibiting severe self-injurious behavior. The Agency for Persons with Disabilities (APD) currently serves individuals with self-injurious behaviors in the community in licensed homes that are specifically for intensive behavior issues. These services are funded under the iBudget waiver program.

Section 3 amends s. 393.065, F.S., to provide prioritization in the APD's home and community-based waiver relating to individuals with developmental disabilities in extended foster care and allows such individuals to receive both HCBS waiver services and child welfare services. The bill also provides that if an individual meets eligibility requirements, was receiving home and community-based waiver services in another state, and is the son or daughter or ward of an active duty military service member who is transferred to this state, the individual is eligible to receive such services in this state.

Additionally, after individuals formerly on the waiting list are enrolled in the waiver, individuals remaining on the waiting list are not substantially affected by APD action and are not entitled to a hearing under s. 393.125, F.S., or administrative proceedings under chapter 120, F.S.

[28] *See* s. 393.18, F.S.
[29] *Id.*
[30] *See* s. 393.18(4), Note (4), F.S.

Section 4 amends s. 393.066, F.S., to require persons or entities under contract with the APD to use APD data management systems for documenting service provision to APD clients. Providers need to have the hardware and software necessary to use these systems, as established by the APD. Such contractors must also ensure that any staff directly serving clients must meet APD requirements for training and professional development.

Section 5 amends s. 393.0662, F.S., to provide that the allocation methodology, as opposed to the algorithm, will determine the amount of funds allocated to a client's iBudget. The bill provides that the APD may authorize iBudget funding based on a client having one or more specific needs that cannot be accommodated within the funding determined by the algorithm and having no other resources, supports, or services available to meet the need. The bill adds a significant need for transportation services relating to adult day training or employment services to that list of needs.

Under current law, another specific need that may authorize iBudget funding is an extraordinary need that would place the health and safety of the client, the client's caregiver, or the public in immediate, serious jeopardy unless an iBudget increase is approved. The bill adds the loss of or a change in the client's caregiver arrangement or a documented need based on a medical, behavioral, or psychological assessment, to the current list of extraordinary needs.

Section 6 creates s. 393.0663, F.S., to establish the Arc Dental Program within the APD. The bill provides legislative findings that many individuals with intellectual or developmental disabilities in this state are in need of dental treatment; that such individuals often lack access to such services; that The Arc of Florida, a not-for-profit organization that maintains programs to assist in the delivery of needed services to individuals with intellectual or developmental disabilities, operates the Arc of Florida Dental Program to provide dental services to such individuals; and that it is in the public interest to establish a program to assist The Arc of Florida in providing dental services to individuals with intellectual or developmental disabilities.

The bill requires the APD to enter into a memorandum of agreement (MOA) with and provide assistance to The Arc of Florida in operating and expanding the Arc of Florida Dental Program. The MOA must require quantifiable, measurable, and verifiable units of deliverables and require The Arc of Florida to submit an annual accounting of the funding allocated by the APD.

The bill requires the APD to submit a report on January 1, 2018, and every January 1 thereafter, to the Governor, the President of the Senate, and the Speaker of the House of Representatives, which summarizes contract performance by The Arc of Florida for the previous year.

The bill provides that implementation of the Arc Dental Program is contingent upon appropriation.

Section 7 creates s. 393.0679, F.S., to require the APD to conduct utilization reviews in intermediate care facilities for individuals with developmental disabilities (ICF/DDs), both public and private, and requires ICF/DDs to cooperate with these reviews, including requests for information, documentation, and inspection. This will ensure that Florida continues to meet federal requirements for conducting utilization reviews.

Section 8 amends s. 393.11, F.S. to include a person with autism as a person who may require involuntary admission to residential services provided by the APD.

Section 393.11(14), F.S., is created to provide a framework for an annual review of a court's order for involuntary admission to residential services. Reviews are required annually by a qualified evaluator either in the employ of or under contract with the APD. A qualified evaluator may be a psychiatrist licensed under chapter 458 or chapter 459 or a psychologist licensed under chapter 490. The review must consider whether the person continues to meet the criteria for involuntary admission for residential services. If the person is determined to meet the criteria, the court must determine whether the person is in the most appropriate and least restrictive setting. The court must also determine whether the person is receiving adequate care, treatment, habilitation, and rehabilitation in the residential setting. The bill provides for notice requirements of the hearing to the appropriate state's attorney, if applicable, and the person's attorney and guardian or guardian advocate, if one is appointed.

Section 9 repeals sections 24 and 26 of chapter 2015-222, Laws of Florida, (the 2016-2017 fiscal year Implementing Bill) effective June 30, 2016, or if the bill becomes law after that date, effective upon the bill becoming law and operating retroactively to June 30, 2016.

Section 10 reenacts s. 393.067(15), F.S.

Section 11 reenacts and amends s. 393.18, F.S., to provide that a CTEP serves individuals who have developmental disabilities, severe maladaptive behaviors, and co-occurring complex medical conditions, or a dual diagnosis of developmental disability and mental illness. The bill provides that the primary goal of CTEP services must incorporate the principle of person-centered planning to transition individuals to the most appropriate, least restrictive community living option of a resident's choice which is not operated as a CTEP.

The bill provides that the supervisor of the clinical director of the program licensee must hold a doctoral degree with a primary focus in behavior analysis, be a certified behavior analyst, and have at least one year of experience in providing behavior analysis services for individuals with developmental disabilities.

The bill removes alternative living centers and independent living education centers as components that a CTEP must include. The bill requires that, to the fullest extent possible, educational components of a CTEP, including individual education plans, must be integrated with the referring school district of each school-aged resident.

The bill requires that any CTEP licensee that has executed a settlement agreement with the APD which is enforceable by the court must comply with the terms of the agreement or be subject to grounds for discipline as provided by law and rule.

The bill authorizes the APD, beginning July 1, 2016, to approve the proposed admission or readmission of individuals into a CTEP for up to two years, subject to a specific review process. The APD is authorized to allow an individual to live in a CTEP setting for a longer period if, after a clinical review, it is determined that remaining in the CTEP for a longer period is in the individual's best interest.

Section 12 amends s. 393.501, F.S., to clarify that rules adopted by the APD regarding CTEPs meet certain criteria.

Section 13 amends s. 383.141, F.S., to correct cross-references.

Section 14 amends s. 1002.385, F.S., to correct cross-references.

Section 15 provides that, except as otherwise expressly provided, the bill takes effect July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Under CS/SB 7054, direct care providers may see increased costs to provide data to the new APD client data management system. It is unknown what training and career development requirements or hardware and software requirements the APD will establish, or the extent to which providers will have to acquire hardware and software to meet those requirements.

C. Government Sector Impact:

The APD may experience increased costs of conducting additional involuntary commitment reviews. This cost is indeterminate.

The 2015-2016 General Appropriations Act appropriates $2 million in recurring general revenue to the ARC of Florida to provide dental services to individuals with

developmental disabilities.[31] The Senate's budget for 2016-2017, SB 2500, 1st Engrossed, does not appropriate funds specifically for the Arc Dental Program.

VI. Technical Deficiencies:

In section 5, the bill amends s. 393.0662, F.S., to specifically provide that the APD's allocation *methodology* determines the amount of funds allocated to a client's iBudget, as opposed to current law which provides that the *algorithm* determines the amount of funds. However, the bill also provides that the APD may authorize iBudget funding based on a client having one or more specific needs that cannot be accommodated *within the funding determined by the algorithm*. These references to how the funding is determined – i.e. via the methodology or via the algorithm – are inconsistent with each other.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 393.063, 303.065, 393.066, 393.067, 303.0662, 393.11, 393.18, 393.501, 383.141, and 1002.385.

This bill creates the following sections of the Florida Statutes: 393.0663 and 393.0679.

This bill repeals section 393.0641 of the Florida Statutes and ss. 24 and 26 of ch. 2015-222, Laws of Florida.

IX. Additional Information:

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

CS by Appropriations on March 3, 2016:
The committee substitute:

- Revises parameters for iBudget allocations and the conditions under which a client's iBudget may be funded, based on extenuating circumstances;
- Reenacts s. 393.067, F.S., to allow the APD to contract with more than one provider for specialized residential services;
- Requires new specialized residential programs to be limited to 15 beds or less;
- Repeals ss. 24 and 26 of ch. 2015-222, Laws of Florida;
- Allows a qualified evaluator to be either in the employ or under contract with the APD and requires the qualified evaluator may be a psychiatrist licensed under chapter 458 or chapter 459 or a psychologist licensed under chapter 490;
- Creates the Arc Dental Program;
- Removes from the bill requirements for CTEPs to provide continuous recorded audio and video monitoring in all common areas of the facility, to maintain recordings for at

[31] *See* specific appropriation 250, ch. 2015-232, Laws of Florida.

least 60 days, and to provide real-time access to the audio and video for authorized APD staff from an off-site location;

- Provides that if an individual meets eligibility requirements, was receiving home and community-based waiver services in another state, and is the son or daughter or ward of an active duty military service member who is transferred to this state, the individual is eligible to receive such services in this state; and
- Requires individual education plans be developed for each school-aged person in the specialized residential program and also requires that individual education plan for the school-aged person must be integrated with the referring school district.

B. Amendments:

None.

By the Committee on Children, Families, and Elder Affairs

586-02376-16 20167054__

A bill to be entitled

An act relating to the Agency for Persons with Disabilities; amending s. 393.063, F.S.; revising and defining terms; repealing s. 393.0641, F.S., relating to a program for the prevention and treatment of severe self-injurious behavior; amending s. 393.065, F.S.; providing for the assignment of priority to clients waiting for waiver services; requiring an agency to allow a certain individual to receive such services if the individual's parent or legal guardian is an active-duty military service member; requiring the agency to send an annual letter to clients and their guardians or families; providing that certain agency action does not establish a right to a hearing or an administrative proceeding; amending s. 393.066, F.S.; providing for the use of an agency data management system; providing requirements for persons or entities under contract with the agency; amending s. 393.0662, F.S.; adding client needs that qualify as extraordinary needs, which may result in the approval of an increase in a client's allocated funds; revising duties of the Agency for Health Care Administration relating to the iBudget system; creating s. 393.0679, F.S.; requiring the Agency for Persons with Disabilities to conduct a certain utilization review; requiring certain intermediate care facilities to comply with certain requests and inspections by the agency; amending s. 393.11, F.S.; providing for annual reviews for persons involuntarily committed to residential services; requiring the agency to contract with a qualified evaluator; providing requirements for annual reviews; requiring a hearing to be held to

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consider the results of an annual review; requiring the agency to provide a copy of the review to certain persons; defining a term; repealing s. 26 of chapter 2015-222, Laws of Florida; abrogating the scheduled expiration of an amendment to s. 393.18, F.S., and the scheduled reversion of the text of that section; reenacting and amending s. 393.18, F.S.; revising the purposes of comprehensive transitional education programs; providing qualification requirements for the clinical director of a comprehensive transitional education program; revising the organization and operation of components of a program; providing for the integration of educational components with the local school district; authorizing the agency to approve the admission or readmission of an individual to a program; providing for video and audio recording and monitoring of common areas and program activities and facilities; providing for licensure of such programs; amending s. 393.501, F.S.; conforming provisions to changes made by the act; amending ss. 383.141 and 1002.385, F.S.; conforming cross references; providing an effective date.

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

Section 1. Section 393.063, Florida Statutes, is amended to read:

393.063 Definitions.—For the purposes of this chapter, the term:

(2) ~~(1)~~ "Agency" means the Agency for Persons with Disabilities.

(1) ~~(2)~~ "Adult day training" means training services that ~~which~~ take place in a nonresidential setting, separate from the home or facility in which the client resides, and~~,~~ are intended to support the participation of clients in daily, meaningful, and valued routines of the community. Such training~~; and~~ may be provided in ~~include~~ work-like settings that do not meet the definition of supported employment.

(3) "Algorithm" means the mathematical formula developed by the agency based upon statistically valid relationships between the need for services and selected health and social characteristics which is used to calculate a potential amount of financial support through the home and community-based services Medicaid waiver program.

(4) "Allocation methodology" means the process for determining the iBudget allocation for an individual which considers:

(a) The algorithm amount applicable to an individual based on a formal assessment instrument used by the agency pursuant to s. 393.0661(1)(a); and

(b) Any needs identified by the agency during the client review process which cannot be accommodated within the funding determined by the algorithm and are provided for in s. 393.0662(1)(b).

(5) ~~(3)~~ "Autism" means a pervasive, neurologically based developmental disability of extended duration which causes severe learning, communication, and behavior disorders with age of onset during infancy or childhood. Individuals with autism

exhibit impairment in reciprocal social interaction, impairment in verbal and nonverbal communication and imaginative ability, and a markedly restricted repertoire of activities and interests.

(6) ~~(4)~~ "Cerebral palsy" means a group of disabling symptoms of extended duration which results from damage to the developing brain that may occur before, during, or after birth and that results in the loss or impairment of control over voluntary muscles. For the purposes of this definition, cerebral palsy does not include those symptoms or impairments resulting solely from a stroke.

(7) ~~(5)~~ "Client" means any person determined eligible by the agency for services under this chapter.

(8) ~~(6)~~ "Client advocate" means a friend or relative of the client, or of the client's immediate family, who advocates for the best interests of the client in any proceedings under this chapter in which the client or his or her family has the right or duty to participate.

(9) ~~(7)~~ "Comprehensive assessment" means the process used to determine eligibility for services under this chapter.

(10) ~~(8)~~ "Comprehensive transitional education program" means the program established in s. 393.18.

(12) ~~(9)~~ "Developmental disability" means a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, Down syndrome, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.

(11) ~~(10)~~ "Developmental disabilities center" means a state-

owned and state-operated facility, formerly known as a "Sunland Center," providing for the care, habilitation, and rehabilitation of clients with developmental disabilities.

(13) ~~(11)~~ "Direct service provider" means a person 18 years of age or older who has direct face-to-face contact with a client while providing services to the client or has access to a client's living areas or to a client's funds or personal property.

(14) ~~(12)~~ "Domicile" means the place where a client legally resides and~~,~~ which ~~place~~ is his or her permanent home. Domicile may be established as provided in s. 222.17. Domicile may not be established in Florida by a minor who has no parent domiciled in Florida, or by a minor who has no legal guardian domiciled in Florida, or by any alien not classified as a resident alien.

(15) ~~(13)~~ "Down syndrome" means a disorder caused by the presence of an extra chromosome 21.

(16) ~~(14)~~ "Express and informed consent" means consent voluntarily given in writing with sufficient knowledge and comprehension of the subject matter to enable the person giving consent to make a knowing decision without any element of force, fraud, deceit, duress, or other form of constraint or coercion.

(17) ~~(15)~~ "Family care program" means the program established in s. 393.068.

(18) ~~(16)~~ "Foster care facility" means a residential facility licensed under this chapter which provides a family living environment including supervision and care necessary to meet the physical, emotional, and social needs of its residents. The capacity of such a facility may not be more than three residents.

(19) ~~(17)~~ "Group home facility" means a residential facility licensed under this chapter which provides a family living environment including supervision and care necessary to meet the physical, emotional, and social needs of its residents. The capacity of such a facility shall be at least 4 but not more than 15 residents.

(20) "Guardian" has the same meaning as in s. 744.102.

(21) ~~(18)~~ "Guardian advocate" means a person appointed by a written order of the court to represent a person with developmental disabilities under s. 393.12.

(22) ~~(19)~~ "Habilitation" means the process by which a client is assisted in acquiring and maintaining ~~to acquire and maintain~~ those life skills that ~~which~~ enable the client to cope more effectively with the demands of his or her condition and environment and to raise the level of his or her physical, mental, and social efficiency. It includes, but is not limited to, programs of formal structured education and treatment.

(23) ~~(20)~~ "High-risk child" means, for the purposes of this chapter, a child from 3 to 5 years of age with one or more of the following characteristics:

(a) A developmental delay in cognition, language, or physical development.

(b) A child surviving a catastrophic infectious or traumatic illness known to be associated with developmental delay, when funds are specifically appropriated.

(c) A child with a parent or guardian with developmental disabilities who requires assistance in meeting the child's developmental needs.

(d) A child who has a physical or genetic anomaly

associated with developmental disability.

(24) "Initial support plan" means the first support plan that identifies the needs of the individual for supports and services prior to enrollment in the iBudget waiver.

(25) ~~(21)~~ "Intellectual disability" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior which manifests before the age of 18 and can reasonably be expected to continue indefinitely. For the purposes of this definition, the term:

(a) "Adaptive behavior" means the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected of his or her age, cultural group, and community.

(b) "Significantly subaverage general intellectual functioning" means performance that is two or more standard deviations from the mean score on a standardized intelligence test specified in the rules of the agency.

For purposes of the application of the criminal laws and procedural rules of this state to matters relating to pretrial, trial, sentencing, and any matters relating to the imposition and execution of the death penalty, the terms "intellectual disability" or "intellectually disabled" are interchangeable with and have the same meaning as the terms "mental retardation" or "retardation" and "mentally retarded" as defined in this section before July 1, 2013.

(26) ~~(22)~~ "Intermediate care facility for the developmentally disabled" ~~or "ICF/DD"~~ means a residential facility licensed and certified under part VIII of chapter 400.

(27) ~~(23)~~ "Medical/dental services" means medically necessary services that are provided or ordered for a client by a person licensed under chapter 458, chapter 459, or chapter 466. Such services may include, but are not limited to, prescription drugs, specialized therapies, nursing supervision, hospitalization, dietary services, prosthetic devices, surgery, specialized equipment and supplies, adaptive equipment, and other services as required to prevent or alleviate a medical or dental condition.

(28) ~~(24)~~ "Personal care services" means individual assistance with or supervision of essential activities of daily living for self-care, including ambulation, bathing, dressing, eating, grooming, and toileting, and other similar services that are incidental to the care furnished and essential to the health, safety, and welfare of the client if no one else is available to perform those services.

(29) ~~(25)~~ "Prader-Willi syndrome" means an inherited condition typified by neonatal hypotonia with failure to thrive, hyperphagia or an excessive drive to eat which leads to obesity usually at 18 to 36 months of age, mild to moderate intellectual disability, hypogonadism, short stature, mild facial dysmorphism, and a characteristic neurobehavior.

(30) ~~(26)~~ "Relative" means an individual who is connected by affinity or consanguinity to the client and who is 18 years of age or older.

(31) ~~(27)~~ "Resident" means a person who has a developmental disability and resides at a residential facility, whether or not such person is a client of the agency.

(32) "Resident alien" means a person who is not a citizen

of the United States but who currently resides in the United States and is classified under Title 8 of the Code of Federal Regulations as either a permanent resident, permanent resident alien, lawful permanent resident, resident alien permit holder, or green card holder.

(33)~~(28)~~ "Residential facility" means a facility providing room and board and personal care for persons who have developmental disabilities.

(34)~~(29)~~ "Residential habilitation" means supervision and training with the acquisition, retention, or improvement in skills related to activities of daily living, such as personal hygiene skills, homemaking skills, and the social and adaptive skills necessary to enable the individual to reside in the community.

(35)~~(30)~~ "Residential habilitation center" means a community residential facility licensed under this chapter which provides habilitation services. The capacity of such a facility may not be fewer than nine residents. After October 1, 1989, new residential habilitation centers may not be licensed and the licensed capacity for any existing residential habilitation center may not be increased.

(36)~~(31)~~ "Respite service" means appropriate, short-term, temporary care that is provided to a person who has a developmental disability in order to meet the planned or emergency needs of the person or the family or other direct service provider.

(37)~~(32)~~ "Restraint" means a physical device, method, or drug used to control dangerous behavior.

(a) A physical restraint is any manual method or physical

or mechanical device, material, or equipment attached or adjacent to an individual's body so that he or she cannot easily remove the restraint and which restricts freedom of movement or normal access to one's body.

(b) A drug used as a restraint is a medication used to control the person's behavior or to restrict his or her freedom of movement and is not a standard treatment for the person's medical or psychiatric condition. Physically holding a person during a procedure to forcibly administer psychotropic medication is a physical restraint.

(c) Restraint does not include physical devices, such as orthopedically prescribed appliances, surgical dressings and bandages, supportive body bands, or other physical holding necessary for routine physical examinations and tests; for purposes of orthopedic, surgical, or other similar medical treatment; to provide support for the achievement of functional body position or proper balance; or to protect a person from falling out of bed.

(38)~~(33)~~ "Seclusion" means the involuntary isolation of a person in a room or area from which the person is prevented from leaving. The prevention may be by physical barrier or by a staff member who is acting in a manner, or who is physically situated, so as to prevent the person from leaving the room or area. For the purposes of this chapter, the term does not mean isolation due to the medical condition or symptoms of the person.

(39)~~(34)~~ "Self-determination" means an individual's freedom to exercise the same rights as all other citizens, authority to exercise control over funds needed for one's own support, including prioritizing these funds when necessary,

responsibility for the wise use of public funds, and self-advocacy to speak and advocate for oneself in order to gain independence and ensure that individuals with a developmental disability are treated equally.

(40~~(35)~~) "Specialized therapies" means those treatments or activities prescribed by and provided by an appropriately trained, licensed, or certified professional or staff person and may include, but are not limited to, physical therapy, speech therapy, respiratory therapy, occupational therapy, behavior therapy, physical management services, and related specialized equipment and supplies.

(41)~~(36)~~ "Spina bifida" means~~, for purposes of this chapter,~~ a person with a medical diagnosis of spina bifida cystica or myelomeningocele.

(42)~~(37)~~ "Support coordinator" means a person who is designated by the agency to assist individuals and families in identifying their capacities, needs, and resources, as well as finding and gaining access to necessary supports and services; coordinating the delivery of supports and services; advocating on behalf of the individual and family; maintaining relevant records; and monitoring and evaluating the delivery of supports and services to determine the extent to which they meet the needs and expectations identified by the individual, family, and others who participated in the development of the support plan.

(43)~~(38)~~ "Supported employment" means employment located or provided in an integrated work setting, with earnings paid on a commensurate wage basis, and for which continued support is needed for job maintenance.

(44)~~(39)~~ "Supported living" means a category of

individually determined services designed and coordinated in such a manner as to provide assistance to adult clients who require ongoing supports to live as independently as possible in their own homes, to be integrated into the community, and to participate in community life to the fullest extent possible.

(45)~~(40)~~ "Training" means a planned approach to assisting a client to attain or maintain his or her maximum potential and includes services ranging from sensory stimulation to instruction in skills for independent living and employment.

(46)~~(41)~~ "Treatment" means the prevention, amelioration, or cure of a client's physical and mental disabilities or illnesses.

Section 2. Section 393.0641, Florida Statutes, is repealed.

Section 3. Subsections (3) and (5) of section 393.065, Florida Statutes, are amended, present subsections (6) and (7) of that section are amended and redesignated as subsections (7) and (9), respectively, and new subsections (6) and (8) are added to that section, to read:

393.065 Application and eligibility determination.—

(3) The agency shall notify each applicant, in writing, of its eligibility decision. Any applicant determined by the agency to be ineligible for ~~developmental~~ services has the right to appeal this decision pursuant to ss. 120.569 and 120.57.

(5) ~~Except as otherwise directed by law, beginning July 1, 2010,~~ The agency shall assign and provide priority to clients waiting for waiver services in the following order:

(a) Category 1, which includes clients deemed to be in crisis as described in rule, shall be given first priority in moving from the waiting list to the waiver.

(b) Category 2, which includes:~~, which includes children~~

1. Individuals on the waiting ~~wait~~ list who are from the child welfare system with an open case in the Department of Children and Families' statewide automated child welfare information system and are:

a. Transitioning out of the child welfare system at the finalization of an adoption, a reunification with family members, a permanent placement with a relative, or a guardianship with a nonrelative; or

b. At least 18 years old, but not yet 22 years old, and need both waiver services and extended foster care services. These individuals may receive both waiver services and services under s. 39.6251 but services may not duplicate services available through the Medicaid state plan.

2. Individuals on the waiting list who are at least 18 years old but not yet 22 years old and who withdrew consent to remain in the extended foster care system pursuant to s. 39.6251(5)(c).

3. Individuals who are at least 18 years old but not yet 22 years old and are eligible under sub-subparagraph 1.b. The agency shall provide waiver services, including residential habilitation, to these individuals. The community-based care lead agency shall fund room and board at the rate established in s. 409.145(4) and provide case management and related services as defined in s. 409.986(3)(e).

(c) Category 3, which includes, but is not required to be limited to, clients:

1. Whose caregiver has a documented condition that is expected to render the caregiver unable to provide care within

the next 12 months and for whom a caregiver is required but no alternate caregiver is available;

2. At substantial risk of incarceration or court commitment without supports;

3. Whose documented behaviors or physical needs place them or their caregiver at risk of serious harm and other supports are not currently available to alleviate the situation; or

4. Who are identified as ready for discharge within the next year from a state mental health hospital or skilled nursing facility and who require a caregiver but for whom no caregiver is available or whose caregiver is unable to provide the care needed.

(d) Category 4, which includes, but is not required to be limited to, clients whose caregivers are 70 years of age or older and for whom a caregiver is required but no alternate caregiver is available.

(e) Category 5, which includes, but is not required to be limited to, clients who are expected to graduate within the next 12 months from secondary school and need support to obtain a meaningful day activity, ~~or~~ maintain competitive employment, or to pursue an accredited program of postsecondary education to which they have been accepted.

(f) Category 6, which includes clients 21 years of age or older who do not meet the criteria for category 1, category 2, category 3, category 4, or category 5.

(g) Category 7, which includes clients younger than 21 years of age who do not meet the criteria for category 1, category 2, category 3, or category 4.

Within categories 3, 4, 5, 6, and 7, the agency shall maintain a waiting ~~wait~~ list of clients placed in the order of the date that the client is determined eligible for waiver services.

(6) The agency shall allow an individual who meets the eligibility requirements under subsection (1) to receive home and community-based services in this state if the individual's parent or legal guardian is an active-duty military service member and if at the time of the service member's transfer to this state, the individual was receiving home and community-based services in another state.

(7)~~(6)~~ The client, the client's guardian, or the client's family must ensure that accurate, up-to-date contact information is provided to the agency at all times. Notwithstanding s. 393.0651, the agency shall send an annual letter requesting updated information from the client, the client's guardian, or the client's family. The agency shall remove from the waiting ~~wait~~ list any individual who cannot be located using the contact information provided to the agency, fails to meet eligibility requirements, or becomes domiciled outside the state.

(8) Agency action that selects individuals to receive waiver services pursuant to this section does not establish a right to a hearing or an administrative proceeding under chapter 120 for individuals remaining on the waiting list.

(9)~~(7)~~ The agency and the Agency for Health Care Administration may adopt rules specifying application procedures, criteria associated with the waiting list ~~wait-list~~ categories, procedures for administering the waiting ~~wait~~ list, including tools for prioritizing waiver enrollment within categories, and eligibility criteria as needed to administer

this section.

Section 4. Subsection (2) of section 393.066, Florida Statutes, is amended to read:

393.066 Community services and treatment.—

(2) Necessary ~~All~~ services ~~needed~~ shall be purchased, rather than ~~instead of~~ provided directly by the agency, when the purchase of services ~~such arrangement~~ is more cost-efficient than providing them ~~having those services provided~~ directly. All purchased services must be approved by the agency. Persons or entities under contract with the agency to provide services shall use agency data management systems to document service provision to clients. Contracted persons and entities shall meet the minimum hardware and software technical requirements established by the agency for the use of such systems. Such persons or entities shall also meet any requirements established by the agency for training and professional development of staff providing direct services to clients.

Section 5. Section 393.0662, Florida Statutes, is amended to read:

393.0662 Individual budgets for delivery of home and community-based services; iBudget system established.—The Legislature finds that improved financial management of the existing home and community-based Medicaid waiver program is necessary to avoid deficits that impede the provision of services to individuals who are on the waiting list for enrollment in the program. The Legislature further finds that clients and their families should have greater flexibility to choose the services that best allow them to live in their community within the limits of an established budget. Therefore,

the Legislature intends that the agency, in consultation with the Agency for Health Care Administration, shall manage ~~develop and implement a comprehensive redesign of~~ the service delivery system using individual budgets as the basis for allocating the funds appropriated for the home and community-based services Medicaid waiver program among eligible enrolled clients. The service delivery system that uses individual budgets shall be called the iBudget system.

(1) The agency shall administer ~~establish~~ an individual budget, referred to as an iBudget, for each individual served by the home and community-based services Medicaid waiver program. The funds appropriated to the agency shall be allocated through the iBudget system to eligible, Medicaid-enrolled clients. For the iBudget system, eligible clients shall include individuals with ~~a diagnosis of Down syndrome or~~ a developmental disability as defined in s. 393.063. The iBudget system shall ~~be designed to~~ provide for: enhanced client choice within a specified service package; appropriate assessment strategies; an efficient consumer budgeting and billing process that includes reconciliation and monitoring components; a ~~redefined~~ role for support coordinators that avoids potential conflicts of interest; a flexible and streamlined service review process; and a methodology and process that ensures the equitable allocation of available funds ~~to each client~~ based on the client's level of need, as determined by the ~~variables in the~~ allocation methodology ~~algorithm~~.

(a) In developing each client's iBudget, the agency shall use the allocation ~~an allocation algorithm and~~ methodology as defined in s. 393.063(4). ~~The algorithm shall use variables that~~

~~have been determined by the agency to have a statistically validated relationship to the client's level of need for services provided through the home and community-based services Medicaid waiver program. The algorithm and methodology may consider individual characteristics, including, but not limited to, a client's age and living situation, information from a formal assessment instrument that the agency determines is valid and reliable, and information from other assessment processes.~~

(b) The allocation methodology shall determine ~~provide the algorithm that determines~~ the amount of funds allocated to a client's iBudget. The agency may approve an increase in the amount of funds allocated, ~~as determined by the algorithm,~~ based on a ~~the~~ client having one or more of the following needs that cannot be accommodated within the funding ~~as~~ determined by the algorithm and having no other resources, supports, or services available to meet the need:

1. An extraordinary need that would place the health and safety of the client, the client's caregiver, or the public in immediate, serious jeopardy unless the increase is approved. However, the presence of an extraordinary need in and of itself does not warrant an increase in the amount of funds allocated to a client's iBudget. An extraordinary need may include, but is not limited to:

a. The client's age and living situation, a change in living situation, the loss of or a change in the client's caregiver arrangement, or a documented need based on a behavioral or psychological assessment;

b.~~a.~~ A documented history of significant, potentially life-threatening behaviors, such as recent attempts at suicide,

arson, nonconsensual sexual behavior, or self-injurious behavior requiring medical attention;

c.~~b.~~ A complex medical condition that requires active intervention by a licensed nurse on an ongoing basis that cannot be taught or delegated to a nonlicensed person;

d.~~c.~~ A chronic comorbid condition. As used in this subparagraph, the term "comorbid condition" means a medical condition existing simultaneously but independently with another medical condition in a patient; or

e.~~d.~~ A need for total physical assistance with activities such as eating, bathing, toileting, grooming, and personal hygiene.

~~However, the presence of an extraordinary need alone does not warrant an increase in the amount of funds allocated to a client's iBudget as determined by the algorithm~~.

2. A significant need for one-time or temporary support or services that, if not provided, would place the health and safety of the client, the client's caregiver, or the public in serious jeopardy~~, unless the increase is approved~~. A significant need may include, but is not limited to, the provision of environmental modifications, durable medical equipment, services to address the temporary loss of support from a caregiver, or special services or treatment for a serious temporary condition when the service or treatment is expected to ameliorate the underlying condition. As used in this subparagraph, the term "temporary" means a period of fewer than 12 continuous months. However, the presence of such significant need for one-time or temporary supports or services alone does not warrant an

increase in the amount of funds allocated to a client's iBudget ~~as determined by the algorithm~~.

3. A significant increase in the need for services after the beginning of the service plan year that would place the health and safety of the client, the client's caregiver, or the public in serious jeopardy because of substantial changes in the client's circumstances, including, but not limited to, permanent or long-term loss or incapacity of a caregiver, loss of services authorized under the state Medicaid plan due to a change in age, or a significant change in medical or functional status which requires the provision of additional services on a permanent or long-term basis that cannot be accommodated within the client's current iBudget. As used in this subparagraph, the term "long-term" means a period of 12 or more continuous months. However, such significant increase in need for services of a permanent or long-term nature ~~alone~~ does not in and of itself warrant an increase in the amount of funds allocated to a client's iBudget ~~as determined by the algorithm~~.

4. A significant need for transportation services to a waiver-funded adult day training program or to waiver-funded employment services when such need cannot be accommodated within a client's iBudget as determined by the algorithm without affecting the health and safety of the client, if public transportation is not an option due to the unique needs of the client or other transportation resources are not reasonably available.

The agency shall reserve portions of the appropriation for the home and community-based services Medicaid waiver program for

adjustments required pursuant to this paragraph and may use the services of an independent actuary in determining the amount ~~of the portions~~ to be reserved.

(c) ~~A client's iBudget shall be the total of the amount determined by the algorithm and any additional funding provided pursuant to paragraph (b).~~ A client's annual expenditures for home and community-based ~~services~~ Medicaid waiver services may not exceed the limits of his or her iBudget. The total of all clients' projected annual iBudget expenditures may not exceed the agency's appropriation for waiver services.

(2) The Agency for Health Care Administration, in consultation with the agency, shall seek federal approval to amend current waivers, request a new waiver, and amend contracts as necessary to manage the iBudget system, to improve services for eligible and enrolled clients, and to improve the delivery of services ~~implement the iBudget system to serve eligible, enrolled clients~~ through the home and community-based services Medicaid waiver program and the Consumer-Directed Care Plus Program to persons with a dual diagnosis of a developmental disability and a mental health diagnosis.

~~(3) The agency shall transition all eligible, enrolled clients to the iBudget system. The agency may gradually phase in the iBudget system.~~

~~(a) While the agency phases in the iBudget system, the agency may continue to serve eligible, enrolled clients under the four-tiered waiver system established under s. 393.065 while those clients await transitioning to the iBudget system.~~

~~(b) The agency shall design the phase in process to ensure that a client does not experience more than one-half of any~~

~~expected overall increase or decrease to his or her existing annualized cost plan during the first year that the client is provided an iBudget due solely to the transition to the iBudget system.~~

(3) ~~(4)~~ A client must use all available services authorized under the state Medicaid plan, school-based services, private insurance and other benefits, and any other resources that may be available to the client before using funds from his or her iBudget to pay for support and services.

~~(5) The service limitations in s. 393.0661(3)(f)1., 2., and 3. do not apply to the iBudget system.~~

(4) ~~(6)~~ Rates for any or all services established under rules of the Agency for Health Care Administration must ~~shall~~ be designated as the maximum rather than a fixed amount for individuals who receive an iBudget, except for services specifically identified in those rules that the agency determines are not appropriate for negotiation, which may include, but are not limited to, residential habilitation services.

(5) ~~(7)~~ The agency shall ensure that clients and caregivers have access to training and education that ~~to~~ inform them about the iBudget system and enhance their ability for self-direction. Such training and education must ~~shall~~ be offered in a variety of formats and, at a minimum, must ~~shall~~ address the policies and processes of the iBudget system and~~,~~ the roles and responsibilities of consumers, caregivers, waiver support coordinators, providers, and the agency, and must provide~~;~~ information ~~available~~ to help the client make decisions regarding the iBudget system~~;~~ and examples of support and

resources available in the community.

(6) ~~(8)~~ The agency shall collect data to evaluate the implementation and outcomes of the iBudget system.

(7) ~~(9)~~ The agency and the Agency for Health Care Administration may adopt rules specifying the allocation algorithm and methodology; criteria and processes for clients to access reserved funds for extraordinary needs, temporarily or permanently changed needs, and one-time needs; and processes and requirements for selection and review of services, development of support and cost plans, and management of the iBudget system as needed to administer this section.

Section 6. Section 393.0679, Florida Statutes, is created to read:

393.0679 Utilization review.—The agency shall conduct utilization review activities in intermediate care facilities for individuals with developmental disabilities, both public and private, as necessary to meet the requirements of the approved Medicaid state plan and federal law, and such facilities shall comply with any requests for information and documentation made by the agency and permit any agency inspections in connection with such activities.

Section 7. Subsection (1), paragraphs (a) and (b) of subsection (4), paragraphs (b), (e), (f), (g), and (h) of subsection (5), subsection (6), paragraph (d) of subsection (7), subsection (10), and paragraph (b) of subsection (12) of section 393.11, Florida Statutes, are amended, and subsection (14) is added to that section, to read:

393.11 Involuntary admission to residential services.—

(1) JURISDICTION.—If a person has an intellectual

disability or autism and requires involuntary admission to residential services provided by the agency, the circuit court of the county in which the person resides has jurisdiction to conduct a hearing and enter an order involuntarily admitting the person in order for the person to receive the care, treatment, habilitation, and rehabilitation that the person needs. For the purpose of identifying intellectual disability or autism, diagnostic capability shall be established by the agency. Except as otherwise specified, the proceedings under this section are governed by the Florida Rules of Civil Procedure.

(4) AGENCY PARTICIPATION.—

(a) Upon receiving the petition, the court shall immediately order the ~~developmental services program of the~~ agency to examine the person being considered for involuntary admission to residential services.

(b) Following examination, the agency shall file a written report with the court at least 10 working days before the date of the hearing. The report must be served on the petitioner, the person who has the intellectual disability or autism, and the person's attorney at the time the report is filed with the court.

(5) EXAMINING COMMITTEE.—

(b) The court shall appoint at least three disinterested experts who have demonstrated to the court an expertise in the diagnosis, evaluation, and treatment of persons who have intellectual disabilities or autism. The committee must include at least one licensed and qualified physician, one licensed and qualified psychologist, and one qualified professional who, at a minimum, has a master's degree in social work, special

education, or vocational rehabilitation counseling, to examine the person and to testify at the hearing on the involuntary admission to residential services.

(e) The committee shall prepare a written report for the court. The report must explicitly document the extent that the person meets the criteria for involuntary admission. The report, and expert testimony, must include, but not be limited to:

1. The degree of the person's intellectual disability or autism and whether, using diagnostic capabilities established by the agency, the person is eligible for agency services;

2. Whether, because of the person's degree of intellectual disability or autism, the person:

a. Lacks sufficient capacity to give express and informed consent to a voluntary application for services pursuant to s. 393.065 and lacks basic survival and self-care skills to such a degree that close supervision and habilitation in a residential setting is necessary and, if not provided, would result in a threat of substantial harm to the person's well-being; or

~~b. Lacks basic survival and self-care skills to such a degree that close supervision and habilitation in a residential setting is necessary and if not provided would result in a real and present threat of substantial harm to the person's well-being; or~~

b.~~c.~~ Is likely to physically injure others if allowed to remain at liberty.

3. The purpose to be served by residential care;

4. A recommendation on the type of residential placement which would be the most appropriate and least restrictive for the person; and

5. The appropriate care, habilitation, and treatment.

(f) The committee shall file the report with the court at least 10 working days before the date of the hearing. The report must be served on the petitioner, the person who has the intellectual disability or autism, the person's attorney at the time the report is filed with the court, and the agency.

(g) Members of the examining committee shall receive a reasonable fee to be determined by the court. The fees shall be paid from the general revenue fund of the county in which the person who has the intellectual disability or autism resided when the petition was filed.

~~(h) The agency shall develop and prescribe by rule one or more standard forms to be used as a guide for members of the examining committee.~~

(6) COUNSEL; GUARDIAN AD LITEM.—

(a) The person who has the intellectual disability or autism must be represented by counsel at all stages of the judicial proceeding. If the person is indigent and cannot afford counsel, the court shall appoint a public defender at least 20 working days before the scheduled hearing. The person's counsel shall have full access to the records of the service provider and the agency. In all cases, the attorney shall represent the rights and legal interests of the person, regardless of who initiates the proceedings or pays the attorney ~~attorney's~~ fee.

(b) If the attorney, during the course of his or her representation, reasonably believes that the person who has the intellectual disability or autism cannot adequately act in his or her own interest, the attorney may seek the appointment of a guardian ad litem. A prior finding of incompetency is not

required before a guardian ad litem is appointed pursuant to this section.

(7) HEARING.—

(d) The person who has the intellectual disability or autism must be physically present throughout the entire proceeding. If the person's attorney believes that the person's presence at the hearing is not in his or her best interest, the person's presence may be waived once the court has seen the person and the hearing has commenced.

(10) COMPETENCY.—

(a) The issue of competency is separate and distinct from a determination of the appropriateness of involuntary admission to residential services due to intellectual disability or autism.

(b) The issue of the competency of a person who has an intellectual disability or autism for purposes of assigning guardianship shall be determined in a separate proceeding according to the procedures and requirements of chapter 744. The issue of the competency of a person who has an intellectual disability or autism for purposes of determining whether the person is competent to proceed in a criminal trial shall be determined in accordance with chapter 916.

(12) APPEAL.—

(b) The filing of an appeal by the person who has an intellectual disability or autism stays admission of the person into residential care. The stay remains in effect during the pendency of all review proceedings in Florida courts until a mandate issues.

(14) COMMITMENT REVIEW.—

(a) For persons involuntarily admitted to residential

services by court order pursuant to this section, such involuntary admission, unless otherwise ordered by the court, must be reviewed annually. Placements resulting from an order for involuntary admission must be part of the review. The agency shall contract with a qualified evaluator to perform such reviews which must be provided to the court upon completion.

(b) Upon receipt of an annual review by the court, a hearing must be held to consider the results of the review and to determine whether the person continues to meet the criteria specified in paragraph (8)(b). If the person continues to meet the criteria, the court shall determine whether he or she still requires involuntary admission to a residential setting, whether the person is in the most appropriate and least restrictive setting, and whether the person is receiving adequate care, treatment, habilitation, and rehabilitation in the residential setting.

(c) The agency shall provide a copy of the annual review and reasonable notice of the hearing to the appropriate state's attorney, if applicable, and the person's attorney and guardian or guardian advocate, if one is appointed.

(d) For purposes of this subsection, the term "qualified evaluator" means a licensed psychologist with expertise in the diagnosis, evaluation, and treatment of persons with intellectual disabilities or autism.

Section 8. Section 26 of chapter 2015-222, Laws of Florida, is repealed.

Section 9. Section 393.18, Florida Statutes, is reenacted and amended to read:

393.18 Comprehensive transitional education program.—A

comprehensive transitional education program serves individuals ~~is a group of jointly operating centers or units, the collective purpose of which is to provide a sequential series of educational care, training, treatment, habilitation, and rehabilitation services to persons~~ who have developmental disabilities~~, and who have~~ severe ~~or moderate~~ maladaptive behaviors, severe maladaptive behaviors and co-occurring complex medical conditions, or a dual diagnosis of developmental disability and mental illness. ~~However, this section does not require such programs to provide services only to persons with developmental disabilities. All such~~ Services provided by the program must ~~shall~~ be temporary in nature and delivered in a manner designed to achieve ~~structured residential setting, having~~ the primary goal of incorporating the principles ~~principle~~ of self-determination and person-centered planning to transition individuals to the most appropriate, least restrictive community living option of their choice which is not operated as a ~~in establishing permanent residence for persons with maladaptive behaviors in facilities that are not associated with the~~ comprehensive transitional education program. The clinical director of the program must hold a doctorate degree with a primary focus in behavior analysis from an accredited university, be a certified behavior analyst pursuant to s. 393.17, and have at least 1 year of experience in providing behavior analysis services for individuals with developmental disabilities. The staff must ~~shall~~ include behavior analysts and teachers, as appropriate, who must ~~shall~~ be available to provide services in each component center or unit of the program. A behavior analyst must be certified pursuant to s. 393.17.

(1) Comprehensive transitional education programs must ~~shall~~ include ~~a minimum of two component centers or units, one of which shall be an intensive treatment and educational center or a transitional training and educational center, which provides services to persons with maladaptive behaviors in~~ the following components ~~sequential order~~:

(a) *Intensive treatment and education* ~~*educational center*~~.—This component provides ~~is a self-contained residential unit providing~~ intensive behavioral and educational programming for individuals whose conditions ~~persons with severe maladaptive behaviors whose behaviors~~ preclude placement in a less restrictive environment due to the threat of danger or injury to themselves or others. Continuous-shift staff are ~~shall be~~ required for this component.

(b) *Intensive* ~~*Transitional*~~ *training and education* ~~*educational center*~~.—This component provides ~~is a residential unit for persons with moderate maladaptive behaviors providing~~ concentrated psychological and educational programming that emphasizes a transition toward a less restrictive environment. Continuous-shift staff are ~~shall be~~ required for this component.

(c) ~~*Community*~~ *Transition* ~~*residence*~~.—This component provides ~~is a residential center providing~~ educational programs and any support services, training, and care that are needed ~~to assist persons with maladaptive behaviors~~ to avoid regression to more restrictive environments while preparing them for more independent living. Continuous-shift staff may ~~shall~~ be required for this component.

~~(d) *Alternative living center*. This component is a residential unit providing an educational and family living~~

~~environment for persons with maladaptive behaviors in a moderately unrestricted setting. Residential staff shall be required for this component.~~

~~(c) *Independent living education center.* This component is a facility providing a family living environment for persons with maladaptive behaviors in a largely unrestricted setting and includes education and monitoring that is appropriate to support the development of independent living skills.~~

(2) Components of a comprehensive transitional education program are subject to the license issued under s. 393.067 to a comprehensive transitional education program and may be located on a single site or multiple sites as long as such components are located within the same agency region.

(3) Comprehensive transitional education programs shall develop individual education plans for each person with maladaptive behaviors, severe maladaptive behaviors and co-occurring complex medical conditions, or a dual diagnosis of developmental disability and mental illness who receives services from the program. Each individual education plan shall be developed in accordance with the criteria specified in 20 U.S.C. ss. 401 et seq., and 34 C.F.R. part 300. Educational components of the program, including individual education plans, must be integrated with the local school district to the extent possible.

(4) ~~For comprehensive transitional education programs,~~ The total number of persons in a comprehensive transitional education program ~~residents~~ who are being provided with services may not ~~in any instance~~ exceed ~~the licensed capacity of~~ 120 residents, and each residential unit within the component

centers of a ~~the~~ program authorized under this section may not ~~in any instance~~ exceed 15 residents. However, a program that was authorized to operate residential units with more than 15 residents before July 1, 2015, may continue to operate such units.

(5) Beginning July 1, 2016, the agency may approve the proposed admission or readmission of individuals into a comprehensive transitional education program for up to 2 years subject to a specific review process. The agency may allow an individual to live in this setting for a longer period of time if, after a clinical review is conducted by the agency, it is determined that remaining in the program for a longer period of time is in the best interest of the individual.

(6) Comprehensive transitional education programs shall provide continuous recorded video and audio monitoring in all residential common areas. Recordings must be maintained for at least 60 days during which time the agency may review them at any time. At the request of the agency, the comprehensive transitional education program shall retain specified recordings indefinitely throughout the course of an investigation into allegations of potential abuse or neglect.

(7) Comprehensive transitional education programs shall operate and maintain a video and audio monitoring system that enables authorized agency staff to monitor program activities and facilities in real time from an off-site location. To the extent possible, such monitoring may be in a manner that precludes detection or knowledge of the monitoring by staff who may be present in monitored areas.

(8) Licensure is authorized for a comprehensive

transitional education program that, by July 1, 1989:

(a) Was in actual operation; or

(b) Owned a fee simple interest in real property for which a county or municipal government has approved zoning that allows the placement of a facility operated by the program and has registered an intent with the agency to operate a comprehensive transitional education program. However, nothing prohibits the assignment of licensure eligibility by such a registrant to another entity at a different site within the state if the entity is in compliance with the criteria of this subsection and local zoning requirements and each residential facility within the component centers or units of the program authorized under this paragraph does not exceed a capacity of 15 persons.

(9) Notwithstanding subsection (8), in order to maximize federal revenues and provide for children needing special behavioral services, the agency may authorize the licensure of a facility that:

(a) Provides residential services for children who have developmental disabilities and intensive behavioral problems as defined by the agency; and

(b) As of July 1, 2010, served children who were served by the child welfare system and who have an open case in the State Automated Child Welfare Information System.

The facility must be in compliance with all program criteria and local land use and zoning requirements and may not exceed a capacity of 15 children.

Section 10. Subsection (2) of section 393.501, Florida Statutes, is amended to read:

393.501 Rulemaking.—

(2) Such rules must address the number of facilities on a single lot or on adjacent lots, except that there is no restriction on the number of facilities designated as community residential homes located within a planned residential community as those terms are defined in s. 419.001(1). In adopting rules, comprehensive transitional education programs ~~an alternative living center and an independent living education center~~, as described in s. 393.18, are subject to s. 419.001, except that such program centers are exempt from the 1,000-foot-radius requirement of s. 419.001(2) if:

(a) The program centers are located on a site zoned in a manner that permits all the components of a comprehensive transitional education program center to be located on the site; or

(b) There are no more than three such program centers within a radius of 1,000 feet.

Section 11. Paragraph (b) of subsection (1) of section 383.141, Florida Statutes, is amended to read:

383.141 Prenatally diagnosed conditions; patient to be provided information; definitions; information clearinghouse; advisory council.—

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

(b) "Developmental disability" includes Down syndrome and other developmental disabilities defined by s. 393.063(12) ~~s. 393.063(9)~~.

Section 12. Paragraph (d) of subsection (2) of section 1002.385, Florida Statutes, is amended to read:

1002.385 Florida personal learning scholarship accounts.—

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

(d) "Disability" means, for a 3- or 4-year-old child or for a student in kindergarten to grade 12, autism spectrum disorder, as defined in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, published by the American Psychiatric Association; cerebral palsy, as defined in s. 393.063(6) ~~s. 393.063(4)~~; Down syndrome, as defined in s. 393.063(15) ~~s. 393.063(13)~~; an intellectual disability, as defined in s. 393.063(25) ~~s. 393.063(21)~~; Prader-Willi syndrome, as defined in s. 393.063(29) ~~s. 393.063(25)~~; or spina bifida, as defined in s. 393.063(41) ~~s. 393.063(36)~~; for a student in kindergarten, being a high-risk child, as defined in s. 393.063(23)(a) ~~s. 393.063(20)(a)~~; muscular dystrophy; and Williams syndrome.

Section 13. This act shall take effect July 1, 2016.

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/2016
Meeting Date

SB 7054
Bill Number (if applicable)

607676
Amendment Barcode (if applicable)

Topic Persons with Developmental Disabilities

Name John Finch

Job Title Arc of Florida Dental Program Director

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City *State* *Zip*

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Email john@arcflorida.org

Speaking: ☑ For ☐ Against ☐ Information

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

Representing The Arc of Florida

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/2016
Meeting Date

SB 7054
Bill Number (if applicable)

607676
Amendment Barcode (if applicable)

Topic Persons with Developmental Disabilities

Name ~~John Finch~~ Deborah Linton

Job Title ~~Arc of Florida Dental Program Director~~ CEO

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Email john@arcflorida.org

Speaking: ☑ For ☐ Against ☐ Information

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

Representing The Arc of Florida

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/3/16
Meeting Date

7054
Bill Number (if applicable)

Topic Agency for Persons with Disabilities

Amendment Barcode (if applicable)

Name Robert Brown

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

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

Representing Agency For Persons with Disabilities

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

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

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

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

S-001 (10/14/14)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	PCS/SB 7056 (939436)
INTRODUCER:	Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services) and Health Policy Committee
SUBJECT:	Long-term Care Managed Care Prioritization
DATE:	March 2, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Lloyd	Stovall		**HP Submitted as Committee Bill**
1.	Brown	Pigott	AHS	**Recommend: Fav/CS**
2.	Brown	Kynoch	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 7056 addresses Medicaid's long-term care managed care (LTCMC) program and revises ss. 409.962 and 409.949, F.S., relating to eligibility, enrollment, and prioritization for the program.

The bill requires the Department of Elderly Affairs (DOEA) to maintain a statewide wait list for enrollment for the community-based services portion of LTCMC and to prioritize individuals for potential enrollment using a frailty-based screening tool that generates a priority score. The DOEA must develop the screening tool by rule. The DOEA is also required to make publicly available on its website the specific methodology used to calculate an individual's priority score. The bill requires individuals to be rescreened at least annually or upon notification of a significant change in the individual's circumstances.

When the DOEA Comprehensive Assessment and Review for Long-Term Care Services (CARES) program is notified of available enrollment capacity by the Agency for Health Care Administration (AHCA), a pre-release assessment is conducted of individuals based on the priority scoring process. If capacity is limited for individuals with identical priority scores, the individual with the oldest date of placement on the wait list will receive priority for pre-release assessment.

If found to meet all eligibility criteria, the individual may be enrolled in LTCMC.

An individual may also be terminated from the LTCMC wait list. Once terminated, an individual would be required to initiate a new request for placement on the wait list, and any previous priority consideration would be disregarded.

The bill identifies certain populations that are provided priority enrollment for home and community based services through LTCMC, and which do not have to complete the screening or wait-list process as long as all other program eligibility requirements are met. These populations consist of:

- Individuals who are 18, 19, and 20 years of age who have chronic, debilitating diseases or conditions of one or more physiological or organ systems which generally make the individual dependent upon 24-hour-per-day medical, nursing, or health supervision or intervention;
- Nursing facility residents requesting to transition into the community who have resided in Florida-licensed skilled nursing facility for at least 60 consecutive days; and
- Individuals referred to the DOEA's Adult Protective Services program as high risk and placed in an assisted living facility temporarily funded by the DOEA.

The bill authorizes the DOEA and the AHCA to adopt rules to implement the bill.

Both the DOEA and the AHCA estimate no fiscal impact.

The effective date of the bill July 1, 2016.

II. Present Situation:

Florida Medicaid

The Medicaid program is a partnership between the federal and state governments to provide medical care to low income children and disabled persons. Each state operates its own Medicaid program under a state plan that must be approved by the federal Centers for Medicare & Medicaid Services (CMS). The state plan outlines Medicaid eligibility standards, policies, and reimbursement methodologies.

Florida Medicaid is administered by the Agency for Health Care Administration (AHCA) and is financed with federal and state funds. The Department of Children and Families (DCF) determines Medicaid eligibility and transmits that information to the AHCA. The AHCA is designated as the single state Medicaid agency and has the lead responsibility for the overall program.[1]

Over 3.9 million Floridians are currently enrolled in Medicaid.[2] The Medicaid program's estimated expenditures for the 2015-2016 fiscal year are $24.7 billion.[3] The current traditional

[1] *See* s. 409.963, F.S.
[2] Agency for Health Care Administration, *Report of Medicaid Eligibles* (Dec. 31, 2015), on file with the Senate Appropriations Subcommittee on Health and Human Services.
[3] Social Services Estimating Conference, *Medicaid Services Expenditures,* Jan. 7, 2016.

federal share is 60.51 percent with the state paying 39.49 percent for Medicaid enrollees.[4] Florida has the fourth largest Medicaid population in the country.[5]

Medicaid currently covers:
- 20 percent of Florida's population;
- 27 percent of Florida's children;
- 62.2 percent of Florida's births; and
- 69 percent of Florida's nursing homes days.[6]

The structures of state Medicaid programs vary from state to state, and each state's share of expenditures also varies and is largely determined by the federal government. Federal law and regulations set the minimum amount, scope, and duration of services offered in the program, among other requirements. State Medicaid benefits are provided in statute under s. 409.903, F.S. (Mandatory Payments for Eligible Persons) and s. 409.904, F.S. (Optional Payments for Eligible Persons).

Applicants for Medicaid must be United States citizens or qualified noncitizens, must be Florida residents, and must provide social security numbers for data matching. While self-attestation is permitted for a number of data elements on the application, most components are matched through the Federal Data Services Hub.[7] Applicants must also agree to cooperate with Child Support Enforcement during the application process.[8]

Federal Poverty Guidelines for 2015[9] Annual Income (rounded)				
Family Size	**100%**	**133%**	**150%**	**200%**
1	$11,770	$15,654	$17,655	$23,540
2	$15,930	$21,187	$23,895	$31,860
3	$20,090	$26,720	$30,135	$40,180
4	$24,250	$32,252	$36,375	$48,500

Minimum eligibility coverage thresholds are established in federal law for certain population groups, such as children, as well as minimum benefits and maximum cost sharing. The minimum benefits include items such as physician services, hospital services, home health services, and

[4] Office of Economic and Demographic Research, *Social Services Estimating Conference - Official FMAP Estimate* (February 2015), http://edr.state.fl.us/Content/conferences/medicaid/fmap.pdf (last viewed Jan. 21, 2016). The SSEC has also created a "real time" FMAP blend" for the Statewide Medicaid Managed Care Program which is 60.43% for SFY 2015-16.
[5] Agency for Health Care Administration, Health and Human Services Appropriations Committee Presentation, *Agency for Health Care Administration - An Overview* (January 22, 2015), slide 9, http://www.flsenate.gov/PublishedContent/Committees/2014-2016/AHS/MeetingRecords/MeetingPacket_2759.pdf (last visited Jan. 21, 2016).
[6] Id at 10.
[7] Florida Dep't of Children and Families, *Family-Related Medicaid Programs Fact Sheet*, p. 3 (January 2015), http://www.dcf.state.fl.us/programs/access/docs/Family-RelatedMedicaidFactSheet.pdf (last visited Jan. 21, 2016).
[8] Id.
[9] U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, *Medicaid and CHIP Program Information - 2015 Federal Poverty Level Charts* http://www.medicaid.gov/medicaid-chip-program-information/by-topics/eligibility/downloads/2015-federal-poverty-level-charts.pdf (last visited Jan. 21, 2016).

family planning.[10] States can add benefits, pending federal approval. Florida has added benefits, including prescription drugs, adult dental services, and dialysis.[11] For children under age 21, the benefits must include the Early and Periodic Screening, Diagnostic and Treatment services, which are those health care and diagnostic services and treatment and measures that may be needed to correct or ameliorate defects or physical and mental illnesses and conditions discovered by screening services, consistent with federal law.[12]

Statewide Medicaid Managed Care

Part IV of ch. 409, F.S., was created in 2011 by ch. 2011-134, L.O.F., and governs the Statewide Medicaid Managed Care program (SMMC). The program, authorized under federal Medicaid waivers, is designed for the AHCA to issue invitations to negotiate[13] and competitively procure contracts with managed care plans in 11 regions of the state to provide comprehensive Medicaid coverage for most of the state's enrollees in the Medicaid program. SMMC has two components: managed medical assistance (MMA) and long-term care managed care (LTCMC).

The LTCMC component began enrolling Medicaid recipients in August 2013 and completed its statewide roll-out in March 2014. The MMA component began enrolling Medicaid recipients in May 2014 and finished its roll-out in August 2014. As of December 2015, 3.19 million Medicaid recipients were enrolled in an SMMC plan while 793,515 were enrolled in Medicaid on a fee-for-service basis.[14]

Long-Term Care Managed Care

LTCMC provides services in two settings: nursing facilities and community settings such as a recipient's home, an assisted living facility, or an adult family care home. Nursing facility services are an entitlement program for eligible enrollees; however, home and community based services are delivered through waivers and are dependent on the availability of annual funding.

Enrollment in the home and community based services portion of LTCMC is managed based on a priority system and wait list. For the 2015-2016 state fiscal year, the state is approved for 50,390 unduplicated recipients in the home and community based services portion of the program.[15]

[10] Section 409.905, F.S.
[11] Section 409.906, F.S.
[12] *See* Section 1905 9(r) of the Social Security Act.
[13] An "invitation to negotiate" is a written or electronically posted solicitation for vendors to submit competitive, sealed replies for the purpose of selecting one or more vendors with which to commence negotiations for the procurement of commodities or contractual services. *See* s. 287.012(17), F.S.
[14] The Agency for Health Care Administration, "Florida Statewide Medicaid Monthly Enrollment Report," December 2015, available at http://ahca.myflorida.com/Medicaid/Finance/data_analytics/enrollment_report/index.shtml (last visited Dec. 23, 2015).
[15] Letter from U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services to Justin Senior, Deputy Secretary for Medicaid, Agency for Health Care Administration (June 11, 2015), *available at* http://ahca.myflorida.com/medicaid/Policy_and_Quality/Policy/federal_authorities/federal_waivers/docs/LTC_Waiver_Amend_Approval_Letter_2015-03-17.pdf (last visited Jan. 21, 2016).

Eligibility and Enrollment

The AHCA is the single state agency for Medicaid; however through an interagency agreement with the DOEA, the DOEA is Florida's federally mandated pre-admission screening program for nursing home applicants through its Long-Term Care Services (CARES) program, including for LTCMC.[16] The CARES program has 18 field offices across the state which are staffed with physicians, nurses, and other health care professionals who evaluate the level of care an individual may or may not need for waiver services. The frailty-based assessment results in a priority score for an individual, who is then placed on the wait list based on his or her priority score.

To receive nursing facility care, an individual must also be determined to meet the requirements of s. 409.985(3), F.S. This subsection requires:

> The CARES program shall determine if an individual requires nursing facility care and, if the individual requires such care, assign the individual to a level of care as described in s. 409.983(4), F.S. When determining the need for nursing facility care, consideration shall be given to the nature of the services prescribed and which level of nursing or other health care personnel meets the qualifications necessary to provide such services and the availability to and access by the individual of community or alternative resources. For the purposes of the long-term care managed care program, the term "nursing facility care" means the individual:
>
> (a) Requires nursing home placement as evidenced by the need for medical observation throughout a 24-hour period and care required to be performed on a daily basis by, or under the direct supervision of, a registered nurse or other health care professional and requires services that are sufficiently medically complex to require supervision, assessment, planning, or intervention by a registered nurse because of a mental or physical incapacitation by the individual;
>
> (b) Requires or is at imminent risk of nursing home placement as evidenced by the need for observation throughout a 24-hour period and care and the constant availability of medical and nursing treatment and requires services on a daily or intermittent basis that are to be performed under the supervision of licensed nursing or other health professionals because the individual is incapacitated mentally or physically; or
>
> (c) Requires or is at imminent risk of nursing home placement as evidenced by the need for observation throughout a 24-hour period and care and the constant availability of medical and nursing treatment and requires limited services that are to be performed under the supervision of licensed nursing or other health professionals because the individual is mildly incapacitated mentally or physically.

[16] Florida Dep't of Elderly Affairs, *Comprehensive Assessment and Review for Long-Term Care Services (CARES)*, http://elderaffairs.state.fl.us/doea/cares.php (last visited Jan. 21, 2016).

Individuals are released from the wait list periodically, based on the availability of funding and their priority scores. Before being released, however, individuals must also meet the following eligibility requirements or participate in one of the following waivers, as applicable, to enroll in the program:

- Age 65 years or older and need nursing facility level of care;
- Age 18 years of age or older and are eligible for Medicaid by reason of a disability and need nursing facility level of care;
- Aged and Disabled Adult (A/DA) waiver;
- Consumer Directed Care Plus for individuals in the A/DA waiver;
- Assisted Living waiver;
- Nursing Home Diversion waiver;
- Frail Elder Option; or
- Channeling Services waiver.[17]

Individuals who are enrolled in the following programs may enroll in the LTCMC, but are not required to:

- Developmental Disabilities waiver program;
- Traumatic Brain and Spinal Injury waiver;
- Project AIDS Care waiver;
- Adult Cystic Fibrosis waiver;
- Program of All-Inclusive Care for the Elderly (PACE);
- Familial Dysautonomia waiver; or
- Model waiver.[18]

Individuals, both those who are enrolled in LTCMC and those on the wait list, must be re-screened at least annually or whenever there is a significant change in circumstances, such as change in caregivers or medical condition.[19]

Aging Resource Centers

The Aging Resource Centers (ARCs) provide information to elders and adults who request long-term care services and may make referrals to lead agencies for vulnerable adults in need of other services. Under contract with the DOEA, the ARCs coordinate all initial screenings to determine prioritization for long-term care services, provide choice counseling for nursing facility placements, assist with informal resolution of member grievances with LTCMC plans, and provide enrollment and coverage information to LTCMC enrollees.

The ARCs are also responsible for services funded through these programs:

- Community care for the elderly;
- Home care for the elderly;

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[17] Agency for Health Care Administration, *A Snapshot of the Florida Medicaid Long-term Care Program*, http://ahca.myflorida.com/Medicaid/statewide_mc/pdf/LTC/SMMC_LTC_Snapshot.pdf (last visited Jan. 21, 2016).
[18] *Id.*
[19] Application for §1915(c) Home and Community-Based Services Waiver (Effective July 1, 2013), pp. 45-46, http://www.fdhc.state.fl.us/medicaid/Policy_and_Quality/Policy/federal_authorities/federal_waivers/docs/mma/LTC_1915c_Application.pdf (last visited Jan. 22, 2016).

- Contracted services;
- Alzheimer's disease initiative; and
- The federal Older American's Act.[20]

The ARCs serve as a "one-stop shop" for all elder services, as elders can receive a single financial determination for all services, including Medicaid, food stamps, and Supplemental Security Income.[21] Minimum standards of operation and responsibilities for the ARCs are provided in s. 430.2053, F.S., and in administrative rules under ch. 58B-1, F.A.C.

Delivery System and Benefits

The AHCA conducted a competitive procurement to select LTCMC plans in each of the 11 regions. Contracts were awarded to health maintenance organizations (HMO) and provider service networks (PSN). Six non-specialty plans are currently contracted, including one PSN that is available in all 11 regions and one HMO that is in 10 regions.[22] Recipients receive choice counseling services to assist them in selecting the plan that will best meet their needs.

Each plan under LTCMC is required to provide a minimum level of services. These services include:

- Adult companion care;
- Adult day health care;
- Assisted living;
- Assistive care services;
- Attendant care;
- Behavioral management;
- Care coordination and case management;
- Caregiver training;
- Home accessibility training;
- Home-delivered meals;
- Homemaker;
- Hospice;
- Intermittent and skilled nursing;
- Medical equipment and supplies;
- Medication administration;
- Medicaid management;
- Nursing facility;
- Nutritional assessment/risk reduction;
- Personal care;
- Personal emergency response system;
- Respite care;
- Therapies; and

[20] *See* s. 430.2053(9), F.S.
[21] *See* s. 430.2053(9), F.S.
[22] *Supra,* note 19.

- Non-emergency transportation.[23]

A LTCMC plan may elect to offer expanded benefits to its enrollees. Some of the approved expanded benefits within LTCMC include:

- Cellular phone service;
- Dental services;
- Emergency financial assistance;
- Hearing evaluation;
- Mobile personal emergency response system;
- Non-medical transportation;
- Over-the-counter medication and supplies;
- Support to transition out of a nursing facility;
- Vision services; and
- Wellness grocery discount.[24]

LTCMC enrollees who are not eligible for Medicare receive their medical services through an MMA plan. Some plans participate in both components in the same regions, and a recipient may choose the same managed care plan for both components, but is not required to.

Adult Protective Services

Under the Adult Protective Services program, the DOEA works in conjunction with the DCF and the Aging Network[25] to protect disabled adults or elderly persons from occurrences of abuse, neglect or exploitation. Services provided may include protective supervision and in-home and community-based services.

The DCF operates the Florida Abuse Hotline, to which calls alleging abuse, neglect, or exploitation of vulnerable adults can be made 24 hours a day. DCF's adult protective investigators visit each person who is the subject of a call to the hotline to determine the need for and provision of ongoing protective supervision or the provision of services. If the person is 60 years of age or older and needs home and community-based services, he or she is referred to the Aging Network.

III. Effect of Proposed Changes:

Section 1 adds four definitions to s. 409.963, F.S., relating to long-term care managed care (LTCMC):

- "Authorized representative" means an individual who has the legal authority to make decisions on behalf of a Medicaid recipient or potential Medicaid recipient in matters related to the managed care plan or the screening or eligibility process;

[23] *See* s. 409.98, F.S.

[24] Agency for Health Care Administration, MMA - Model Contract - Attachment I - Scope of Services (Effective date 11/1/15) p. 5, http://ahca.myflorida.com/medicaid/statewide_mc/pdf/Contracts/2015-11-01/Attachment_I-Scope_of_Services_2015-11-01.pdf (last visited Jan. 21, 2016).

[25] Each county's Aging Network consists of the DOEA, the Area Agency on Aging for the Planning and Service Area, and the DOEA's lead agency for the county. *See* the DOEA's "APS Contact List," available at http://elderaffairs.state.fl.us/doea/notices/Dec12/APS Contact List.xlsx (last visited Feb. 11, 2016).

- "Rescreening" means the use of a screening tool to conduct annual screenings or screenings due to a significant change which determine an individual's placement and continuation on the wait list;
- "Screening" means the use of an information collection tool to determine a priority score for placement on the wait list;
- "Significant change" means change in an individual's health status after an accident or illness; an actual or anticipated change in the individual's living situation; a change in the caregiver relationship; loss of or damage to the individual's home, or deterioration of his or her home environment; or loss of the individual's spouse or caregiver.

Section 2 amends s. 409.979, F.S., to clarify the existing eligibility process for the home and community based services through LTCMC. The bill establishes that Medicaid recipients must meet prerequisite criteria for eligibility and be determined eligible by the Long-Term Care Services (CARES) program preadmission screening program at the Department of Elderly Affairs (DOEA) to require nursing facility care as defined in s. 409.985(3), F.S.

The bill clarifies that offers for enrollment in LTCMC will be made subject to the availability of funds and based on wait-list prioritization. Before making any enrollment offers, the Agency for Health Care Administration (AHCA) and the DOEA are required to determine that sufficient funds are available.

The DOEA is directed to maintain a statewide wait list for enrollment into the program for home and community based services through LTCMC. Individuals will be prioritized for enrollment through a frailty-based screening tool that results in a priority score. The priority score is used to determine the release order for individuals from the wait list for potential enrollment. If capacity is limited for individuals with the same priority score, the individual with the oldest date of placement on the wait list receives priority for release.

Aging Resource Center personnel certified by the DOEA are charged with performing the screening or rescreening for each individual requesting enrollment in the home and community based services through LTCMC. The bill requires the DOEA to request that the individual or the individual's authorized representative provide alternate names and their contact information.

To be placed on the wait list, an individual requesting long-term care services, or the individual's authorized representative, must participate in an initial screening or rescreening. A rescreening of the individual must occur annually or upon notification of a significant change in an individual's circumstances.

The DOEA must adopt the screening tool that generates the priority score by rule and make publicly available on its website the specific methodology used to calculate an individual's priority score. When an individual's screening has been completed, the DOEA must inform the individual or the individual's representative that the individual has been placed on the wait list.

If the DOEA is unable to contact the individual or the individual's representative to schedule an initial screening or rescreening, and documents the action steps to do so, a letter must be sent to the last documented address to advise the individual to contact the DOEA within the next 30 calendar days to schedule a screening or rescreening. Failure to conduct a screening or

rescreening will result in the individual's termination from the screening process and the wait list.

The bill requires the CARES program to conduct a pre-release assessment of individuals after notification by the AHCA of available capacity in the long-term care managed care program. The DOEA must release individuals from the wait list based on the priority score process and the prerelease assessment. An individual must be both financially and clinically eligible to enroll in LTCMC.

The bill authorizes the DOEA to terminate an individual on the wait list if the individual:

- Does not have a current priority score due to the individual's action or inaction;
- Requests to be removed from the wait list;
- Does not keep an appointment to complete the rescreening without scheduling another appointment and has not responded to three documented attempts by the DOEA to contact the individual;
- Receives an offer to begin the eligibility determination process for LTCMC; or
- Begins receiving services through LTCMC.

If an individual is removed from the wait list for one of these reasons, and subsequently requests to be placed on the wait list again, the individual is required to initiate a new request for placement on the wait list and any previous placement is disregarded.

The bill provides for priority enrollment for home and community based services through LTCMC for certain individuals. These individuals are not required to complete the screening or wait-list process described above if all other long term care eligibility requirements are met:

- Individuals who are 18, 19, or 20 years of age who have chronic, debilitating diseases or conditions of one or more physiological or organ systems which generally make the individual dependent upon 24-hour-per-day medical, nursing, or health supervision or intervention;
- Nursing facility residents requesting transition into the community who have resided in a Florida-licensed skilled nursing facility for at least 60 consecutive days; and
- Individuals referred by the DOEA's Adult Protective Services program as high risk and placed in an assisted living facility temporarily funded by the DOEA.

The bill provides both the DOEA and the AHCA authority to adopt rules to implement the provisions of this act.

The bill deletes obsolete statutory language.

Section 3 provides that the bill's effective date is July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Elderly Affairs reports PCS/SB 7056 has no fiscal impact.[26]

The Agency for Health Care Administration reports the bill has no fiscal impact.[27]

VI. Technical Deficiencies:

The bill requires that Aging Resource Center personnel certified by the Department of Elderly Affairs (DOEA) perform the screening for each individual requesting enrollment in long-term care managed care but requires the DOEA to request that the individual or the individual's authorized representative provide "alternate names and their contact information." If this request for alternate names and their contact information is to occur during the screening process, the bill should require Aging Resource Center personnel to make the request.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 409.962 and 409.979.

[26] Email from Jo Morris, Legislative Affairs Director, Department of Elderly Affairs (Jan., 22, 2016) (on file with the Senate Committee on Health Policy).
[27] Conversation with Joshua Spagnola, Legislative Affairs Director, Agency for Health Care Administration (Jan. 22, 2016).

IX. Additional Information:

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

Recommended CS by Appropriations Subcommittee on Health and Human Services on February 11, 2016:
The committee substitute:

- Requires the DOEA to request that individuals seeking enrollment for LTCMC provide alternate names and their contact information;
- Provides that if the DOEA is unable to contact an individual or the individual's authorized representative to schedule an initial screening or rescreening, *and documents the action steps to do so*, the DOEA must send a letter to the last documented address of the individual or the individual's authorized representative, advising that the individual must contact the DOEA within certain parameters to avoid being terminated from the screening process and the wait list, as opposed to the underlying bill which did not include documentation of the DOEA's action steps to contact the individual as a condition for sending the letter;
- Provides that the DOEA *may* terminate an individual from the wait list under certain conditions, as opposed to the requirement in CS/SB 7056 for the DOEA to do so; and
- Provides that individuals referred by the DOEA's Adult Protective Services program as high risk and placed in an assisted living facility temporarily funded by the DOEA, are afforded priority enrollment for LTCMC and do not have to complete the screening or wait-list process if all other eligibility requirements are met.

B. Amendments:

None.

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576-03410-16

Proposed Committee Substitute by the Committee on Appropriations (Appropriations Subcommittee on Health and Human Services)

A bill to be entitled

An act relating to long-term care managed care prioritization; amending s. 409.962, F.S.; defining terms; amending s. 409.979, F.S.; requiring the Department of Elderly Affairs to maintain a statewide wait list for enrollment for home and community-based services through the Medicaid long-term care managed care program; requiring the department to prioritize individuals for potential enrollment using a frailty-based screening tool that provides a priority score; providing for determinations regarding offers of enrollment; requiring screening and certain rescreening by Aging Resource Center personnel of individuals requesting long-term care services from the program; requiring the department to adopt by rule a screening tool; requiring the department to make a specified methodology available on its website; requiring the department to notify applicants if they are placed on the wait list; requiring the department to conduct prerelease assessments upon notification by the agency of available capacity; authorizing certain individuals to enroll in the long-term care managed care program; authorizing the department to terminate an individual from the wait list under certain circumstances; providing for priority enrollment for home and community-based services; authorizing the department and the Agency for Health Care

939436

576-03410-16

Administration to adopt rules; deleting obsolete language; providing an effective date.

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

Section 1. Present subsections (4) through (13) of section 409.962, Florida Statutes, are redesignated as subsections (5) through and (14), respectively, present subsection (14) of that section is redesignated as subsection (18), and new subsection (4) and subsections (15), (16), and (17) are added to that section, to read:

409.962 Definitions.—As used in this part, except as otherwise specifically provided, the term:

(4) "Authorized representative" means an individual who has the legal authority to make decisions on behalf of a Medicaid recipient or potential Medicaid recipient in matters related to the managed care plan or the screening or eligibility process.

(15) "Rescreening" means the use of a screening tool to conduct annual screenings or screenings due to a significant change which determine an individual's placement and continuation on the wait list.

(16) "Screening" means the use of an information-collection tool to determine a priority score for placement on the wait list.

(17) "Significant change" means change in an individual's health status after an accident or illness; an actual or anticipated change in the individual's living situation; a change in the caregiver relationship; loss of or damage to the individual's home or deterioration of his or her home

environment; or loss of the individual's spouse or caregiver.

Section 2. Section 409.979, Florida Statutes, is amended to read:

409.979 Eligibility.—

(1) PREREQUISITE CRITERIA FOR ELIGIBILITY.—Medicaid recipients who meet all of the following criteria are eligible to receive long-term care services and must receive long-term care services by participating in the long-term care managed care program. The recipient must be:

(a) Sixty-five years of age or older, or age 18 or older and eligible for Medicaid by reason of a disability.

(b) Determined by the Comprehensive Assessment Review and Evaluation for Long-Term Care Services (CARES) preadmission screening program to require nursing facility care as defined in s. 409.985(3).

(2) ENROLLMENT OFFERS.—~~Medicaid recipients who, on the date long-term care managed care plans become available in their region, reside in a nursing home facility or are enrolled in one of the following long-term care Medicaid waiver programs are eligible to participate in the long-term care managed care program for up to 12 months without being reevaluated for their need for nursing facility care as defined in s. 409.985(3):~~

~~(a) The Assisted Living for the Frail Elderly Waiver.~~

~~(b) The Aged and Disabled Adult Waiver.~~

~~(c) The Consumer-Directed Care Plus Program as described in s. 409.221.~~

~~(d) The Program of All-inclusive Care for the Elderly.~~

~~(c) The Channeling Services Waiver for Frail Elders.~~

~~(3)~~ Subject to availability of funds, the Department of

Elderly Affairs shall make offers for enrollment to eligible individuals based on a wait-list prioritization ~~and subject to availability of funds~~. Before making enrollment offers, the agency and the Department of Elderly Affairs ~~department~~ shall determine that sufficient funds exist to support additional enrollment into plans.

(3) WAIT LIST, RELEASE, AND OFFER PROCESS.—The Department of Elderly Affairs shall maintain a statewide wait list for enrollment for home and community-based services through the long-term care managed care program.

(a) The Department of Elderly Affairs shall prioritize individuals for potential enrollment for home and community-based services through the long-term care managed care program using a frailty-based screening tool that results in a priority score. The priority score is used to set an order for releasing individuals from the wait list for potential enrollment in the long-term care managed care program. If capacity is limited for individuals with identical priority scores, the individual with the oldest date of placement on the wait list shall receive priority for release.

1. Pursuant to s. 430.2053, Aging Resource Center personnel certified by the Department of Elderly Affairs shall perform the screening for each individual requesting enrollment for home and community-based services through the long-term care managed care program. The Department of Elderly Affairs shall request that the individual or the individual's authorized representative provide alternate names and their contact information.

2. The individual requesting the long-term care services, or the individual's authorized representative, must participate

in an initial screening or rescreening for placement on the wait list. The screening or rescreening must be completed in its entirety before placement on the wait list.

3. Pursuant to s. 430.2053, Aging Resource Center personnel shall administer rescreening annually or upon notification of a significant change in an individual's circumstances.

4. The Department of Elderly Affairs shall adopt by rule a screening tool that generates the priority score, and shall make publicly available on its website the specific methodology used to calculate an individual's priority score.

(b) Upon completion of the screening or rescreening process, the Department of Elderly Affairs shall notify the individual or the individual's authorized representative that the individual has been placed on the wait list.

(c) If the Department of Elderly Affairs is unable to contact the individual or the individual's authorized representative to schedule an initial screening or rescreening, and documents the action steps to do so, it shall send a letter to the last documented address of the individual or the individual's authorized representative. The letter must advise the individual or his or her authorized representative that he or she must contact the Department of Elderly Affairs within 30 calendar days after the date of the notice to schedule a screening or rescreening and must notify the individual that failure to complete the screening or rescreening will result in his or her termination from the screening process and the wait list.

(d) After notification by the agency of available capacity, the CARES program shall conduct a prerelease assessment. The

Department of Elderly Affairs shall release individuals from the wait list based on the priority scoring process and prerelease assessment results. Upon release, individuals who meet all eligibility criteria may enroll in the long-term care managed care program.

(e) The Department of Elderly Affairs may terminate an individual's inclusion on the wait list if the individual:

1. Does not have a current priority score due to the individual's action or inaction;

2. Requests to be removed from the wait list;

3. Does not keep an appointment to complete the rescreening without scheduling another appointment and has not responded to three documented attempts to contact by the Department of Elderly Affairs;

4. Receives an offer to begin the eligibility determination process for the long-term care managed care program; or

5. Begins receiving services through the long-term care managed care program.

An individual whose inclusion on the wait list is terminated must initiate a new request for placement on the wait list, and any previous priority considerations must be disregarded.

(f) Notwithstanding this subsection, the following individuals are afforded priority enrollment for home and community-based services through the long-term care managed care program and do not have to complete the screening or wait-list process if all other long-term care managed care program eligibility requirements are met:

1. Individuals who are 18, 19, or 20 years of age who have

chronic debilitating diseases or conditions of one or more physiological or organ systems which generally make the individual dependent upon 24-hour-per-day medical, nursing, or health supervision or intervention.

2. Nursing facility residents requesting to transition into the community who have resided in a Florida-licensed skilled nursing facility for at least 60 consecutive days.

3. Individuals referred by the department's adult protective services program as high risk and placed in an assisted living facility temporarily funded by the department.

(g) The Department of Elderly Affairs and the agency may adopt rules to implement this subsection.

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

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	CS/SB 7056
INTRODUCER:	Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services) and Health Policy Committee
SUBJECT:	Long-term Care Managed Care Prioritization
DATE:	March 3, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Lloyd	Stovall		**HP Submitted as Committee Bill**
1.	Brown	Pigott	AHS	**Recommend: Fav/CS**
2.	Brown	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 7056 addresses Medicaid's long-term care managed care (LTCMC) program and revises ss. 409.962 and 409.949, F.S., relating to eligibility, enrollment, and prioritization for the program.

The bill requires the Department of Elderly Affairs (DOEA) to maintain a statewide wait list for enrollment for the community-based services portion of LTCMC and to prioritize individuals for potential enrollment using a frailty-based screening tool that generates a priority score. The DOEA must develop the screening tool by rule. The DOEA is also required to make publicly available on its website the specific methodology used to calculate an individual's priority score. The bill requires individuals to be rescreened at least annually or upon notification of a significant change in the individual's circumstances.

When the DOEA Comprehensive Assessment and Review for Long-Term Care Services (CARES) program is notified of available enrollment capacity by the Agency for Health Care Administration (AHCA), a pre-release assessment is conducted of individuals based on the priority scoring process. If capacity is limited for individuals with identical priority scores, the individual with the oldest date of placement on the wait list will receive priority for pre-release assessment.

If found to meet all eligibility criteria, the individual may be enrolled in LTCMC.

An individual may also be terminated from the LTCMC wait list. Once terminated, an individual would be required to initiate a new request for placement on the wait list, and any previous priority consideration would be disregarded.

The bill identifies certain populations that are provided priority enrollment for home and community based services through LTCMC, and which do not have to complete the screening or wait-list process as long as all other program eligibility requirements are met. These populations consist of:

- Individuals who are 18, 19, and 20 years of age who have chronic, debilitating diseases or conditions of one or more physiological or organ systems which generally make the individual dependent upon 24-hour-per-day medical, nursing, or health supervision or intervention;
- Nursing facility residents requesting to transition into the community who have resided in Florida-licensed skilled nursing facility for at least 60 consecutive days; and
- Individuals referred to the DOEA's Adult Protective Services program as high risk and placed in an assisted living facility temporarily funded by the DOEA.

The bill authorizes the DOEA and the AHCA to adopt rules to implement the bill.

Both the DOEA and the AHCA estimate no fiscal impact.

The effective date of the bill July 1, 2016.

II. Present Situation:

Florida Medicaid

The Medicaid program is a partnership between the federal and state governments to provide medical care to low income children and disabled persons. Each state operates its own Medicaid program under a state plan that must be approved by the federal Centers for Medicare & Medicaid Services (CMS). The state plan outlines Medicaid eligibility standards, policies, and reimbursement methodologies.

Florida Medicaid is administered by the Agency for Health Care Administration (AHCA) and is financed with federal and state funds. The Department of Children and Families (DCF) determines Medicaid eligibility and transmits that information to the AHCA. The AHCA is designated as the single state Medicaid agency and has the lead responsibility for the overall program.[1]

Over 3.9 million Floridians are currently enrolled in Medicaid.[2] The Medicaid program's estimated expenditures for the 2015-2016 fiscal year are $24.7 billion.[3] The current traditional

[1] *See* s. 409.963, F.S.
[2] Agency for Health Care Administration, *Report of Medicaid Eligibles* (Dec. 31, 2015), on file with the Senate Appropriations Subcommittee on Health and Human Services.
[3] Social Services Estimating Conference, *Medicaid Services Expenditures,* Jan. 7, 2016.

federal share is 60.51 percent with the state paying 39.49 percent for Medicaid enrollees.[4] Florida has the fourth largest Medicaid population in the country.[5]

Medicaid currently covers:
- 20 percent of Florida's population;
- 27 percent of Florida's children;
- 62.2 percent of Florida's births; and
- 69 percent of Florida's nursing homes days.[6]

The structures of state Medicaid programs vary from state to state, and each state's share of expenditures also varies and is largely determined by the federal government. Federal law and regulations set the minimum amount, scope, and duration of services offered in the program, among other requirements. State Medicaid benefits are provided in statute under s. 409.903, F.S. (Mandatory Payments for Eligible Persons) and s. 409.904, F.S. (Optional Payments for Eligible Persons).

Applicants for Medicaid must be United States citizens or qualified noncitizens, must be Florida residents, and must provide social security numbers for data matching. While self-attestation is permitted for a number of data elements on the application, most components are matched through the Federal Data Services Hub.[7] Applicants must also agree to cooperate with Child Support Enforcement during the application process.[8]

Federal Poverty Guidelines for 2015[9] Annual Income (rounded)				
Family Size	**100%**	**133%**	**150%**	**200%**
1	$11,770	$15,654	$17,655	$23,540
2	$15,930	$21,187	$23,895	$31,860
3	$20,090	$26,720	$30,135	$40,180
4	$24,250	$32,252	$36,375	$48,500

Minimum eligibility coverage thresholds are established in federal law for certain population groups, such as children, as well as minimum benefits and maximum cost sharing. The minimum benefits include items such as physician services, hospital services, home health services, and

[4] Office of Economic and Demographic Research, *Social Services Estimating Conference - Official FMAP Estimate* (February 2015), http://edr.state.fl.us/Content/conferences/medicaid/fmap.pdf (last viewed Jan. 21, 2016). The SSEC has also created a "real time" FMAP blend" for the Statewide Medicaid Managed Care Program which is 60.43% for SFY 2015-16.
[5] Agency for Health Care Administration, Health and Human Services Appropriations Committee Presentation, *Agency for Health Care Administration - An Overview* (January 22, 2015), slide 9, http://www.flsenate.gov/PublishedContent/Committees/2014-2016/AHS/MeetingRecords/MeetingPacket_2759.pdf (last visited Jan. 21, 2016).
[6] Id at 10.
[7] Florida Dep't of Children and Families, *Family-Related Medicaid Programs Fact Sheet*, p. 3 (January 2015), http://www.dcf.state.fl.us/programs/access/docs/Family-RelatedMedicaidFactSheet.pdf (last visited Jan. 21, 2016).
[8] Id.
[9] U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, *Medicaid and CHIP Program Information - 2015 Federal Poverty Level Charts* http://www.medicaid.gov/medicaid-chip-program-information/by-topics/eligibility/downloads/2015-federal-poverty-level-charts.pdf (last visited Jan. 21, 2016).

family planning.[10] States can add benefits, pending federal approval. Florida has added benefits, including prescription drugs, adult dental services, and dialysis.[11] For children under age 21, the benefits must include the Early and Periodic Screening, Diagnostic and Treatment services, which are those health care and diagnostic services and treatment and measures that may be needed to correct or ameliorate defects or physical and mental illnesses and conditions discovered by screening services, consistent with federal law.[12]

Statewide Medicaid Managed Care

Part IV of ch. 409, F.S., was created in 2011 by ch. 2011-134, L.O.F., and governs the Statewide Medicaid Managed Care program (SMMC). The program, authorized under federal Medicaid waivers, is designed for the AHCA to issue invitations to negotiate[13] and competitively procure contracts with managed care plans in 11 regions of the state to provide comprehensive Medicaid coverage for most of the state's enrollees in the Medicaid program. SMMC has two components: managed medical assistance (MMA) and long-term care managed care (LTCMC).

The LTCMC component began enrolling Medicaid recipients in August 2013 and completed its statewide roll-out in March 2014. The MMA component began enrolling Medicaid recipients in May 2014 and finished its roll-out in August 2014. As of December 2015, 3.19 million Medicaid recipients were enrolled in an SMMC plan while 793,515 were enrolled in Medicaid on a fee-for-service basis.[14]

Long-Term Care Managed Care

LTCMC provides services in two settings: nursing facilities and community settings such as a recipient's home, an assisted living facility, or an adult family care home. Nursing facility services are an entitlement program for eligible enrollees; however, home and community based services are delivered through waivers and are dependent on the availability of annual funding.

Enrollment in the home and community based services portion of LTCMC is managed based on a priority system and wait list. For the 2015-2016 state fiscal year, the state is approved for 50,390 unduplicated recipients in the home and community based services portion of the program.[15]

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[10] Section 409.905, F.S.
[11] Section 409.906, F.S.
[12] *See* Section 1905 9(r) of the Social Security Act.
[13] An "invitation to negotiate" is a written or electronically posted solicitation for vendors to submit competitive, sealed replies for the purpose of selecting one or more vendors with which to commence negotiations for the procurement of commodities or contractual services. *See* s. 287.012(17), F.S.
[14] The Agency for Health Care Administration, "Florida Statewide Medicaid Monthly Enrollment Report," December 2015, available at http://ahca.myflorida.com/Medicaid/Finance/data_analytics/enrollment_report/index.shtml (last visited Dec. 23, 2015).
[15] Letter from U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services to Justin Senior, Deputy Secretary for Medicaid, Agency for Health Care Administration (June 11, 2015), *available at* http://ahca.myflorida.com/medicaid/Policy_and_Quality/Policy/federal_authorities/federal_waivers/docs/LTC_Waiver_Amend_Approval_Letter_2015-03-17.pdf (last visited Jan. 21, 2016).

Eligibility and Enrollment

The AHCA is the single state agency for Medicaid; however through an interagency agreement with the DOEA, the DOEA is Florida's federally mandated pre-admission screening program for nursing home applicants through its Long-Term Care Services (CARES) program, including for LTCMC.[16] The CARES program has 18 field offices across the state which are staffed with physicians, nurses, and other health care professionals who evaluate the level of care an individual may or may not need for waiver services. The frailty-based assessment results in a priority score for an individual, who is then placed on the wait list based on his or her priority score.

To receive nursing facility care, an individual must also be determined to meet the requirements of s. 409.985(3), F.S. This subsection requires:

> The CARES program shall determine if an individual requires nursing facility care and, if the individual requires such care, assign the individual to a level of care as described in s. 409.983(4), F.S. When determining the need for nursing facility care, consideration shall be given to the nature of the services prescribed and which level of nursing or other health care personnel meets the qualifications necessary to provide such services and the availability to and access by the individual of community or alternative resources. For the purposes of the long-term care managed care program, the term "nursing facility care" means the individual:
>
> (a) Requires nursing home placement as evidenced by the need for medical observation throughout a 24-hour period and care required to be performed on a daily basis by, or under the direct supervision of, a registered nurse or other health care professional and requires services that are sufficiently medically complex to require supervision, assessment, planning, or intervention by a registered nurse because of a mental or physical incapacitation by the individual;
>
> (b) Requires or is at imminent risk of nursing home placement as evidenced by the need for observation throughout a 24-hour period and care and the constant availability of medical and nursing treatment and requires services on a daily or intermittent basis that are to be performed under the supervision of licensed nursing or other health professionals because the individual is incapacitated mentally or physically; or
>
> (c) Requires or is at imminent risk of nursing home placement as evidenced by the need for observation throughout a 24-hour period and care and the constant availability of medical and nursing treatment and requires limited services that are to be performed under the supervision of licensed nursing or other health professionals because the individual is mildly incapacitated mentally or physically.

[16] Florida Dep't of Elderly Affairs, *Comprehensive Assessment and Review for Long-Term Care Services (CARES)*, http://elderaffairs.state.fl.us/doea/cares.php (last visited Jan. 21, 2016).

Individuals are released from the wait list periodically, based on the availability of funding and their priority scores. Before being released, however, individuals must also meet the following eligibility requirements or participate in one of the following waivers, as applicable, to enroll in the program:

- Age 65 years or older and need nursing facility level of care;
- Age 18 years of age or older and are eligible for Medicaid by reason of a disability and need nursing facility level of care;
- Aged and Disabled Adult (A/DA) waiver;
- Consumer Directed Care Plus for individuals in the A/DA waiver;
- Assisted Living waiver;
- Nursing Home Diversion waiver;
- Frail Elder Option; or
- Channeling Services waiver.[17]

Individuals who are enrolled in the following programs may enroll in the LTCMC, but are not required to:

- Developmental Disabilities waiver program;
- Traumatic Brain and Spinal Injury waiver;
- Project AIDS Care waiver;
- Adult Cystic Fibrosis waiver;
- Program of All-Inclusive Care for the Elderly (PACE);
- Familial Dysautonomia waiver; or
- Model waiver.[18]

Individuals, both those who are enrolled in LTCMC and those on the wait list, must be re-screened at least annually or whenever there is a significant change in circumstances, such as change in caregivers or medical condition.[19]

Aging Resource Centers

The Aging Resource Centers (ARCs) provide information to elders and adults who request long-term care services and may make referrals to lead agencies for vulnerable adults in need of other services. Under contract with the DOEA, the ARCs coordinate all initial screenings to determine prioritization for long-term care services, provide choice counseling for nursing facility placements, assist with informal resolution of member grievances with LTCMC plans, and provide enrollment and coverage information to LTCMC enrollees.

The ARCs are also responsible for services funded through these programs:

- Community care for the elderly;
- Home care for the elderly;

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[17] Agency for Health Care Administration, *A Snapshot of the Florida Medicaid Long-term Care Program*, http://ahca.myflorida.com/Medicaid/statewide_mc/pdf/LTC/SMMC_LTC_Snapshot.pdf (last visited Jan. 21, 2016).
[18] *Id.*
[19] Application for §1915(c) Home and Community-Based Services Waiver (Effective July 1, 2013), pp. 45-46, http://www.fdhc.state.fl.us/medicaid/Policy_and_Quality/Policy/federal_authorities/federal_waivers/docs/mma/LTC_1915c_Application.pdf (last visited Jan. 22, 2016).

- Contracted services;
- Alzheimer's disease initiative; and
- The federal Older American's Act.[20]

The ARCs serve as a "one-stop shop" for all elder services, as elders can receive a single financial determination for all services, including Medicaid, food stamps, and Supplemental Security Income.[21] Minimum standards of operation and responsibilities for the ARCs are provided in s. 430.2053, F.S., and in administrative rules under ch. 58B-1, F.A.C.

Delivery System and Benefits

The AHCA conducted a competitive procurement to select LTCMC plans in each of the 11 regions. Contracts were awarded to health maintenance organizations (HMO) and provider service networks (PSN). Six non-specialty plans are currently contracted, including one PSN that is available in all 11 regions and one HMO that is in 10 regions.[22] Recipients receive choice counseling services to assist them in selecting the plan that will best meet their needs.

Each plan under LTCMC is required to provide a minimum level of services. These services include:

- Adult companion care;
- Adult day health care;
- Assisted living;
- Assistive care services;
- Attendant care;
- Behavioral management;
- Care coordination and case management;
- Caregiver training;
- Home accessibility training;
- Home-delivered meals;
- Homemaker;
- Hospice;
- Intermittent and skilled nursing;
- Medical equipment and supplies;
- Medication administration;
- Medicaid management;
- Nursing facility;
- Nutritional assessment/risk reduction;
- Personal care;
- Personal emergency response system;
- Respite care;
- Therapies; and

[20] *See* s. 430.2053(9), F.S.
[21] *See* s. 430.2053(9), F.S.
[22] *Supra,* note 19.

- Non-emergency transportation.[23]

A LTCMC plan may elect to offer expanded benefits to its enrollees. Some of the approved expanded benefits within LTCMC include:

- Cellular phone service;
- Dental services;
- Emergency financial assistance;
- Hearing evaluation;
- Mobile personal emergency response system;
- Non-medical transportation;
- Over-the-counter medication and supplies;
- Support to transition out of a nursing facility;
- Vision services; and
- Wellness grocery discount.[24]

LTCMC enrollees who are not eligible for Medicare receive their medical services through an MMA plan. Some plans participate in both components in the same regions, and a recipient may choose the same managed care plan for both components, but is not required to.

Adult Protective Services

Under the Adult Protective Services program, the DOEA works in conjunction with the DCF and the Aging Network[25] to protect disabled adults or elderly persons from occurrences of abuse, neglect or exploitation. Services provided may include protective supervision and in-home and community-based services.

The DCF operates the Florida Abuse Hotline, to which calls alleging abuse, neglect, or exploitation of vulnerable adults can be made 24 hours a day. DCF's adult protective investigators visit each person who is the subject of a call to the hotline to determine the need for and provision of ongoing protective supervision or the provision of services. If the person is 60 years of age or older and needs home and community-based services, he or she is referred to the Aging Network.

III. Effect of Proposed Changes:

Section 1 adds four definitions to s. 409.963, F.S., relating to long-term care managed care (LTCMC):

- "Authorized representative" means an individual who has the legal authority to make decisions on behalf of a Medicaid recipient or potential Medicaid recipient in matters related to the managed care plan or the screening or eligibility process;

[23] *See* s. 409.98, F.S.

[24] Agency for Health Care Administration, MMA - Model Contract - Attachment I - Scope of Services (Effective date 11/1/15) p. 5, http://ahca.myflorida.com/medicaid/statewide_mc/pdf/Contracts/2015-11-01/Attachment_I-Scope_of_Services_2015-11-01.pdf (last visited Jan. 21, 2016).

[25] Each county's Aging Network consists of the DOEA, the Area Agency on Aging for the Planning and Service Area, and the DOEA's lead agency for the county. *See* the DOEA's "APS Contact List," available at http://elderaffairs.state.fl.us/doea/notices/Dec12/APS Contact List.xlsx (last visited Feb. 11, 2016).

- "Rescreening" means the use of a screening tool to conduct annual screenings or screenings due to a significant change which determine an individual's placement and continuation on the wait list;
- "Screening" means the use of an information collection tool to determine a priority score for placement on the wait list;
- "Significant change" means change in an individual's health status after an accident or illness; an actual or anticipated change in the individual's living situation; a change in the caregiver relationship; loss of or damage to the individual's home, or deterioration of his or her home environment; or loss of the individual's spouse or caregiver.

Section 2 amends s. 409.979, F.S., to clarify the existing eligibility process for the home and community based services through LTCMC. The bill establishes that Medicaid recipients must meet prerequisite criteria for eligibility and be determined eligible by the Long-Term Care Services (CARES) program preadmission screening program at the Department of Elderly Affairs (DOEA) to require nursing facility care as defined in s. 409.985(3), F.S.

The bill clarifies that offers for enrollment in LTCMC will be made subject to the availability of funds and based on wait-list prioritization. Before making any enrollment offers, the Agency for Health Care Administration (AHCA) and the DOEA are required to determine that sufficient funds are available.

The DOEA is directed to maintain a statewide wait list for enrollment into the program for home and community based services through LTCMC. Individuals will be prioritized for enrollment through a frailty-based screening tool that results in a priority score. The priority score is used to determine the release order for individuals from the wait list for potential enrollment. If capacity is limited for individuals with the same priority score, the individual with the oldest date of placement on the wait list receives priority for release.

Aging Resource Center personnel certified by the DOEA are charged with performing the screening or rescreening for each individual requesting enrollment in the home and community based services through LTCMC. The bill requires the DOEA to request that the individual or the individual's authorized representative provide alternate names and their contact information.

To be placed on the wait list, an individual requesting long-term care services, or the individual's authorized representative, must participate in an initial screening or rescreening. A rescreening of the individual must occur annually or upon notification of a significant change in an individual's circumstances.

The DOEA must adopt the screening tool that generates the priority score by rule and make publicly available on its website the specific methodology used to calculate an individual's priority score. When an individual's screening has been completed, the DOEA must inform the individual or the individual's representative that the individual has been placed on the wait list.

If the DOEA is unable to contact the individual or the individual's representative to schedule an initial screening or rescreening, and documents the action steps to do so, a letter must be sent to the last documented address to advise the individual to contact the DOEA within the next 30 calendar days to schedule a screening or rescreening. Failure to conduct a screening or

rescreening will result in the individual's termination from the screening process and the wait list.

The bill requires the CARES program to conduct a pre-release assessment of individuals after notification by the AHCA of available capacity in the long-term care managed care program. The DOEA must release individuals from the wait list based on the priority score process and the prerelease assessment. An individual must be both financially and clinically eligible to enroll in LTCMC.

The bill authorizes the DOEA to terminate an individual on the wait list if the individual:

- Does not have a current priority score due to the individual's action or inaction;
- Requests to be removed from the wait list;
- Does not keep an appointment to complete the rescreening without scheduling another appointment and has not responded to three documented attempts by the DOEA to contact the individual;
- Receives an offer to begin the eligibility determination process for LTCMC; or
- Begins receiving services through LTCMC.

If an individual is removed from the wait list for one of these reasons, and subsequently requests to be placed on the wait list again, the individual is required to initiate a new request for placement on the wait list and any previous placement is disregarded.

The bill provides for priority enrollment for home and community based services through LTCMC for certain individuals. These individuals are not required to complete the screening or wait-list process described above if all other long term care eligibility requirements are met:

- Individuals who are 18, 19, or 20 years of age who have chronic, debilitating diseases or conditions of one or more physiological or organ systems which generally make the individual dependent upon 24-hour-per-day medical, nursing, or health supervision or intervention;
- Nursing facility residents requesting transition into the community who have resided in a Florida-licensed skilled nursing facility for at least 60 consecutive days; and
- Individuals referred by the DOEA's Adult Protective Services program as high risk and placed in an assisted living facility temporarily funded by the DOEA.

The bill provides both the DOEA and the AHCA authority to adopt rules to implement the provisions of this act.

The bill deletes obsolete statutory language.

Section 3 provides that the bill's effective date is July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Elderly Affairs reports CS/SB 7056 has no fiscal impact.[26]

The Agency for Health Care Administration reports the bill has no fiscal impact.[27]

VI. Technical Deficiencies:

The bill requires that Aging Resource Center personnel certified by the Department of Elderly Affairs (DOEA) perform the screening for each individual requesting enrollment in long-term care managed care but requires the DOEA to request that the individual or the individual's authorized representative provide "alternate names and their contact information." If this request for alternate names and their contact information is to occur during the screening process, the bill should require Aging Resource Center personnel to make the request.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 409.962 and 409.979.

[26] Email from Jo Morris, Legislative Affairs Director, Department of Elderly Affairs (Jan., 22, 2016) (on file with the Senate Committee on Health Policy).
[27] Conversation with Joshua Spagnola, Legislative Affairs Director, Agency for Health Care Administration (Jan. 22, 2016).

IX. Additional Information:

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

CS by Appropriations on March 3, 2016:
The committee substitute:

- Requires the DOEA to request that individuals seeking enrollment for LTCMC provide alternate names and their contact information;
- Provides that if the DOEA is unable to contact an individual or the individual's authorized representative to schedule an initial screening or rescreening, *and documents the action steps to do so*, the DOEA must send a letter to the last documented address of the individual or the individual's authorized representative, advising that the individual must contact the DOEA within certain parameters to avoid being terminated from the screening process and the wait list, as opposed to the underlying bill which did not include documentation of the DOEA's action steps to contact the individual as a condition for sending the letter;
- Provides that the DOEA *may* terminate an individual from the wait list under certain conditions, as opposed to the requirement in CS/SB 7056 for the DOEA to do so; and
- Provides that individuals referred by the DOEA's Adult Protective Services program as high risk and placed in an assisted living facility temporarily funded by the DOEA, are afforded priority enrollment for LTCMC and do not have to complete the screening or wait-list process if all other eligibility requirements are met.

B. Amendments:

None.

By the Committee on Health Policy

588-02608-16 20167056__

A bill to be entitled

An act relating to long-term care managed care prioritization; amending s. 409.962, F.S.; defining terms; amending s. 409.979, F.S.; requiring the Department of Elderly Affairs to maintain a statewide wait list for enrollment for home and community-based services through the Medicaid long-term care managed care program; requiring the department to prioritize individuals for potential enrollment using a frailty-based screening tool that provides a priority score; providing for determinations regarding offers of enrollment; requiring screening and certain rescreening by Aging Resource Center personnel of individuals requesting long-term care services from the program; requiring the department to adopt by rule a screening tool; requiring the department to make a specified methodology available on its website; requiring the department to notify applicants if they are placed on the wait list; requiring the department to conduct prerelease assessments upon notification by the agency of available capacity; authorizing certain individuals to enroll in the long-term care managed care program; requiring the department to terminate an individual from the wait list under certain circumstances; providing for priority enrollment for home and community-based services; authorizing the department and the Agency for Health Care Administration to adopt rules; deleting obsolete language; providing an effective date.

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

588-02608-16 20167056__

Section 1. Present subsections (4) through (13) of section 409.962, Florida Statutes, are redesignated as subsections (5) through and (14), respectively, present subsection (14) of that section is redesignated as subsection (18), and new subsection (4) and subsections (15), (16), and (17) are added to that section, to read:

409.962 Definitions.—As used in this part, except as otherwise specifically provided, the term:

(4) "Authorized representative" means an individual who has the legal authority to make decisions on behalf of a Medicaid recipient or potential Medicaid recipient in matters related to the managed care plan or the screening or eligibility process.

(15) "Rescreening" means the use of a screening tool to conduct annual screenings or screenings due to a significant change which determine an individual's placement and continuation on the wait list.

(16) "Screening" means the use of an information-collection tool to determine a priority score for placement on the wait list.

(17) "Significant change" means change in an individual's health status after an accident or illness; an actual or anticipated change in the individual's living situation; a change in the caregiver relationship; loss of or damage to the individual's home or deterioration of his or her home environment; or loss of the individual's spouse or caregiver.

Section 2. Section 409.979, Florida Statutes, is amended to read:

409.979 Eligibility.—

(1) PREREQUISITE CRITERIA FOR ELIGIBILITY.—Medicaid

recipients who meet all of the following criteria are eligible to receive long-term care services and must receive long-term care services by participating in the long-term care managed care program. The recipient must be:

(a) Sixty-five years of age or older, or age 18 or older and eligible for Medicaid by reason of a disability.

(b) Determined by the Comprehensive Assessment Review and Evaluation for Long-Term Care Services (CARES) preadmission screening program to require nursing facility care as defined in s. 409.985(3).

(2) ENROLLMENT OFFERS.—~~Medicaid recipients who, on the date long-term care managed care plans become available in their region, reside in a nursing home facility or are enrolled in one of the following long-term care Medicaid waiver programs are eligible to participate in the long-term care managed care program for up to 12 months without being reevaluated for their need for nursing facility care as defined in s. 409.985(3):~~

~~(a) The Assisted Living for the Frail Elderly Waiver.~~

~~(b) The Aged and Disabled Adult Waiver.~~

~~(c) The Consumer-Directed Care Plus Program as described in s. 409.221.~~

~~(d) The Program of All-inclusive Care for the Elderly.~~

~~(e) The Channeling Services Waiver for Frail Elders.~~

~~(3)~~ Subject to availability of funds, the Department of Elderly Affairs shall make offers for enrollment to eligible individuals based on a wait-list prioritization ~~and subject to availability of funds~~. Before making enrollment offers, the agency and the Department of Elderly Affairs ~~department~~ shall determine that sufficient funds exist to support additional

enrollment into plans.

(3) WAIT LIST, RELEASE, AND OFFER PROCESS.—The Department of Elderly Affairs shall maintain a statewide wait list for enrollment for home and community-based services through the long-term care managed care program.

(a) The Department of Elderly Affairs shall prioritize individuals for potential enrollment for home and community-based services through the long-term care managed care program using a frailty-based screening tool that results in a priority score. The priority score is used to set an order for releasing individuals from the wait list for potential enrollment in the long-term care managed care program. If capacity is limited for individuals with identical priority scores, the individual with the oldest date of placement on the wait list shall receive priority for release.

1. Pursuant to s. 430.2053, Aging Resource Center personnel certified by the Department of Elderly Affairs shall perform the screening for each individual requesting enrollment for home and community-based services through the long-term care managed care program.

2. The individual requesting the long-term care services, or the individual's authorized representative, must participate in an initial screening or rescreening for placement on the wait list. The screening or rescreening must be completed in its entirety before placement on the wait list.

3. Pursuant to s. 430.2053, Aging Resource Center personnel shall administer rescreening annually or upon notification of a significant change in an individual's circumstances.

4. The Department of Elderly Affairs shall adopt by rule a

screening tool that generates the priority score, and shall make publicly available on its website the specific methodology used to calculate an individual's priority score.

(b) Upon completion of the screening or rescreening process, the Department of Elderly Affairs shall notify the individual or the individual's authorized representative that the individual has been placed on the wait list.

(c) If the Department of Elderly Affairs is unable to contact the individual or the individual's authorized representative to schedule an initial screening or rescreening, it shall send a letter to the last documented address of the individual or the individual's authorized representative. The letter must advise the individual or his or her authorized representative that he or she must contact the Department of Elderly Affairs within 30 calendar days after the date of the notice to schedule a screening or rescreening and must notify the individual that failure to complete the screening or rescreening will result in his or her termination from the screening process and the wait list.

(d) After notification by the agency of available capacity, the CARES program shall conduct a prerelease assessment. The Department of Elderly Affairs shall release individuals from the wait list based on the priority scoring process and prerelease assessment results. Upon release, individuals who also are determined by the department to be financially eligible and by the Department of Elderly Affairs to be clinically eligible may enroll in the long-term care managed care program.

(e) The Department of Elderly Affairs shall terminate an individual's inclusion on the wait list if the individual:

1. Does not have a current priority score due to the individual's action or inaction;

2. Requests to be removed from the wait list;

3. Does not keep an appointment to complete the rescreening without scheduling another appointment;

4. Receives an offer to begin the eligibility determination process for the long-term care managed care program; or

5. Begins receiving services through the long-term care managed care program.

An individual whose inclusion on the wait list is terminated must initiate a new request for placement on the wait list, and any previous priority considerations must be disregarded.

(f) Notwithstanding this subsection, the following individuals are afforded priority enrollment for home and community-based services through the long-term care managed care program and do not have to complete the screening or wait-list process if all other long-term care managed care program eligibility requirements are met:

1. Individuals who are 18, 19, or 20 years of age who have chronic debilitating diseases or conditions of one or more physiological or organ systems which generally make the individual dependent upon 24-hour-per-day medical, nursing, or health supervision or intervention.

2. Nursing facility residents requesting to transition into the community who have resided in a Florida-licensed skilled nursing facility for at least 60 consecutive days.

(g) The Department of Elderly Affairs and the agency may adopt rules to implement this subsection.

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

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

THE FLORIDA SENATE

COMMITTEE ON HEALTH POLICY

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404 South Monroe Street
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Senator Aaron Bean, *Chair*
Senator Eleanor Sobel, *Vice Chair*

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February 22, 2016

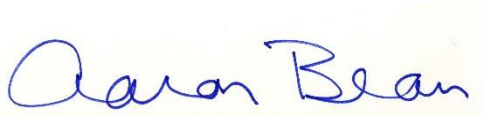
Senator Tom Lee
Chairman
Senate Committee on Appropriations
201 The Capitol
404 South Monroe Street
Tallahassee, Florida 32399-1100

Dear Chairman Lee:

I am requesting that SB 7056 (Long-Term Care Managed Care Prioritization), a Health Policy Committee bill, be placed on the agenda of the committee's next scheduled meeting. Your consideration would be greatly appreciated.

If you have questions, please call 487-5824.

Respectively,



Aaron Bean
State Senator, District 4

cc: Cindy Kynoch, Staff Director
Appropriations Committee

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	SB 7064
INTRODUCER:	Finance and Tax Committee
SUBJECT:	Corporate Income Tax
DATE:	March 2, 2016
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Babin	Diez-Arguelles		**FT Submitted as Committee Bill**
1.	Babin	Kynoch	AP	**Pre-meeting**

I. Summary:

SB 7064 updates Florida's Corporate Income Tax Code by adopting the Internal Revenue Code in effect on January 1, 2016.

The federal Consolidated Appropriations Act, 2016, grants extraordinary deductions for depreciation for the next five years. Similar to past treatment, the bill requires Florida taxpayers to spread the benefit of these deductions over a seven year period.

The federal Consolidated Appropriations Act, 2016, also increases the first-year expensing deduction limitation from $25,000 to $500,000 and makes the change permanent. The bill adopts this change for purposes of Florida's corporate income tax.

The federal Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 amends the Internal Revenue Code to change the tax return due dates for corporate returns. The bill makes corresponding changes to Florida's corporate income tax return filing dates and estimated payment due dates.

The Revenue Estimating Conference has determined that the bill will reduce General Revenue receipts by $3.2 million in Fiscal Year 2015-2016, and by $16.8 million in Fiscal Year 2016-2017, with an indeterminate recurring impact.

The bill takes effect upon becoming law.

II. Present Situation:

Discussion of the present situation is included in the section-by-section analysis below.

III. Effect of Proposed Changes:

Sections 1 through 3, and 10

Present situation: Florida imposes a 5.5 percent tax on the taxable income of corporations and financial institutions doing business in Florida. The determination of taxable income for Florida tax purposes begins with the taxable income determined for federal income tax purposes. This means that a corporation paying taxes in Florida receives the same treatment in Florida as is allowed in determining its federal taxable income.

Florida maintains its relationship with the federal taxable income determination by each year adopting the federal Internal Revenue Code as it exists on January 1 of the year. By doing this, Florida adopts any changes that were made in the previous year to the determination of federal taxable income.

The Internal Revenue Code allows a taxpayer to deduct the cost of capital assets by deducting a portion of the cost over the useful life of the property (depreciation).[1] Additionally, a taxpayer is allowed to treat a certain amount of the cost of capital assets as a business expense that can be deducted entirely in the year of purchase (expensing).[2] Until recently, the amount that could be expensed was limited to $25,000.

The federal Consolidated Appropriations Act, 2016 (the Act),[3] became law on December 18, 2015, and contained significant amendments to the Internal Revenue Code. Similar to federal legislation during the past several years,[4] the Act grants an additional, first-year depreciation deduction (bonus depreciation) for the next five years. For the next three years, the bonus depreciation amount is 50 percent, and then the percentage is reduced to 40 percent and 30 percent in the last two years, respectively. The Act also permanently increases the expensing limitation from $25,000 to $500,000.

Proposed Change: SB 7064 adopts the Internal Revenue Code in effect on January 1, 2016. The bill does not adopt the bonus depreciation deductions provided by the Act. Instead, the bill requires taxpayers to spread the effect of these deductions over seven taxable years. The bill accomplishes this by requiring taxpayers to add-back the bonus depreciation deduction and then subtract from income one-seventh (1/7) of these deductions for the current taxable year and the following six taxable years. This mechanism was used to address the impacts of similar federal legislation in 2009, 2011, 2013, and 2015.[5]

SB 7064 adopts the permanent increase in the expensing limitation from $25,000 to $500,000.

SB 7064 makes these changes retroactive to January 1, 2016.

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[1] *See generally* ss. 167 and 168, Internal Revenue Code.
[2] *See generally* s. 179, Internal Revenue Code.
[3] Pub. Law No. 114-113, Division Q, s. 143, H.R. 2029, 114th Cong. (December 18, 2015).
[4] The Economic Stimulus Act of 2008, the American Recovery and Reinvestment Act of 2009, the Small Business Jobs Act of 2010, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, the American Taxpayer Relief Act of 2012, and the Tax Increase Prevention Act of 2014.
[5] Chapters 2009-132, 2011-229, 2013-40, and 2015-35, Laws of Fla.

SB 7064 grants the Department of Revenue emergency rulemaking authority to implement these provisions of the bill.

Sections 4 through 9

Present situation: Under Florida law, the due dates to file tax returns related to corporate income tax are tied to the due dates of the related federal return. Florida corporations must file income tax returns on or before the first day of the 4th month following the close of the taxable year or the 15th day following the federal due date.[6]

When a Florida corporation is granted an extension of time to file its federal return – usually six months – the taxpayer may file an extension of time to file its Florida return;[7] if granted, the extended Florida due date will be the 15th day after the expiration of the federal extension, or until the expiration of six months from the original due date, whichever occurs first.[8]

Florida requires corporate income taxpayers to make estimated payments of tax throughout the taxable year. The taxpayer must file a declaration of estimated tax before the 1st day of the 5th month of each tax year.[9] Taxpayers then typically make estimated payments of tax before the first day of the 5th, 7th, and 10th months of the taxable year, and the final estimated payment is due before the 1st day of the next taxable year.[10] The first estimated payment – due before the first day of the 5th month of the taxable year – is timed so that it occurs after the taxpayer's tax return due date for the prior taxable year, which is the 4th month. Estimated payment rules allow the taxpayer to use the prior taxable year's tax liability to calculate the next taxable year's estimated payments.

On July 31, 2015, the federal government passed the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015.[11] This federal legislation moves the filing dates for most federal corporate income taxpayers to one month later than is currently required. A small group of corporate taxpayers (those with a taxable year ending on June 30) continue using their current filing date until 2026, at which time their filing date will also move one month later.

The federal legislation also adjusts the normal federal six month extension for the next 10 years. Under this adjustment, calendar year corporate taxpayers (the majority of corporate taxpayers in Florida) will receive a five month extension. Taxpayers with a taxable year ending on June 30 receive a seven month extension. All other taxpayers continue with six month extensions, and after 2026, all extensions will return to six months.

Proposed Change: SB 7064 amends the due dates for Florida corporate income tax returns to correspond with the changes in due dates for the federal returns and the temporary changes in

[6] Section 220.222(1), F.S. Some partnerships are also required to file informational returns. These returns are due on or before the first day of the 5th month after the close of the taxable year.
[7] If a taxpayer extends the time to file its Florida return, the taxpayer must file a tentative tax return and make a tentative tax payment pursuant to s. 220.32, F.S.
[8] Section 220.222(2), F.S.
[9] Section 220.241, F.S. The time for filing a declaration is delayed for certain taxpayers. *See id.* A declaration is not required if the taxpayer reasonably expects to pay less than $2,500 or less. Section 220.24, F.S.
[10] Section 220.33(1), F.S.
[11] Pub. Law No. 114-41, H.R. 3236, 114th Cong. (July 31, 2015).

federal extension periods. The bill also extends the first estimated payment for corporate taxpayers by one month to accommodate the tax return due date change.

The changes to tax return due dates apply for taxable years beginning on or after January 1, 2016, and the changes to estimated payments apply to estimated payments for taxable years beginning on or after January 1, 2017.

Section 11 provides that SB 7064 is effective upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has determined that the provisions of SB 7064 that adopt the Internal Revenue Code and require taxpayers to spread the benefit of the bonus depreciation deductions will reduce General Revenue receipts by $3.2 million in Fiscal Year 2015-2016, and by $3.2 million in Fiscal Year 2016-2017, with an indeterminate recurring impact.

The adoption of the increased expensing limitation will reduce General Revenue receipts by $1.5 million, recurring.

The provisions of SB 7064 that move the due dates for tax returns and the first estimated payment will reduce General Revenue receipts by $13.6 million in Fiscal Year 2016-2017, with an indeterminate recurring impact.

B. Private Sector Impact:

By adopting recent changes to the Internal Revenue Code, Florida provides ease of administration for Florida corporate taxpayers.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 220.03, 220.13, 220.222, 220.241, 220.33, and 220.34.

IX. Additional Information:

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

None.

B. Amendments:

None.

By the Committee on Finance and Tax

593-03222-16 20167064__

A bill to be entitled

An act relating to the corporate income tax; amending s. 220.03, F.S.; revising the term "Internal Revenue Code"; revising the applicable version of the Internal Revenue Code and federal income tax code statutes; amending s. 220.13, F.S.; revising the term "adjusted federal income" as it relates to adjustments related to federal acts; providing for retroactive application of amendments to ss. 220.03 and 220.13, F.S; amending s. 220.222, F.S.; amending due dates for partnership information returns and corporate tax returns; providing applicability; amending s. 220.241, F.S.; amending due dates to file a declaration of estimated corporate income tax; amending s. 220.33, F.S.; amending the due date of estimated payments of corporate income tax; amending s. 220.34, F.S.; amending the dates used to calculate interest and penalties on underpayments of estimated corporate income tax; providing applicability for amendments to ss. 220.241, 220.33, and 220.34, F.S.; authorizing the Department of Revenue to adopt emergency rules; providing an effective date.

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

Section 1. Paragraph (n) of subsection (1) and paragraph (c) of subsection (2) of section 220.03, Florida Statutes, are amended to read:

220.03 Definitions.—

(1) SPECIFIC TERMS.—When used in this code, and when not otherwise distinctly expressed or manifestly incompatible with the intent thereof, the following terms shall have the following

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meanings:

(n) "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended and in effect on January 1, 2016 ~~2015~~, except as provided in subsection (3).

(2) DEFINITIONAL RULES.—When used in this code and neither otherwise distinctly expressed nor manifestly incompatible with the intent thereof:

(c) Any term used in this code has the same meaning as when used in a comparable context in the Internal Revenue Code and other statutes of the United States relating to federal income taxes, as such code and statutes are in effect on January 1, 2016 ~~2015~~. However, if subsection (3) is implemented, the meaning of a term shall be taken at the time the term is applied under this code.

Section 2. Paragraph (e) of subsection (1) of section 220.13, Florida Statutes, is amended to read:

220.13 "Adjusted federal income" defined.—

(1) The term "adjusted federal income" means an amount equal to the taxpayer's taxable income as defined in subsection (2), or such taxable income of more than one taxpayer as provided in s. 220.131, for the taxable year, adjusted as follows:

(e) *Adjustments related to federal acts.*—Taxpayers shall be required to make the adjustments prescribed in this paragraph for Florida tax purposes with respect to certain tax benefits received pursuant to the Economic Stimulus Act of 2008, the American Recovery and Reinvestment Act of 2009, the Small Business Jobs Act of 2010, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, the

American Taxpayer Relief Act of 2012, ~~and~~ the Tax Increase Prevention Act of 2014, and the Consolidated Appropriations Act, 2016.

1. There shall be added to such taxable income an amount equal to 100 percent of any amount deducted for federal income tax purposes as bonus depreciation for the taxable year pursuant to ss. 167 and 168(k) of the Internal Revenue Code of 1986, as amended by s. 103 of Pub. L. No. 110-185, s. 1201 of Pub. L. No. 111-5, s. 2022 of Pub. L. No. 111-240, s. 401 of Pub. L. No. 111-312, s. 331 of Pub. L. No. 112-240, ~~and~~ s. 125 of Pub. L. No. 113-295, and s. 143 of Division Q of Pub. L. No. 114-113, for property placed in service after December 31, 2007, and before January 1, 2021 ~~2015~~. For the taxable year and for each of the 6 subsequent taxable years, there shall be subtracted from such taxable income an amount equal to one-seventh of the amount by which taxable income was increased pursuant to this subparagraph, notwithstanding any sale or other disposition of the property that is the subject of the adjustments and regardless of whether such property remains in service in the hands of the taxpayer.

2. There shall be added to such taxable income an amount equal to 100 percent of any amount in excess of $128,000 deducted for federal income tax purposes for the taxable year pursuant to s. 179 of the Internal Revenue Code of 1986, as amended by s. 102 of Pub. L. No. 110-185, s. 1202 of Pub. L. No. 111-5, s. 2021 of Pub. L. No. 111-240, s. 402 of Pub. L. No. 111-312, s. 315 of Pub. L. No. 112-240, and s. 127 of Pub. L. No. 113-295, for taxable years beginning after December 31, 2007, and before January 1, 2015. For the taxable year and for

each of the 6 subsequent taxable years, there shall be subtracted from such taxable income one-seventh of the amount by which taxable income was increased pursuant to this subparagraph, notwithstanding any sale or other disposition of the property that is the subject of the adjustments and regardless of whether such property remains in service in the hands of the taxpayer.

3. There shall be added to such taxable income an amount equal to the amount of deferred income not included in such taxable income pursuant to s. 108(i)(1) of the Internal Revenue Code of 1986, as amended by s. 1231 of Pub. L. No. 111-5. There shall be subtracted from such taxable income an amount equal to the amount of deferred income included in such taxable income pursuant to s. 108(i)(1) of the Internal Revenue Code of 1986, as amended by s. 1231 of Pub. L. No. 111-5.

4. Subtractions available under this paragraph may be transferred to the surviving or acquiring entity following a merger or acquisition and used in the same manner and with the same limitations as specified by this paragraph.

5. The additions and subtractions specified in this paragraph are intended to adjust taxable income for Florida tax purposes, and, notwithstanding any other provision of this code, such additions and subtractions shall be permitted to change a taxpayer's net operating loss for Florida tax purposes.

Section 3. The amendments to ss. 220.03 and 220.13, Florida Statutes, made by this act apply retroactively to January 1, 2016.

Section 4. Section 220.222, Florida Statutes, is amended to read:

220.222 Returns; time and place for filing.—

(1)(a) Returns required by this code shall be filed with the office of the department in Leon County or at such other place as the department may by regulation prescribe. All returns required for a DISC (Domestic International Sales Corporation) under paragraph 6011(c)(2) of the Internal Revenue Code shall be filed on or before the 1st day of the 10th month following the close of the taxable year; all partnership information returns shall be filed on or before the 1st day of the 4th ~~5th~~ month following the close of the taxable year; and all other returns shall be filed on or before the 1st day of the 5th ~~4th~~ month following the close of the taxable year or the 15th day following the due date, without extension, for the filing of the related federal return for the taxable year, unless under subsection (2) one or more extensions of time, not to exceed 6 months in the aggregate, for any such filing is granted.

(b) Notwithstanding paragraph (a), for taxable years beginning before January 1, 2026, returns of taxpayers with a taxable year ending on June 30 shall be filed on or before the 1st day of the 4th month following the close of the taxable year or the 15th day after the due date, without extension, for the filing of the related federal return for the taxable year, unless under subsection (2) one or more extensions of time for any such filing is granted.

(2)(a) When a taxpayer has been granted an extension or extensions of time within which to file its federal income tax return for any taxable year, and if the requirements of s. 220.32 are met, the filing of a request for such extension or extensions with the department shall automatically extend the

due date of the return required under this code until ~~15 days after the expiration of the federal extension or until~~ the expiration of 6 months from the original due date~~, whichever first occurs~~.

(b) The department may grant an extension or extensions of time for the filing of any return required under this code upon receiving a prior request therefor if good cause for an extension is shown. However, the aggregate extensions of time under paragraphs (a) and (b) shall not exceed 6 months. No extension granted under this paragraph shall be valid unless the taxpayer complies with the requirements of s. 220.32.

(c) For purposes of this subsection, a taxpayer is not in compliance with the requirements of s. 220.32 if the taxpayer underpays the required payment by more than the greater of $2,000 or 30 percent of the tax shown on the return when filed.

(d) For taxable years beginning before January 1, 2026, the 6-month period in paragraphs (a) and (b) shall be 7 months for taxpayers with a taxable year ending on June 30, and shall be 5 months for taxpayers with a taxable year ending on December 31.

Section 5. The amendments to s. 220.222, Florida Statutes, made by this act apply to taxable years beginning on or after January 1, 2016.

Section 6. Section 220.241, Florida Statutes, is amended to read:

220.241 Declaration; time for filing.—

(1) A declaration of estimated tax under this code shall be filed before the 1st day of the 6th ~~5th~~ month of each taxable year, except that if the minimum tax requirement of s. 220.24(1) is first met:

(a) ~~(1)~~ After the 3rd month and before the 6th month of the taxable year, the declaration shall be filed before the 1st day of the 7th month;

(b) ~~(2)~~ After the 5th month and before the 9th month of the taxable year, the declaration shall be filed before the 1st day of the 10th month; or

(c) ~~(3)~~ After the 8th month and before the 12th month of the taxable year, the declaration shall be filed for the taxable year before the 1st day of the succeeding taxable year.

(2) Notwithstanding subsection (1), for taxable years beginning before January 1, 2026, taxpayers with a taxable year ending on June 30 shall file declarations before the 1st day of the 5th month of each taxable year, unless paragraph (1)(a), (1)(b), or (1)(c) applies.

Section 7. Subsection (1) of section 220.33, Florida Statutes, is amended to read:

220.33 Payments of estimated tax.—A taxpayer required to file a declaration of estimated tax pursuant to s. 220.24 shall pay such estimated tax as follows:

(1) If the declaration is required to be filed before the 1st day of the 6th ~~5th~~ month of the taxable year, the estimated tax shall be paid in four equal installments. The first installment shall be paid at the time of the required filing of the declaration; the second and third installments shall be paid before the 1st day of the 7th month and before the 1st day of the 10th month of the taxable year, respectively; and the fourth installment shall be paid before the 1st day of the next taxable year.

Section 8. Paragraph (c) of subsection (2) of section

220.34, Florida Statutes, is amended to read:

220.34 Special rules relating to estimated tax.—

(2) No interest or penalty shall be due or paid with respect to a failure to pay estimated taxes except the following:

(c) The period of the underpayment for which interest and penalties apply shall commence on the date the installment was required to be paid, determined without regard to any extensions of time, and shall terminate on the earlier of the following dates:

1. The first day of the 5th ~~fourth~~ month following the close of the taxable year; ~~or~~

2. For taxable years beginning before January 1, 2026, for taxpayers with a taxable year ending on June 30, the first day of the 4th month following the close of the taxable year; or

3.~~2.~~ With respect to any portion of the underpayment, the date on which such portion is paid.

For purposes of this paragraph, a payment of estimated tax on any installment date shall be considered a payment of any previous underpayment only to the extent such payment exceeds the amount of the installment determined under subparagraph (b)1. for such installment date.

Section 9. The amendments to ss. 220.241, 220.33, and 220.34, Florida Statutes, made by this act apply to estimated payments for taxable years beginning on or after January 1, 2017.

Section 10. (1) The Department of Revenue is authorized, and all conditions are deemed to be met, to adopt emergency

rules pursuant to s. 120.54(4), Florida Statutes, for the purpose of implementing the amendments made by this act to ss. 220.03 and 220.13, Florida Statutes.

(2) Notwithstanding any other provision of law, emergency rules adopted pursuant to subsection (1) are effective for 6 months after adoption and may be renewed during the pendency of procedures to adopt permanent rules addressing the subject of the emergency rules.

(3) This section expires January 1, 2020.

Section 11. This act shall take effect upon becoming a law.

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	HB 7099, 2nd Eng.
INTRODUCER:	Finance and Tax Committee; and Representative Gaetz and others
SUBJECT:	Taxation
DATE:	March 4, 2016
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Diez-Arguelles	Kynoch	AP	**Fav/1 amendment**

Please see Section IX. for Additional Information:

AMENDMENTS - Significant amendments were recommended

I. Summary:

Sections I through VIII of the analysis discuss HB 7099, 2nd Engrossed, as passed by the House of Representatives. Section IX describes the amendment adopted by the Senate Appropriations Committee.

HB 7099 provides for a wide range of tax reductions and modifications designed to directly impact both households and businesses, and to improve tax administration. The bill:

- Makes changes to allowable and required uses of tourist development taxes;
- Provides that a note or mortgage made on behalf of a housing finance authority is exempt from documentary stamp tax;
- Allows for at least five percent of community redevelopment agency revenues be spent on youth centers in certain circumstances;
- Expands the counties for which the Department of Revenue must pay for aerial photographs used for property tax purposes;
- Clarifies that for a limited period, economic development property tax exemptions can be granted in areas which were designated enterprise zones as of December 30, 2015;
- Allows a midyear transfer of the disabled veteran homestead property tax exemption;
- Expands the homestead exemption available for the surviving spouses of totally and permanently disabled veterans;
- Creates a 50 percent property tax discount on certain property used for affordable housing;
- Provides that documentary stamp tax revenue is pledged and made first available to pay debt service on bonds authorized before July 1, 2017;
- Equalization of the tax rates on apple and pear cider;

- Provides a permanent reduction of the state sales tax rate on rental of commercial real estate from six percent to five percent, beginning January 1, 2017, with an additional one percentage point reduction (to four percent) in calendar year 2018 only;
- Provides new, extended or expanded sales tax exemptions for machinery and equipment used in manufacturing;
- Provides expanded sales tax exemption for machinery and equipment used for agricultural postharvest activities;
- Provides expanded sales tax exemption for machinery and equipment used for metals recycling;
- Provides an exemption for sales at school book fairs for one year;
- Provides an exemption for sales of college textbooks and instructional materials for one year;
- Provides an exemption from sales tax for building materials, pest control, and rental of tangible personal property used in new construction in rural areas of opportunity;
- Provides an exemption from sales tax for certain equipment, electricity and building materials used by certain new or expanding Florida datacenters;
- Provides an exemption from sales tax for sales of food and drink by military veterans service organizations to their members;
- Provides an exemption from sales tax for certain resales of admissions for three years;
- Clarifies requirements for the current exemption on sales of aircraft that will be registered in a foreign jurisdiction;
- Provides a ten-day "back-to-school" sales tax holiday for clothing, footwear, school supplies, and computers;
- Provides a one-day "technology" sales tax holiday on sales of computers and related accessories;
- Provides a one-day "small business" sales tax holiday, for sales by certain small businesses;
- Provides a one-day "hunting and fishing" sales tax holiday for certain hunting firearms, ammunition, camping tents, and fishing supplies;
- Temporarily increases the total corporate income tax credits available for voluntary brownfields clean-up;
- Temporarily increases the total corporate income tax credits for research and development;
- Extends by one year the corporate income tax credits for renewable energy technology and production;
- Adopts the Internal Revenue Code as in effect on January 1, 2016, for purposes of corporate income tax, but decouples from certain federal bonus depreciation provisions;
- Makes changes to certain corporate income tax filing dates to conform to federal filing date changes;
- Effective July 1, 2019, eliminates a current exemption from the aviation fuel tax and reduces the aviation fuel tax rate;
- Clarifies the administration of the tax on other tobacco products and adds "wraps" to the list of products subject to tax; and
- Replaces the current tax calculation on liquor and tobacco sold on cruise ships located within Florida territorial waters with a simpler, revenue neutral calculation.

The total of $991.7 million in tax reductions proposed by the bill is the sum of the recurring impacts, reflecting the annual value of permanent tax cuts when fully implemented, and the

nonrecurring impacts that reflect temporary tax reductions. The bill also includes nonrecurring General Revenue appropriations of $762,154.

II. Present Situation:

The present situation for each issue is described in the Effect of Proposed Changes section below.

III. Effect of Proposed Changes:

Section 1

Present Situation

Section 125.0104, F.S., authorizes five taxes on transient rental transactions (e.g. bookings at hotels). Depending on a county's eligibility to levy, the maximum allowable tax rate varies from four to six percent. One of the levies requires voter approval, others may be authorized by vote of the county's governing authority or referendum approval. The revenues generated by the tax may be used in various ways to promote tourism, including capital construction of tourism-related facilities. The authorized uses of each local option tax vary according to the particular levy.

The tourist development tax ("1 to 2 Percent Tax") may be levied at the rate of one or two percent. All 67 counties are eligible to levy this tax, and currently 62 levy this tax – all at two percent. Calhoun, Hardee, Lafayette, Liberty and Union counties do not levy any tourist development taxes. Revenue from this tax may be bonded to finance certain facilities and projects, including financing revenue bonds. This tax may only be levied after the ordinance is approved by a majority of voters in a referendum.

An additional tourist development tax of one percent ("Additional one Percent Tax") may be levied by counties who have previously levied a tourist development tax at the one or two percent rate for at least three years. Currently 45 counties levy this tax. Revenue from this tax may be bonded to finance certain facilities and projects, but may not be used to service debt or refinance facilities receiving funding from a previously levied tourist development tax unless approved by an extraordinary vote of the governing board. This tax may be levied by either extraordinary vote of the county governing board or by approval by a majority of voters in a referendum.

The other taxes authorized by this section include the professional sports franchise facility tax, the additional professional sports franchise facility tax, and the high tourism impact tax. These taxes are applied to the same transactions as the tourist development taxes.

The 1 to 2 Percent Tax and the Additional 1 Percent taxes can be used to fund a wide variety of tourist-related facilities including convention centers, stadiums, aquariums, museums, zoos, tourist information centers and bureaus, and beach facilities and maintenance. Additionally, all five taxes authorized by this section may be used to promote and advertise tourism in this state nationally and internationally. If revenues are expended for an activity, service, venue, or event it must have attraction of tourists as one of its main purposes, as evidenced by promotion of the

activity, service, venue, or event to tourists. Because of the statutory location and phrasing of this requirement, it may allow for broad interpretation of allowable expenditures.

Prior to levying the tourist development tax, the county must establish a nine member tourist development council. The council's responsibilities include advising the governing body of the county on effective use of tourist development tax revenues, proposing a plan for the use of such revenues, reviewing expenditures of the revenues and reporting any suspected unauthorized expenditures to the county governing board and the Department of Revenue.

Proposed Change

The bill requires that a minimum of 35 percent of tourist development tax revenues which are left over after making required bond payments be used to fund promotion and advertising of tourism in the state. It also allows, in coastal counties only, up to 10 percent of remaining tourist development tax revenues to be used to fund additional emergency medical and law enforcement services that are required as a result of tourism, as long as such funds are not used to supplant pre-existing expenditures on such services.

The bill adds a requirement that a written application must be submitted to the governing body of the county in order to propose an expenditure of tourist development tax revenues. Each governing body is allowed to determine the requirements for the application, but it must including a description of the proposed expenditure and estimate of the cost at a minimum. The bill requires that a return on investment analysis or cost-benefit analysis must be performed before a county may make any expenditure of tourist development tax revenues in excess of $100,000. The analysis must be performed by an individual who has prior experience with input-output modelling, cost-benefit analysis or the application of economic multipliers such as the Regional Input-Output Modelling System created by the Bureau of Economic Analysis within the United States Department of Commerce. The cost of the analysis is to be paid from the tourist development tax revenues.

The bill creates an additional means of enforcing the allowed uses of tourist development tax. Any remitter of the tax, or any organization representing multiple remitters of the tax, in an action filed pursuant to ch. 120, F.S., (The Administrative Procedure Act), may challenge a county's decision to devote such tax revenues to a particular use or uses that the challenger claims is contrary to uses allowed by law. During the pendency of the administrative proceeding and any resulting appeals, no tourist development tax revenues may be used to fund the challenged use or uses. No deference is to be afforded the county's interpretation of statute. A prevailing remitter or remitter organization shall be awarded the reasonable costs of the action plus reasonable attorney's fees.

Section 2

Present Situation

Each county in Florida may create by ordinance a Housing Finance Authority (HFA) of the county to carry out the powers granted by the Florida Housing Finance Authority Law.[1] An HFA

[1] Section 159.604, F.S.

is composed of not less than five uncompensated members appointed by the governing body of the county.[2] The powers of a HFA are vested in the members and include the power to loan funds to persons purchasing homes and to developers engaged in qualifying housing developments. HFAs may also issue revenue bonds and refunding bonds in order to finance activities allowed under statute. Persons are eligible for loans if their annual income does not exceed 80 percent of the median income for the county. The sale price on new or existing single-family homes shall not exceed 90 percent of the median area purchase price in the area.[3] Section 159.621, F.S., provides that the following are exempt from all taxation:

- Bonds issued by a housing finance authority pursuant to Part IV of ch. 159, F.S.;
- All notes, mortgages, security agreements, letters of credit, or other instruments that arise out of, or are given to secure, the repayment of bonds issued in connection with the financing of any housing development under this part; and
- Interest thereon and the income therefrom.

The exemption is not applicable to any tax imposed by ch. 220, F.S., on interest, income or profits on debt obligations owned by corporations.

Proposed Change

The bill exempts from taxation any note or mortgage given with respect to a loan made by or on behalf of a housing finance authority pursuant to s. 159.608(8), F.S. It also adds that the exemption shall not apply to any deed granted in connection with property financed pursuant to Part IV of Chapter 159, F.S. The bill also requires certain documentation be recorded with the mortgages, affirming the exempt circumstances.

Sections 3

Present Situation

The Community Redevelopment Act of 1969, ch. 163, Part II, F.S. (Act), was enacted to provide a mechanism to revitalize slum and blighted areas "which constitute a serious and growing menace, injurious to the public health, safety, morals, and welfare of the residents of the state." The Act authorizes each local government to establish one Community Redevelopment Agency (CRA) to revitalize designated slum and blighted areas upon a "finding of necessity" and a further finding of a "need for a CRA to carry out community redevelopment." During the last two decades, municipalities, and to a lesser extent counties, have increasingly relied upon CRAs as a mechanism for community redevelopment.

CRAs are funded primarily through tax increment financing (TIF). As property tax values in the redevelopment area rise above property values in the base year the redevelopment area was created, increment revenues are generated by applying the current millage rate levied by each taxing authority in the area to the increase in value. Each non-exempt taxing authority that levies taxes on property within a community redevelopment area must annually appropriate the amount of increment revenues to the CRA trust fund. Expenditures are made pursuant to a community redevelopment plan approved by the governing body of the general purpose government that

[2] Section 159.605, F.S.
[3] Section 159.608, F.S.

created the agency. Section 163.387(6), F.S., provides a list of allowable uses for funds from the Redevelopment Trust Fund, including administrative expenses, planning expenses, the purchase of real property, payment of bonds and other debt, redevelopment expenses, relocation of residents affected by redevelopment, development of affordable housing, and community policing expenses.

Proposed Change

The bill authorizes CRAs to expend funds to support youth centers. The bill requires any CRA that chooses to expend funds to support youth centers and serves an area where at least 50 percent of children aged 18 and younger live below the poverty line to spend at least five percent of Redevelopment Trust Fund revenues annually to support youth centers, if a youth center has submitted a written request for such support and the expenditure does not materially impair any bonds outstanding as of March 11, 2016. "Youth center" is defined as a facility owned and operated by a government entity or a corporation not for profit registered pursuant to ch. 617, F.S., the primary purpose of which is to provide educational programs, after school activities, counseling, and other services to children aged five to 18 years, and which has operated for a period no less than two years prior to requesting support from the community redevelopment agency. The term does not include public or private schools, child care facilities as defined in s. 402.302, F.S., or private prekindergarten providers as defined in s. 1002.51, F.S., but does include indoor recreational facilities as defined in s. 402.302, F.S., which are owned and operated by a government entity or corporation not for profit registered pursuant to ch. 617, F.S.

Section 4

Present Situation

Under Florida law, local property appraisers are responsible for developing the assessment (tax) roll within their jurisdiction.[4] Property appraisers are required to physically inspect property in their jurisdiction at least once every five years, but they may use "image technology" in lieu of physical inspection to ensure that the tax roll meets all the requirements of law.[5] The DOR must establish minimum standards for the use of image technology consistent with standards developed by professionally recognized sources for mass appraisal of real property.[6]

The DOR coordinates the capture and distribution of ortho-imagery[7] of approximately one-third of the state each year according to the provisions of ch. 195.022, F.S. The counties rely on the use of aerial photography for discovery, location, and identification of property characteristics. In order to meet the statutory obligation of providing these photographs for the counties, the DOR contracts for aerial photography services for the counties each year. At least once every three years, or upon request of any property appraiser, the DOR must furnish aerial photographs

[4] Sections 193.023(1) and 193.114, F.S.
[5] Section 193.023(2), F.S.
[6] *Id.*
[7] According to the DOR, an "orthophoto" is a photographic copy, prepared from a perspective photograph, in which displacements of images due to tilt and relief have been removed. *See* Department of Revenue, Aerial Photography Contract, *available at* http://dor.myflorida.com/dor/property/gis/ (last visited Feb. 27, 2016).

and nonproperty ownership maps to the property appraisers to ensure that all real property within the state is properly listed on the roll.[8]

The DOR will pay for the cost of all photographs and maps to counties with populations less than 25,000; however, photographs and maps for counties with populations greater than 25,000 must be paid for at the property appraiser's expense.[9]

Prior to 2009, the cost of the photographs and maps was paid for by the DOR. In 2008, the DOR's financial responsibility to provide the photos and maps was limited to counties with a population of less than 25,000.[10] From 2009 to 2014, the Legislature provided funding for aerial photography for counties with a population of less than 50,000 via specific proviso language in the General Appropriations Act.

Proposed Change

The bill amends s. 195.022, F.S., to change the county population threshold that determines the governmental entity responsible for payment for aerial photographs and maps. Under the bill, the DOR will pay for photographs and maps furnished to counties that meet the population thresholds of a rural community in s. 288.0656(2)(e), F.S. For counties that do not meet those population thresholds, the DOR will furnish the items at the property appraiser's expense.

Section 288.0656(2)(e), F.S., states that "rural community" means a county with a population of 75,000 or fewer or a county that has a population of 125,000 or fewer and is contiguous to a county with a population of 75,000 or fewer.

Sections 5 and 7

Disabled Veteran Exemption Transfer

Present Situation

The ad valorem tax is an annual tax levied by counties, cities, school districts, and some special districts based on the value of real and tangible personal property as of January 1 of each year.[11]

Article VII, section 6 of the Florida Constitution provides that every person who owns real estate with legal and equitable title and maintains their permanent residence, or the permanent residence of their dependent upon such real estate, is eligible for a homestead tax exemption.[12]

Article VII, section 3(b) of the Florida Constitution provides for exemption from property taxes for persons who are totally and permanently disabled. The Legislature implemented this

[8] Section 195.022, F.S.
[9] *Id.*
[10] Chapter 2008-138, Laws of Fla. (HB 5061)
[11] Section 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. The terms "land," "real estate," "realty," and "real property" may be used interchangeably. Section 192.001(11)(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value (but does not include the vehicular items enumerated in article VII, section 1(b) of the Florida Constitution and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself.
[12] An additional homestead exemption applies to homesteads that have an assessed value greater than $50,000 and up to $75,000, excluding school district levies.

provision through various property tax exemptions in ch. 196, F.S., including s. 196.081(1)-(3), F.S.[13] These subsections provide a full exemption from ad valorem taxes on property that is owned and used as a homestead by an honorably discharged veteran with a service-connected total and permanent disability and is a permanent Florida resident on January 1 of the tax year for which the exemption is being claimed or in which the veteran died.[14]

Eligibility for all homestead exemptions, including the exemption in s. 196.081, F.S., is measured on January 1 of the applicable tax year.[15] If a property that received an exemption is sold after January 1, the exemption remains the property for the remainder of the year. In the subsequent year, any exemption will be based on the new owner's qualification on January 1 of that year.

Proposed Change

The bill provides that a veteran who received the s. 196.081, F.S., exemption but moves his or her homestead to another property after January 1 of the following year, may transfer the exemption to the new property if:

- The new property is owned and used as a homestead;
- The veteran files with the property appraiser an application for exemption of the new property within 30 days of acquisition of the new property, but no later than the 25th day following the mailing by the property appraiser of the TRIM notice, and
- The application must list and describe both the previous homestead and the new property, and certify under oath that the veteran:
  - Is otherwise qualified to receive the exemption under s. 196.031, F.S.;
  - Holds legal title to the new property; and
  - Intends to use the new property as his or her homestead.

The qualification deadline for all homestead exemptions, except applications for exemption under this proposal, will remain January 1.

If the exemption is granted on the new homestead, the previous homestead may not receive the exemption in that tax year, unless the subsequent owner of the previous homestead is qualified to receive the exemption.

Exemptions for Surviving Spouses of Veterans

Present Situation

Totally and Permanently Disabled Veterans/Surviving Spouses

Article VII, section 3(b) of the Florida Constitution authorizes the Legislature by general law to provide, in part, a property tax exemption in an amount not less than $500 for every widow or widower, and for persons who are permanently disabled. The Legislature implemented this provision through s. 196.081(1)-(3), F.S. These subsections currently provide a full exemption from ad valorem taxes on property that is owned and used as a homestead by an honorably

[13] Chapter 2012-193, Laws of Fla.
[14] Section 196.081(1), F.S.
[15] Section 196.011(1)(a), F.S.; *See also* s. 196.031(1)(a), F.S.

discharged veteran with a service-connected total and permanent disability and is a permanent Florida resident on January 1 of the tax year for which the exemption is being claimed or in which the veteran died.[16] This exemption may be carried over to the benefit of the veteran's surviving spouse.[17] If the deceased veteran does not meet these criteria, the surviving spouse is not eligible for the carry-over of the homestead tax exemption.

If the surviving spouse sells the property, an exemption equal to the amount of the most recent exemption may be transferred to the new primary residence if the surviving spouse remains unmarried.[18]

Veterans Who Died from Service-connected Causes While on Active duty/Surviving Spouses

Article VII, section 6(f) of the Florida Constitution authorizes the Legislature to provide ad valorem tax relief to the surviving spouse of a veteran who died from service-connected causes while on active duty as a member of the United States Armed Forces. The Legislature implemented this provision through s. 196.081(4), F.S.

This subsection provides a full property tax exemption on property that is owned and used as a homestead by the surviving spouse of veteran who died from service-connected causes while on active duty and was a permanent Florida resident on January 1 of the tax year for which the veteran died.[19] If the surviving spouse does not meet these criteria, the surviving spouse is not eligible to receive the homestead tax exemption.

If the surviving spouse sells the property, an exemption equal to the amount of the most recent exemption may be transferred to the new primary residence if the surviving spouse remains unmarried.[20]

While current law allows the surviving spouse of a disabled veteran to transfer the veteran's disability exemption to a new property if they are moving within Florida, such transfer is not available to a surviving spouse who is coming from another state. If a surviving spouse owned a permanent residence in another state and was receiving an exemption or similar benefit based on their veteran spouse's disability, he or she could not transfer that benefit to a new Florida residence. However, a similarly situated surviving spouse who was moving within Florida would be able to transfer his or her benefit.

Proposed Change

The bill amends s. 196.081(4), F.S., to allow the surviving spouse of a veteran who died from service-connected causes while on active duty to receive property tax relief in this state, regardless of the veteran's state of residence on January 1 of the year in which the veteran died.

The bill amends s. 196.081, F.S., to allow the surviving spouse of a veteran who had a service-related total and permanent disability at the time of death to receive property tax relief in this

[16] Section 196.081(1), F.S.
[17] Section 196.081(2) and (3), F.S.
[18] Section 196.081(3), F.S.
[19] Section 196.081(4), F.S.
[20] Section 196.081(4)(b), F.S.

state, if at the time of the veteran's death, the veteran or the veteran's spouse owned the veteran's homestead property in another state and such property would have qualified as a homestead in Florida if located in this state on January 1 of the year the veteran died. To qualify for the tax exemption, after the veteran's death, the unremarried surviving spouse must hold the legal or beneficial title to homestead property in this state and permanently reside on the property[21] as of January 1 of the tax year for which the exemption is being claimed. The tax exemption may be transferred to a new residence, in an amount not to exceed the amount granted from the most recent ad valorem tax roll, as long as it is used as the surviving spouse's primary residence and he or she does not remarry.

Sections 6, 9, and 43

Present Situation

Section 196.1995, F.S., allows cities and counties to grant up to a 100-percent exemption from city or county ad valorem taxation for improvements to real property and tangible personal property for a new business or expansion of an existing business. Initially, the city or county calls for a referendum within its total jurisdiction to determine whether the jurisdiction may grant economic development ad valorem exemptions under s. 3, Art. VII of the State Constitution. The referendum can take one of two forms, as selected by the local government conducting the referendum. It can either authorize the city or county to grant such exemptions anywhere within its jurisdiction, or only in areas designated as enterprise zones or brownfield areas. Once the referendum measure is approved, specific exemptions are effectuated by enactment of an ordinance. To qualify for the exemption, the improvements must be made or the tangible personal property added after approval by motion or resolution of the local governing body, subject to ordinance adoption, or on or after the adoption of the ordinance. Businesses seeking to take advantage of the exemption must file a written application with the city or county in the year the exemption is desired to take effect to request the adoption of the ordinance and provide supporting information. Once granted, the exemptions remain in effect for up to 10 years with respect to any particular facility, regardless of any change in the authority of the county or municipality to grant such exemption.

Section 196.012, F.S., provides definitions for use in the above exemption. "New business" may include any business or organization located in an enterprise zone or brownfield area that first begins operation there. "Expansion of an existing business" includes any business or organization located in an enterprise zone or brownfield area that increases operations there.

The enterprise zone program expired on December 31, 2015, causing some uncertainty about whether the exemption can be granted to a business in an expired enterprise zone area if the city or county began the process of seeking authorization prior to December 31, 2015, or if exemptions have already been granted within 10 years of the expiration of the enterprise zone program.

[21] *See* s. 196.031, F.S.

Proposed Change

The bill modifies the definitions of "new business" and "expansion of an existing business" and clarifies that the exemption may be granted to a new or expanding business located in an area which was designated as an enterprise zone as of December 30, 2015, but not a brownfield area, only if the new or expanding business was approved by motion or resolution of the local governing body, subject to ordinance adoption, or by ordinance prior to December 31, 2015. The bill also clarifies that exemptions already granted prior to expiration of the enterprise zone program may continue for up to 10 years regardless of expiration of the enterprise zone program. The bill makes these changes remedial and apply retroactively to December 31, 2015.

Section 8

Present Situation

The Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes,[22] and it provides for specified assessment limitations, property classifications and exemptions.[23] Such exemptions include, but are not limited to, exemptions for such portions of property used predominately for educational, literary, scientific, religious or charitable purposes.[24]

In 1999,[25] the Legislature authorized a property tax exemption for property owned by certain exempt entities which provide affordable housing under the charitable purposes exemption. The property must be owned entirely by a not for profit corporation, used to provide affordable housing through any state housing program under ch. 420, F.S., and serving low-income and very-low-income persons.[26] In order to qualify for the exemption, the property must comply with ss. 196.195, F.S., for determining non-profit status of the property owner and s. 196.196, F.S., for determining exempt status of the use of the property.

In determining whether an applicant is a nonprofit or profit-making venture, s. 196.195, F.S., outlines the statutory criteria that a property appraiser must consider. The applicant must show that "no part of the subject property, or the proceeds of the sale, lease, or other disposition thereof, will inure to the benefit of its members, directors, or officers or any person or firm operating for profit or for a nonexempt purpose."[27]

In determining whether the use of a property qualifies as charitable, s. 196.196, F.S., requires the property appraiser to consider the nature and extent of the qualifying activity compared to other activities performed by the organization owning the property, and the availability of the property for use by other qualifying entities.[28]

[22] FLA. CONST., art. VII, s. 4.
[23] FLA. CONST., art. VII, ss. 3, 4, and 6.
[24] FLA. CONST., art. VII, s. 3.
[25] Chapter 99-378, s. 15, Laws of Fla., (creating s. 196.1978, F.S.)
[26] The not for profit corporation must qualify as charitable under s. 501(c)(3) of the Internal Revenue Code and other federal regulations. *See* 26 U.S.C. § 501(c)(3) ("charitable purposes" include relief of the poor, the distressed or the underprivileged, the advancement of religion, and lessening the burdens of government).
[27] Section 196.195(3), F.S.
[28] Section 196.196(1)(a)-(b), F.S.

Proposed Change

The bill provides that certain property used to provide affordable housing will be considered a charitable purpose and qualify for a 50-percent property tax discount, notwithstanding the requirements of ss. 196.195 and 196.196, F.S.
In order to qualify for the discount, the property must:

- Be used to provide affordable housing to natural persons or families meeting the extremely low, very low, or low-income limits specified in s. 420.0004, F.S.;
- Be in a multifamily project in which at least 70 units are providing affordable housing to the above group, and which is subject to an agreement with the Florida Housing Finance Corporation to provide affordable housing to the above group, recorded in the official records of the county in which the property is located.

The discount will begin in the sixteenth year of the term of the agreement on those portions of the affordable housing property that provide the housing as described above. The discount will terminate when the property is no longer serving extremely low, very low, or low-income persons pursuant to the recorded agreement. The discount is applied to taxable value prior to tax rolls being reported to taxing authorities and tax rates being set in the annual local government budgeting process.

Section 10

Present Situation

All documentary stamp tax revenues, except those which are transferred to the Land Acquisition Trust Fund in compliance with the Florida Constitution, are subject to an eight percent service charge,[29] which is transferred to the General Revenue Fund.[30] Additionally, the Department of Revenue is permitted to deduct the amount necessary to pay for the cost it incurs in collecting the revenues (typically around $9.8 million per year).

Section 201.15, F.S., provides, however, that all documentary stamp tax revenues collected, including the amounts which otherwise would make up the General Revenue service charge and the cost of collection, are pledged to pay debt service on bonds issued pursuant to ss. 215.618 and 215.619, F.S., or any other bonds issued on parity with such bonds. In the event that documentary stamp tax revenues are insufficient to pay for debt service, the cost of collection, and the General Revenue service charge, the funds which would make up the service charge and cost of collection are transferred as necessary to pay debt service. These provisions apply to bonds authorized before January 1, 2015, and secured by revenues collected pursuant to s. 201.15, F.S.

Proposed Change

The bill provides that the funds which would otherwise be used for the General Revenue surcharge and cost of collection shall be made available under certain circumstances for payment of debt service on bonds authorized before January 1, 2017, instead of on bonds authorized before January 1, 2015, as under current law.

[29] Section 201.15, F.S.
[30] Section 215.20(1), F.S.

Sections 11 and 12

Aviation Fuel, Kerosene, and Aviation Gasoline Taxes

Present Situation

Florida law imposes an excise tax of 6.9 cents on every gallon of aviation fuel sold in the state or brought into the state for use and a tax of 6.9 cents on each gallon of kerosene and aviation gasoline sold or brought into the state for use in an aircraft.[31]

Florida law defines aviation fuel, kerosene, and aviation gasoline as follows:

- Aviation fuel means "fuel for use in aircraft, and includes aviation gasoline and aviation turbine fuels and kerosene, as determined by the American Society for Testing Materials specifications D-910 or D-1655 or current specifications."[32]
- Kerosene means "all aviation turbine fuels and any distillate known as diesel #1, K-1, or any product suitable for use as a substitute for kerosene not taxed as a diesel fuel under ch. 206, Part II, F.S. Any kerosene meeting the definition of diesel under s. 206.86(1) is taxed under ch. 206, Part II, F.S."[33] When kerosene is used for aviation fuel, it is awarded the same tax treatment as aviation fuel.[34]
- Aviation gasoline means "any motor fuel blended or produced specifically for use in aircraft which has been dyed in accordance with federal regulations. Aviation gasoline does not include any such fuel used in any manner other than being placed in the storage tank of an aircraft."[35]

Florida Aviation Fuel Tax Exemption

Florida law also provides for a refund or credit of the aviation fuel tax paid as follows:

Any licensed wholesaler or terminal supplier that delivers aviation fuel to an air carrier offering transcontinental jet service and that, after January 1, 1996, increases the air carrier's Florida workforce by more than 1000 percent and by 250 or more full-time equivalent employee positions may receive a credit or refund as the ultimate vendor of the aviation fuel for the 6.9 cents excise tax previously paid.[36]

Any employees that existed before January 1, 1996, are not counted toward reaching the employment threshold, and the wholesaler or terminal supplier can only receive the credit or refund if the air carrier has no facility for fueling highway vehicles from the tank in which the aviation fuel is stored.[37] Further, if before July 1, 2001, the number of full-time equivalent employee positions created or added to the air carrier's Florida workforce fell below the

[31] *See* section 206.9825, F.S. (The administration of kerosene taxes and aviation gasoline taxes differ from aviation fuel. 206.9825(2)-(3), F.S.)
[32] Section 206.9815, F.S.
[33] *Id.*
[34] *See* s. 206.9825, F.S.
[35] Section 206.9815, F.S.
[36] *Id.*
[37] *Id.*

additional 250, the exemption granted would cease to apply as long as the number of employees remains below the additional 250.[38]

Accordingly, any air carrier offering transcontinental jet service that is able to meet the employment and other criteria described above, is exempt from paying aviation fuel tax.[39] Such qualifying air carriers can purchase aviation fuel from a wholesaler or terminal supplier without having to pay the wholesaler or terminal supplier tax on the fuel.[40] The wholesaler or terminal supplier, in turn, receives a credit or refund on the tax amount that it would otherwise have passed along to the air carrier as a result of its tax payment due on the sale of the fuel or tax amount previously paid.[41]

The Legislature first established the aviation fuel tax credit in 1996[42] to attract new airlines to Florida. The provisions of the original fuel tax credit expired on July 1, 2001; however, following the events of September 11, 2001, the 2002 Legislature decided to reenact the tax credit policy and did so without providing for an expiration date.[43]

The following chart illustrates data relating to the aviation fuel tax from June 2013 through July 2014.[44] The shaded lines have been added to show the carriers that currently do not pay tax; the amount due column shows what they would have paid if their purchases had not been exempt.

[38] *Id.*
[39] *Id.*
[40] *Id.*
[41] *See* s. 206.9825(1)(a), F.S.
[42] Chapter 96-323, s. 21, Laws of Fla.
[43] Chapter 2002-2, s. 5, Laws of Fla.
[44] The Department of Revenue provided the data in this chart to the House Economic Development and Tourism Subcommittee via e-mail on November 24, 2015 (which e-mail is on file with House staff). The data does not include sales from fixed based operators or jobbers to commercial air carriers, fuel sold for export, or bulk sales in the terminal. Further, all returns have not been processed through June 2015, and sales reported on unworked returns are not included. Lastly, tax due does not include reduction due to collection allowance.

Sales of Aviation Fuel to Commercial Air Carriers (2014/2015)			
Carrier	**Sum of Gallons**	**% of Total Sales**	**Tax Due (Includes Tax Exempt Disbursements)**
American Airlines	298,649,092	33.42%	$20,606,787.35
Delta Airlines, Inc.	129,635,299	14.51%	$8,944,835.63
JetBlue Airways	113,293,136	12.68%	$7,817,226.38
Southwest Airlines	108,026,647	12.09%	$7,453,838.64
Continental Airlines, Inc.	72,505,569	8.11%	$5,002,884.26
Allegiant Air LLC	49,966,012	5.59%	$3,447,654.83
Spirit Airlines, Inc.	41,414,492	4.63%	$2,857,599.95
US Airways, Inc.	34,688,081	3.88%	$2,393,477.59
Federal Express	18,187,079	2.04%	$1,254,908.45
Frontier Airlines	5,568,293	0.62%	$384,212.22
Silver Airways Corp.	3,984,321	0.45%	$274,918.15
DHL Express (USA)	3,578,371	0.40%	$246,907.60
Virgin America, Inc.	3,425,117	0.38%	$236,333.07
National Jets, Inc.	3,096,216	0.35%	$213,638.90
United Parcel	2,725,184	0.30%	$188,037.70
Envoy Air, Inc.	1,675,693	0.19%	$115,622.82
AirTran Airways, Inc.	1,398,434	0.16%	$96,491.95
Miami Air	1,038,493	0.12%	$71,656.02
United Airlines, Inc.	343,751	0.04%	$23,718.82
Atlas Air, Inc.	298,737	0.03%	$20,612.85
ABX Air, Inc.	69,280	0.01%	$4,780.32
TEM Enterprises, Inc.	57,719	0.01%	$3,982.61
AmeriJet	53,518	0.01%	$3,692.74
Presidential	14,277	0.00%	$985.11
Reva, Inc.	10,337	0.00%	$713.25
Professional	5,018	0.00%	$346.24
Grand Total	**893,708,166**	**100.00%**	**$61,665,863.45**

Proposed Change

First, the bill amends s. 206.9825, F.S., limiting carriers that qualify for the aviation fuel tax exemption to those that increased their Florida workforce by more than 1000 percent and by 250 or more full-time equivalent employee positions between January 1, 1996 and July 1, 2016.

Beginning July 1, 2019, the bill repeals the aviation fuel tax exemption altogether and reduces the aviation fuel, kerosene, and aviation gasoline tax rates from 6.9 cents per gallon to 4.27 cents per gallon. The combination of the exemption repeal and tax rate cut is expected to be neutral with respect to total aviation fuel tax collections on a recurring basis.

The bill provides an effective date of July 1, 2016. However, as stated above, the removal of the aviation fuel tax exemption and reduction in tax rates would not be effective until July 1, 2019.

Sections 13, 31 and 33

Present Situation

Cruise Lines must pay beverage tax and cigarette tax for products sold to passengers while in Florida – i.e. while the ship is in port and while the ship is in Florida waters.

Section 565.02, F.S., establishes requirements for licensing and selling alcoholic beverages for passenger vessels engaged exclusively in foreign commerce which have a cabin-berth capacity for at least 75 passengers. Passenger vessels may sell alcoholic beverages for consumption on board only:

- During a period not in excess of 24 hours prior to departure while the vessel is moored at a dock or wharf in a port in Florida; and
- At any time while the vessel is located in Florida territorial waters and is in transit to or from international waters.

The permittee must pay to the state an excise tax for beverages sold pursuant to this section, if such excise tax has not previously been paid, in an amount equal to the tax which would be required to be paid on such sales by a licensed manufacturer or distributor.

The Department of Business & Professional Regulation (DBPR) has promulgated a rule applying this taxation framework to the sale of tobacco.[45]

Two percent of excise taxes on alcoholic beverages are deposited into the Alcoholic Beverage and Tobacco Trust Fund to fund the Department of Division of Alcoholic Beverage and Tobacco's operations. The remainder of the revenues are deposited into the General Revenue Fund.[46] Revenues collected from the surcharge on cigarettes are deposited into the Health Care Trust Fund in the Agency for Health Care Administration,[47] and are subject to an eight percent General Revenue surcharge.[48] After deducting the eight percent General Revenue surcharge and depositing 0.9 percent into the Alcoholic Beverage and Tobacco Trust Fund, remaining revenues collected from the excise tax on cigarettes are distributed as follows[49]:

- 2.9 percent to the Revenue Sharing Trust Fund for Counties;
- 29.3 percent to the Public Medical Assistance Trust Fund;
- 4.04 percent to the H. Lee Moffitt Cancer Center and Research Institute;

[45] Rule 61A-10.010, F.A.C.
[46] Section 561.121, F.S.
[47] Section 210.011, F.S.
[48] Section 215.20, F.S.
[49] Section 210.20, F.S.

- 1 percent to the Biomedical Research Trust Fund; and
- The remainder to the General Revenue Fund.

After deduction of the General Revenue Service Charge, revenues collected from the surcharge on other tobacco products are deposited into the Health Care Trust Fund.[50] The tax on other tobacco products is deposited into the General Revenue Fund.[51]

Proposed Change

The bill replaces the beverage and tobacco taxes that cruise lines currently pay with a new tax based on ship capacity and the number of times a ship embarks from Florida rather than volume of alcohol or tobacco sold in port.

Specifically, the excise tax due will be an amount equal to a base rate multiplied by the permittee's quarterly capacity during the calendar quarter. The base rate will be calculated by DBPR based on data provided by permit holders, and will be an amount equal to total alcoholic beverage and tobacco-related taxes and surcharges paid by all permit holders between January 1 and December 31, 2015, divided by the sum of the annual capacities of all permitted vessels. Annual capacity is an amount equal to the number of lower berths on a vessel multiplied by the number of embarkations of that vessel during a calendar year. The quarterly capacity is an amount equal to the number of lower berths on a vessel multiplied by the number of embarkations of that vessel during a calendar quarter. A lower berth is a bed which is:

- Affixed to a vessel;
- Not located above another bed in the same cabin; and
- Located in a cabin not in use by employees.

An embarkation is an instance where a vessel departs from a port in Florida.

The new tax will be paid quarterly by each permit holder, less any tax already paid by a licensed manufacturer or distributor pursuant to the Beverage Law or tobacco tax statutes. Each permit holder must report the annual capacity for each of its vessels to the DBPR by August 1, 2016. The department must calculate the base rate by September 1, 2016, and report it to each permit holder.

The revenues from the replacement tax will be distributed in the same manner as taxes on alcoholic beverages under current law.

Sections 14 and 34

Present Situation

Other Tobacco Products (OTP) are defined in s. 210.25(11), F.S., and include items such as pipe tobacco, chewing tobacco, hookah tobacco, and dipping tobacco. Wholesale sales price is defined in s. 210.25(13), F.S., as the established price for which a manufacturer sells a tobacco product to a distributor, exclusive of any diminution by volume or other discounts.

[50] Section 210.276, F.S.
[51] Section 210.70, F.S.

On several occasions in recent years, the department has been faced with litigation regarding the definition of wholesale sales price. For example, the wholesale sales price for the same product can vary depending on if an American manufacturer or an overseas manufacturer is selling the product to a distributor because the Federal Excise Tax is paid at different times during the process. The wholesale sales price for the transaction with the American manufacturer includes Federal Excise Tax, whereas the wholesale sales price for the overseas manufacturer does not.[52]

The OTP tax is 25 percent of the wholesale sales price and is deposited to General Revenue (GR). The OTP Surcharge is 60 percent of the wholesale sales price and is deposited to the Health Care Trust Fund, after deducting the eight percent GR Service Charge.

Proposed Change

The bill amends s. 210.25, F.S., to clarify the definitions related to tobacco products other than cigarettes and cigars. In effect, the bill codifies the division's current administration of these laws with respect to domestically-manufactured products, and provides that the wholesale sales price for imported products must include the federal excise tax regardless of who first paid that excise tax.

The bill amends the definition of "tobacco products" to definitively include loose tobacco and all other kinds and forms of products, including wraps, made in whole or in part from tobacco leaves for use in chewing or sniffing.

The bill redefines "wholesale sales price" as the total amount paid by the distributor to obtain tobacco products. It is defined as the sum of:

- The full price paid by the distributor to acquire the tobacco products, including charges by the seller for the cost of materials, cost of labor and service, charge for transportation and delivery, the federal excise tax, and any other charge, even if the charge is listed as a separate item on the invoice paid by the distributor, exclusive of any diminution by volume or other discounts, including a discount extended to a distributor by an affiliate; and
- The federal excise tax paid by the distributor on the tobacco products, if the excise tax is not included in the full price under paragraph (a).

The bill defines "affiliate" to mean "a manufacturer or other person that directly or indirectly, through one or more intermediaries, controls or is controlled by a distributor or that is under common control with a distributor." This will ensure that the price on which the excise tax is based is not diminished by a discount resulting from an affiliation between the distributor and another entity.

Sections 15

Present Situation

Since 1969, Florida has imposed a sales tax on the total rent charged under a commercial lease of real property.[53] Sales tax is due at the rate of six percent on the total rent paid for the right to use

[52] *Micjo, Inc. v. Dep't of Bus. & Prof'l Regulation, Div. of Alcoholic Beverages & Tobacco*, 78 So. 3d 124 (Fla. Dist. Ct. App. 2012).
[53] Ch. 1969-222, Laws of Fla.

or occupy commercial real property and county sales surtax can also be levied on total rent.[54] If the tenant makes payments such as mortgage, ad valorem taxes, or insurance on behalf of the property owner, such payments are also classified as rent and are subject to the tax.

Commercial real property includes land, buildings, office or retail space, convention or meeting rooms, airport tie-downs, and parking and docking spaces. It may also involve the granting of a license to use real property for placement of vending, amusement, or newspaper machines. However, there are numerous commercial rentals that are not subject to sales tax, including:

- Rentals of real property assessed as agricultural;
- Rentals to nonprofit organizations that hold a current Florida consumer's certificate of exemption;
- Rentals to federal, state, county, or city government agencies;
- Properties used exclusively as dwelling units; and
- Public streets or roads used for transportation purposes.

Florida is the only state to charge sales tax on commercial rentals of real property. The Legislature's Office of Economic and Demographic Research reviewed and issued a report on the commercial rent tax in 2014.[55]

Proposed Change

The bill reduces the commercial rent tax from six percent to five percent, effective January 1, 2017, and further reduces the tax rate to four percent for a one-year period, beginning January 1, 2018, and ending December 31, 2018.

Section 16

Present Situation

Section 212.04, F.S., governs the state sales tax on admissions. Sales tax is levied at the rate of six percent of sales price or the actual value received from admissions. Admissions are defined as the net sum of money after deduction of any federal taxes for admitting a person or vehicle or persons to any:

- Place of amusement, sport, or recreation including, but not limited to, theaters, shows, exhibitions, games, races;
- Place where charge is made by way of sale of tickets, gate charges, and similar fees or charges;
- Receipts of anything of value measured on an admission or entrance or length of stay or seat box accommodations in any place where there is any exhibition, amusement, sport, or recreation; and
- All dues and fees paid to private clubs and membership clubs providing recreational or physical fitness facilities, including, but not limited to, golf, tennis, swimming, yachting, boating, athletic, exercise, and fitness facilities.

[54] Section 212.031, F.S., and Rule 12A-1.070, F.A.C.
[55] Office of Economic and Demographic Research, *available at* Economic Impact: Sales Tax on the Rental of Real Property (Nov. 15, 2014) (last visited Feb. 16, 2016).

Several exceptions and exemptions exist, such as:

- Memberships for physical fitness facilities owned or operated by any hospital;
- Admissions to athletic or other events sponsored by a school;
- Fees or charges imposed by certain not-for-profits;
- Events sponsored by a governmental entity, nonprofit sports authority, or nonprofit sports commission under certain circumstances;
- Certain admissions to professional sports championship games;
- Entry fees for freshwater fishing tournaments;
- Participation or entry fees charged to participants in a game, race, or other sport or recreational event if spectators are charged a taxable admission to such event;
- Admissions to any postseason collegiate football game sanctioned by the National Collegiate Athletic Association; and
- Admissions to or membership fees for gun clubs.

Generally speaking, sales of tangible personal property made for resale are exempt from sales tax.[56] This treatment does not apply to sales of taxable admissions.[57]

Proposed Change

The bill provides an exemption for certain resales of admissions to a purchaser that is eligible for an exemption from sales tax. The bill allows a person who has purchased a taxable admission and resells that admission to an entity with a valid exemption certificate from DOR to seek a refund or credit of the tax paid on its initial purchase of the admission from the vendor of the initial sale. The vendor may then seek a refund or credit of the tax from DOR. This exemption is scheduled to repeal on July 1, 2019.

Section 17

Present Situation

Generally speaking, sales of tangible personal property for export are not subject to tax in Florida. The legal rules governing taxability in the context of an export of tangible personal property can be complex, as can be the documentation requirements. Rule 12-1.007(10)(d)1., F.A.C., provides that:

> Aircraft being exported under their own power to a destination outside the continental limits of the United States are subject to tax, unless the purchaser furnishes the dealer a duly signed and validated United States Customs declaration, showing the departure of the aircraft from the continental United States and the canceled United States registry of said aircraft. The burden of obtaining the evidential matter to establish the exemption rests with the selling dealer, who must retain the proper documentation to support the exemption.

Other provisions of Florida law may be implicated in this type of transaction.

[56] *See* the definition of "retail sale" in s. 212.02(14), F.S. S*ee* s. 212.07, F.S.
[57] Section 212.04(1)(c), F.S.

Proposed Change

The bill clarifies the requirements for the exemption from tax on certain sales of aircraft that will be registered in a foreign jurisdiction. The bill specifies that an exemption applies on the purchase of an aircraft in Florida for aircraft that will be registered in a foreign jurisdiction, if:

- Application for the aircraft's registration is properly filed with a civil airworthiness authority of a foreign jurisdiction within 10 days from the date of purchase;
- The purchaser removes the aircraft from Florida to a foreign jurisdiction within 10 days from the date the aircraft is registered by the applicable foreign airworthiness authority; and
- The aircraft is operated in Florida solely for the removal from the state to a foreign jurisdiction.

Section 18

Rural Areas of Opportunity

Present Situation

Florida's Rural Economic Development Initiative (REDI), housed within DEO, is a multi-agency endeavor that coordinates the efforts of regional, state, and federal agencies to address the issues that affect the fiscal, economic and community viability of the state's economically distressed rural communities. REDI works with local governments, community-based organizations, and private entities that have an interest in the growth and development of these communities to find ways to balance environmental and growth management issues with local needs and economic development. A number of agencies and organizations are directed to designate a staff person to serve as REDI representatives.[58]

A Rural Area of Opportunity (RAO) is a rural community, or a region comprised of rural communities, designated by the Governor, that has been adversely affected by an extraordinary economic event, a natural disaster, or severe or chronic distress. The area may also be classified as a RAO if it presents a unique economic development opportunity of regional impact.[59]

The Governor may designate up to three RAO areas for five-year periods upon recommendation by REDI. This allows these areas to receive priority assignments for REDI, and allows the Governor, acting through REDI, to waive certain criteria or requirements of any economic development incentives.[60] Currently, there are three designated RAO areas:

- North West RAO – Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Wakulla and Washington Counties, and the City of Freeport in Walton County.
- South Central RAO – DeSoto, Glades, Hardee, Hendry, Highlands and Okeechobee Counties, the Cities of Pahokee, Belle Glade and South Bay in Palm Beach County, and a portion of the Immokalee area in Collier County.
- North Central RAO – Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Putnam, Suwannee, Taylor and Union Counties.

[58] Section 288.0656(6)(a), F.S.
[59] Section 288.0656(2)(d), F.S.
[60] Section 288.0656(7)(1), F.S.

Sales and use tax are currently levied on the purchase of building materials, pest control services, and the rental of tangible personal property used in the construction of improvements to real property in Rural Areas of Economic Opportunity. The tax is collected at a state rate of six percent and a local rate which varies from zero percent to 1.5 percent depending on the county.

Proposed Change

The bill creates an exemption from sales and use tax for the purchase of building materials, pest control services, and the rental of tangible personal property used in new construction in Rural Areas of Opportunity. The exemption is provided in the form of a refund of taxes paid, and is capped at $10,000 per parcel. The bill provides for a procedure by which taxpayers submit an application to REDI. Within 10 days of receipt of a completed application, REDI must review the application and, if it meets the requirements of the bill, certify to DOR that a refund is to be issued.

Datacenters

Present Situation

There is no current provision or program that specifically provides sales tax exemptions for purchases of equipment, electricity and building materials for datacenters.

Proposed Change

The bill establishes a program that would allow certain qualifying datacenters to apply for certification with the Department of Economic Opportunity (DEO) that one or more of the datacenter's owners, operators, users, or tenants, individually, has or will make a cumulative capital investment of at least $75,000,000 during a five-year period. Such expenditure does not include replacement of equipment that has reached its useful life, or the purchase of existing datacenters. Once certified, a business would have a sales tax exemption on the purchase of datacenter equipment, electricity for a datacenter and building materials for the construction or expansion of a datacenter.

The bill provides a process by which a business may apply for and receive certification for the sales tax exemptions described above. The bill provides definitions of "datacenter," "datacenter equipment," "qualifying datacenter," "cumulative capital investment," and "eligible costs." The bill tolls the statute of limitations on DOR's authority to audit from the time a business receives an exemption certificate until the time that DEO makes a final certification determination. The bill allows DEO to revoke a business' certification under specified circumstances and allows for the recovery of funds for which a determination is made by DOR that a certified business was not entitled to the certification.

Veterans' Organizations

Present Situation

There is a sales tax exemption for sales or leases of tangible personal property to qualified veterans' organizations and their auxiliaries when used in carrying on their customary veteran's

organization activities.[61] Veterans' organizations are defined as nationally chartered organizations which hold certain exemptions from federal income tax, including, but not limited to Florida chapters of the Paralyzed Veterans of America, Catholic War Veterans of the U.S.A., Jewish War Veterans of the U.S.A., and the Disabled American Veterans, Department of Florida, Inc.[62]

Proposed Change

The bill adds to the current sales tax exemption sales of food or drinks by qualified veterans' organizations in connection with customary veterans' organization activities to members of qualified veterans' organizations. The bill also explicitly lists the American Legion and Veterans of Foreign Wars of the United States, as qualified veterans' organizations.

Industrial Machinery and Equipment

Present Situation

Since April 30, 2014,[63] state law[64] exempts from sales and use tax purchases of industrial machinery and equipment used at a fixed location in Florida by an eligible manufacturing business that will manufacture, process, compound, or produce items of tangible personal property. The exemption also includes parts and accessories for the industrial machinery and equipment if they are purchased before the date the machinery and equipment are placed in service.

An "eligible manufacturing business" means any business whose primary business activity at the location where the industrial machinery and equipment are located is within the industries classified under manufacturing North American Industry Classification System[65] (NAICS) codes 31, 32, and 33[66]. The primary business activity of an eligible business is that activity which represents more than 50 percent of the activities conducted at the location where the industrial machinery and equipment are located. Examples of types of manufacturing establishments represented by the applicable NAICS codes include, but are not limited to, food, apparel, wood, paper, printing, chemical, pharmaceutical, plastic, rubber, metal, transportation, and furniture.

The selling dealer (vendor) is required to obtain a signed certificate from the purchaser certifying the purchaser's entitlement to the tax exemption. The signed certificate will relieve the selling dealer of any potential tax liability on nonqualifying purchases.

Also included in the exemption are mixer drums affixed to mixer trucks which are used to mix, agitate, and transport freshly mixed concrete in a plastic state for the manufacture, processing,

[61] Section 212.08(7)(n)1., F.S.
[62] Section 212.08(7)(n)2., F.S.
[63] Chapter 2013-39, Laws of Fla.
[64] Section 212.08(7)(kkk), F.S.
[65] North American Industry Classification System, NAICS Code Description *available at* http://www.naics.com/naics-code-description/?code=31 (last visited Feb. 27, 2016).
[66] NAICS codes 31-33 pertain to manufacturing businesses. A more detailed description of the specific types of businesses included in NAICS codes 31-33 *available at* http://www.naics.com/six-digit-naics/?code=3133; (last visited Feb. 27, 2016).

compounding, or production of items of tangible personal property for sale. Parts and labor required to affix a mixer drum to a mixer truck are also exempt.

The exemption expires on April 30, 2017.

Proposed Change

The bill amends s. 212.08, F.S., to make permanent the sales and use tax exemption for certain industrial machinery and equipment purchased by eligible manufacturing businesses. The bill also adds to the list of eligible manufacturing businesses, those whose primary activity at the location where the industrial machinery and equipment is located is classified under NAICS code 423930[67] (metals recyclers).

The bill also adds an exemption for certain "postharvest machinery and equipment" for eligible businesses whose primary business activity at the location where the postharvest machinery and equipment is located is within NAICS code 115114.[68] Postharvest machinery is defined as tangible personal property or other property that has a depreciable life of three years or more and that is used primarily for postharvest activities, and includes repair parts, materials and labor. The bill retains the repeal date of April 30, 2017, for the sales and use tax exemption for a mixer drum affixed to a mixer truck and the parts and labor required to affix the drum to the truck.

Sections 19 - 21

Present Situation

Florida levies a 5.5 percent corporate income tax on corporations' income earned in Florida.[69] The calculation of Florida corporate income tax starts with a corporation's federal taxable income.[70] After certain addbacks and subtractions to federal taxable income required by ch. 220, F.S., the amount of adjusted federal income attributable to Florida is determined by the application of an apportionment formula.[71] The Florida corporate income tax uses a three-factor apportionment formula consisting of property, payroll, and sales (which is double-weighted) to measure the portion of a multistate corporation's business activities attributable to Florida.[72] Income that is apportioned to Florida using this formula is then subject to the Florida income tax. The first $50,000 of net income is exempt.[73]

[67] NAICS code 423930 pertains to recyclable material merchant wholesalers. This industry comprises establishments primarily engaged in the merchant wholesale distribution of automotive scrap, industrial scrap, and other recyclable materials. A more detailed description of the specific types of businesses included in NAICS code 423930 *available at* http://www.naics.com/naics-code-description/?code=423930 (last visited Feb. 27, 2016).
[68] NAICS code 115114 pertains to establishments primarily engaged in performing services on crops, subsequent to their harvest, with the intent of preparing them for market or further processing *available at* http://www.naics.com/naics-code-description/?code=115114 (last visited Feb. 27, 2016).
[69] Section 220.11, F.S.
[70] Section 220.12, F.S.
[71] Section 220.15, F.S.
[72] Section 220.15, F.S.
[73] Section 220.14, F.S.

On December 18, 2015, the federal government passed the Consolidated Appropriations Act, 2016,[74] which contains several significant amendments to the Internal Revenue Code.

Generally, the Internal Revenue Code allows a taxpayer to deduct the cost of capital assets by deducting a portion of the cost over the useful life of the property (depreciation).[75] Additionally, the Internal Revenue Code allows a taxpayer to treat a certain amount of the cost of capital assets as a business expense that can be taken entirely in the year of purchase (expensing).[76] Prior to the Consolidated Appropriations Act, 2016, the amount that could be expensed was limited to $25,000.

Federal legislation during the past several years[77] granted accelerated depreciation deductions (bonus depreciation) and increases in the expensing limitation on a temporary basis. However, the Consolidated Appropriations Act, 2016, permanently increased the expensing limitation from $25,000 to $500,000 for property placed in service in 2015 and thereafter. In addition, the Consolidated Appropriations Act, 2016, extended for 5 years the first-year bonus depreciation amount of 50 percent of the cost of the property placed in service during 2015. The percentage is 50 percent for property placed in service during 2015, 2016, and 2017, but then phases down to 40 percent in 2018 and 30 percent in 2019.[78] The estimated impact if Florida were to accept all of these changes in its tax code for Fiscal Years 2015-2016 and 2016-2017 combined is -$396.6 million.[79]

Proposed Change

The bill updates the Florida tax code to reflect changes in the federal Internal Revenue Code enacted by Congress.

The bill adopts the permanent increase in the expensing limitation from $25,000 to $500,000. However, in order to mitigate the Fiscal Year 2016-17 impact of the accelerated federal depreciation deductions on Florida, the bill requires taxpayers, for Florida tax purposes only, to spread the effect of this deduction over seven taxable years. The bill accomplishes this by requiring taxpayers to "add-back" the bonus depreciation deduction. The taxpayer is then permitted to subtract from income one-seventh (1/7) of the "add-back" for the current taxable year and the following six taxable years. This mechanism was used to address the impacts of similar federal legislation in 2009, 2011, 2013, and 2015.[80]

[74] Pub. Law No. 114-113, Division Q, s. 143, H.R. 2029, 114th Cong. (Dec. 18, 2015).
[75] *See generally* 26 U.S.C. §§ 167 and 168.
[76] *See generally* 26 U.S.C. § 179.
[77] The Economic Stimulus Act of 2008, the American Recovery and Reinvestment Act of 2009, the Small Business Jobs Act of 2010, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, and the American Taxpayer Relief Act of 2012.
[78] The bonus depreciation amount begins in 2019 for certain longer-lived and transportation property.
[79] Revenue Estimating Conference (Jan. 20, 2016).
[80] Chapters 2009-132, 2011-229 and 2013-40, Laws of Fla.

Sections 22 and 30

Present Situation

In 1998, the Legislature authorized the Department of Environmental Protection (DEP) to issue tax credits as an additional incentive to encourage site rehabilitation in brownfield areas and to encourage voluntary cleanup of certain other types of contaminated sites. This corporate income tax credit may be taken in the amount of 50 percent of the costs of voluntary cleanup activity that is integral to site rehabilitation at the following sites:

- A site eligible for state-funded cleanup under the Drycleaning Solvent Cleanup Program (DSCP);[81]
- A drycleaning solvent contaminated site at which the real property owner undertakes voluntary cleanup, provided that the real property owner has never been the owner or operator of the drycleaning facility; or
- A brownfield site in a designated brownfield area.[82]

Eligible tax credit applicants may receive up to $500,000 per site per year in tax credits. Due to concern that some participants in a voluntary cleanup might only conduct enough work to eliminate or minimize their exposure to third party lawsuits, the Voluntary Cleanup Tax Credit (VCTC) statute also provides a completion incentive in the form of an additional 25 percent supplemental tax credit for those applicants that completed site rehabilitation and received a Site Rehabilitation Completion Order from the DEP. This additional supplemental credit has a $500,000 cap. Businesses are also allowed a one-time application for an additional 25 percent of the total site rehabilitation costs, up to $500,000, for brownfield sites at which the land use is restricted to affordable housing. They may also submit a one-time application claiming 50 percent of the costs, up to $500,000, for removal, transportation and disposal of solid waste at a brownfield site.

Site rehabilitation tax credit applications must be complete and submitted by January 31 of each year. The total amount of tax credits for all sites that may be granted by the DEP is $5 million annually. In the event that approved tax credit applications exceed the $5 million annual authorization, the statute provides for remaining applications to roll over into the next fiscal year to receive tax credits in first come, first served order from the next year's authorization. These tax credits may be applied toward corporate income tax in Florida. The tax credits may be transferred one time, although they may succeed to a surviving or acquiring entity after merger or acquisition.

The Legislature increased the annual amount of credits that could be awarded from $5 million to $21.6 million for Fiscal Year 2015-2016.[83]

Proposed Change

The bill increases the amount of credits that may be awarded from $5 million to $10 million in Fiscal Year 2016-17.

[81] Section 376.30781, F.S.
[82] Section 220.1845, F.S.
[83] Chapter 2015-221, Laws of Fla. (HB 33-A)

Sections 23

Present Situation

In 2006,[84] the Legislature created the Florida Renewable Energy Technology Credit under s. 220.192, F.S., which was designed to encourage the development and expansion of facilities that produce renewable energy in Florida. In 2012,[85] the Legislature modified the Florida Renewable Energy Technology Credit by expanding it to include materials used in the distribution of other renewable fuels, and extending the program, in effect, through state Fiscal Year 2016-17.

Under current law, The Renewable Energy Technologies Investment Tax Credit program provides an annual corporate tax credit equal to 75 percent of all capital costs, operation and maintenance costs, and research and development costs in connection with an investment in the production, storage, and distribution of biodiesel (B10-B100), ethanol (E10-E100), and other renewable fuel in the state. Eligible costs must be incurred between July 1, 2012, and June 30, 2016, and may not exceed $1 million per state fiscal year for each taxpayer with a total limit of $10 million per state fiscal year. If the annual tax credit authorization amount is not exhausted by allocations of credits within that particular state fiscal year, any authorized but unallocated credit amounts may be used to grant credits that were earned pursuant to s. 220.193, F.S.,[86] but unallocated due to a lack of authorized funds.

The program will expire after Fiscal Year 2016-17,[87] but unused credits may be carried forward and used through tax years ending December 31, 2018.

Proposed Change

The bill extends the Florida Renewable Energy Technology Credit through Fiscal Year 2017-18. The bill sets the total amount of tax credits which may be granted for all taxpayers in state fiscal years 2016-2017 through 2017-18 at $10 million per state fiscal year. Unused credits may be carried forward and used through tax years ending December 31, 2019.

Section 24

Present Situation

In 2006,[88] the Legislature created the Florida Renewable Energy Production Credit under s. 220.193, F.S., which was designed to encourage the development and expansion of facilities that produce renewable energy in Florida. In 2012,[89] the Legislature modified the Florida Renewable Energy Production Credit for electricity produced and sold on or after January 1, 2013.

[84] Chapter 2006-230, Laws of Fla. (SB 888)
[85] Chapter 2012-117, Laws of Fla. (HB 7117)
[86] Renewable energy production tax credit.
[87] Section 220.192(1)(c), and (2), F.S.
[88] Chapter 2006-230, Laws of Fla. (SB 888)
[89] Chapter 2012-117, Laws of Fla. (HB 7117)

Under current law, the credit is available to new renewable energy facilities that were operationally placed in service after May 1, 2006,[90] or expanded renewable energy facilities that increased electrical production and sale by more than five percent over what they had produced during 2011.[91] The tax credit is based on the taxpayer's production and sale of electricity, and equals $0.01 for each kilowatt-hour of electricity produced and sold or used during a given tax year.[92]

The combined total amount of tax credits which may be granted for all taxpayers was limited to $5 million in state Fiscal Year 2012-13 and $10 million per state fiscal year in state Fiscal Years 2013-14 through 2016-17.[93] If the annual tax credit authorization amount is not exhausted by allocations of credits within that particular state fiscal year, any authorized but unallocated credit amounts may be used to grant credits that were earned pursuant to s. 220.192, F.S.,[94] but unallocated due to a lack of authorized funds.

Credits may not be granted beyond state Fiscal Year 2016-17.[95]

Proposed Change

The bill proposes to extend the Florida Renewable Energy Production Credit through state Fiscal Year 2017-18. The bill sets the combined total amount of tax credits which may be granted for all taxpayers in state fiscal years 2016-2017 through 2017-18 at $10 million per state fiscal year. The bill also adds to the list of "new facilities" that may receive the credit, certain nonpublic waste-to-energy facilities sited pursuant to ss. 403.501 – 403.518, F.S.

Section 25

Present Situation: Federal Tax Credit

The "U.S. Research and Experimentation Tax Credit" was created in 1981 as part of the Economic Recovery Tax Act, a comprehensive package of initiatives designed to boost U.S. business competitiveness and encourage investment and savings by American taxpayers during a period of economic recession.[96] For the 2012 federal tax year, 15,873 companies claimed $10.8 billion in R&D tax credits, including $168.9 million claimed via "pass-through" entities.[97] At $6.6 billion, manufacturing companies claimed the largest portion of research tax credits.[98]

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[90] Section 220.193(1)(e), F.S. The term includes a Florida renewable energy facility that has had an expansion operationally placed in service after May 1, 2006, and whose cost exceeded 50 percent of the assessed value of the facility immediately before the expansion.
[91] Section 220.193(1)(c), F.S.
[92] Section 220.193(3), F.S.
[93] Section 220.193(3)(g), F.S.
[94] Renewable energy technologies investment tax credit.
[95] Section 220.193(3)(g), F.S.
[96] *"The U.S. Research and Experimentation Tax Credit in the 1990s"* by Francisco Moris. National Science Foundation Report #NSF05-316 published July 2005, *available at* http://www.nsf.gov/statistics/infbrief/nsf05316/ and *"The Prospects for Economic Recovery,"* prepared by the Congressional Budget Office. (Published Feb. 1982). Pertinent information on pages 87-93 *available at* http://www.cbo.gov/ftpdocs/51xx/doc5135/doc03b-Part8.pdf. (last visited Feb. 27, 2016).
[97] Internal Revenue Service, Statistics of Income Division *available at* http://www.irs.gov/uac/SOI-Tax-Stats-Corporation-Research-Credit. (last visited Feb. 27, 2016).
[98] Ibid.

Florida Tax Credit

Section 220.196, F.S., authorizes an R&D tax credit against state corporate income taxes for certain businesses with qualified research expenses that received the federal credit. The tax credit is 10 percent of the difference between the current tax year's research and development expenditures in Florida and the average of R&D expenditures over the previous four tax years. However, if the business has existed fewer than four years, then the credit amount is reduced by 25 percent for each year the business or predecessor corporation did not exist.

The state tax credit taken in any taxable year may not exceed 50 percent of the company's remaining net corporate income tax liability under ch. 220, F.S., after all other credits to which the business is entitled have been applied. Any unused credits may be carried forward by the business that originally earned them for up to 5 years following the year in which the qualified research expenses were incurred.

The maximum amount of research and development credits that may be approved by the DOR during any calendar year is $9 million, except for calendar year 2016 which has a cap of $23 million. Applications may be filed with the DOR between March 20th and March 27 for qualified research expenses incurred within the preceding calendar year. If the total amount of credits applied for exceeds the annual cap, credits are distributed on a prorated basis.

During the application period beginning in 2015, when credits were distributed on a first-come first-served basis instead of prorated, the DOR received a total of 81 applications for $24 million worth of credits. Of these, 20 received full funding, one received partial funding, 59 were denied due to the cap having exceeded, and one was denied because it was a duplicate. All of the applications which received funding were filed within six minutes of the application window opening.[99]

Proposed Change

The bill increases from $9 million to $18 million the maximum amount of credits that may be approved in calendar year 2017.

Section 26 - 29

Present Situation

Under Florida law, the due dates to file tax returns related to corporate income tax are tied to the due dates of the related federal return. Florida corporations must file income tax returns on or before the first day of the 4th month following the close of the taxable year or the 15th day following the federal due date.[100]

[99] DOR Research & Development Tax Credit Allocation Report, *available at* http://dor.myflorida.com/dor/taxes/documents/rd_credit.pdf (last visited Feb. 27, 2016).
[100] Section 220.222(1), F.S. Some partnerships are also required to file informational returns. These returns are due on or before the first day of the 5th month after the close of the taxable year.

When a Florida corporation is granted an extension of time to file its federal return – usually six months – the taxpayer may file an extension of time to file its Florida return;[101] if granted, the extended Florida due date will be the 15th day after the expiration of the federal extension, or until the expiration of six months from the original due date, whichever occurs first.[102] Florida requires corporate income taxpayers to make estimated payments of tax throughout the taxable year. The taxpayer must file a declaration of estimated tax before the 1st day of the 5th month of each tax year.[103] Taxpayers then typically make estimated payments of tax before the first day of the 5th, 7th, and 10th months of the taxable year, and the final estimated payment is due before the 1st day of the next taxable year.[104] The first estimated payment – due before the first day of the 5th month of the taxable year – is timed so that it occurs after the taxpayer's tax return due date for the prior taxable year, which is the 4th month. Estimated payment rules allow the taxpayer to use the prior taxable year's tax liability to calculate the next taxable year's estimated payments.

On July 31, 2015, the federal government passed the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015.[105] This federal legislation moves the filing dates for most federal corporate income taxpayers to one month later than is currently required. A small group of corporate taxpayers (those with a taxable year ending on June 30) continue using their current filing date until 2026, at which time their filing date will also move one month later.

The federal legislation also adjusts the normal federal six-month extension for the next 10 years. Under this adjustment, calendar year corporate taxpayers (the majority of corporate taxpayers in Florida) will receive a five-month extension. Taxpayers with a taxable year ending on June 30 receive a seven-month extension. All other taxpayers continue with six-month extensions, and after 2026, all extensions will return to six months.

Proposed Change

The bill amends the due dates for Florida corporate income tax returns to correspond with the changes in due dates for the federal returns and the temporary changes in federal extension periods. The bill also extends the first estimated payment for corporate taxpayers by one month to accommodate the tax return due date change.

The changes to tax return due dates apply for taxable years beginning on or after January 1, 2016, and the changes to estimated payments apply to estimated payments for taxable years beginning on or after January 1, 2017.

[101] If a taxpayer extends the time to file its Florida return, the taxpayer must file a tentative tax return and make a tentative tax payment pursuant to s. 220.32, F.S.
[102] Section 220.222(2), F.S.
[103] Section 220.241, F.S. The time for filing a declaration is delayed for certain taxpayers. *See id.* A declaration is not required if the taxpayer reasonably expects to pay less than $2,500 or less. Section 220.24, F.S.
[104] Section 220.33(1), F.S.
[105] Pub. Law No. 114-41, H.R. 3236, 114th Cong. (July 31, 2015).

Section 32

Present Situation

Chapter 564, F.S., governs the regulation and taxation of wine and cider. Wine is defined as any beverage made from fresh fruits, berries, or grapes by natural fermentation, including sparkling wines, champagnes, vermouths, and wines fermented with brandy. Wine coolers and other similar beverages are also included.

The tax rates on wines are as follows:

- For wines, other than natural sparkling wines, cider, and malt beverages, containing between 0.5 and 17.259 percent alcohol by volume, $2.25 per gallon;
- For wines other than natural sparkling wines containing greater than 17.259 percent alcohol by volume, $3 per gallon;
- For natural sparkling wines, $3.50 per gallon;
- For ciders, which are made from the fermentation of apples and contain between 0.5 and seven percent alcohol by volume, $0.89 per gallon; and
- For wine coolers and similar beverages, $2.25 per gallon.

Proposed Change

The bill amends the definition of cider to include cider made from pears. Consequently, cider made from pears would be taxed at a rate of $0.89 per gallon as opposed to the current rate of $2.25 per gallon.

Sections 35 - 38

Present Situation

Since 1998, the Legislature has enacted 19 temporary periods (commonly called "sales tax holidays") during which certain household items, household appliances, clothing, footwear, books, and/or school supply items were exempted from the state sales tax and county discretionary sales surtaxes.

Back-to-School Holidays

Dates	Length	TAX EXEMPTION THRESHOLDS				
		Clothing/ Footwear	**Wallets/ Bags**	**Books**	**Computers**	**School Supplies**
August 15-21, 1998	7 days	$50 or less	N/A	N/A	N/A	N/A
July 31-August 8, 1999	9 days	$100 or less	$100 or less	N/A	N/A	N/A
July 29-August 6, 2000	9 days	$100 or less	$100 or less	N/A	N/A	N/A
July 28-August 5, 2001	9 days	$50 or less	$50 or less	N/A	N/A	$10 or less
July 24-August 1, 2004	9 days	$50 or less	$50 or less	$50 or less	N/A	$10 or less
July 23-31, 2005	9 days	$50 or less	$50 or less	$50 or less	N/A	$10 or less
July 22-30, 2006	9 days	$50 or less	$50 or less	$50 or less	N/A	$10 or less
August 4-13, 2007	10 days	$50 or less	$50 or less	$50 or less	N/A	$10 or less
August 13-15, 2010	3 days	$50 or less	$50 or less	$50 or less	N/A	$10 or less
August 12-14, 2011	3 days	$75 or less	$75 or less	N/A	N/A	$15 or less
August 3-5, 2012	3 days	$75 or less	$75 or less	N/A	N/A	$15 or less
August 2-4, 2013	3 days	$75 or less	$75 or less	N/A	$750 or less	$15 or less
August 1-3, 2014	3 days	$100 or less	$100 or less	N/A	First $750 of the sales price	$15 or less
August 7 - 16, 2015	10 days	$100 or less	$100 or less	N/A	First $750 of the sales price	$15 or less

Florida has enacted a "back to school" sales tax holiday 14 times since 1998. The length of the exemption periods has varied from three to 10 days. The type and value of exempt items has also varied. Clothing and footwear have always been exempted at various thresholds, most recently $100. Books valued at $50 or less were exempted in six periods. School supplies have been included starting in 2001, with the value threshold increasing from $10 to $15. In 2013, personal computers and related accessories purchased for noncommercial home or personal use with a sales price of $750 or less were exempted. In 2014, the first $750 of the sales price of personal computers and related accessories purchased for noncommercial home or personal use were exempted. The following table describes the history of back to school sales tax holidays in Florida:

Small Business Saturday

In 2010, American Express instituted a "Small Business Saturday" incentive for their cardholders who shopped at small, independent businesses on the Saturday after "Black

Friday."[106] It is estimated that consumers spent $16.2 billion at independent retailers and restaurants on Small Business Saturday in 2015.[107]

Outdoor Recreation in Florida

According to the Florida Fish and Wildlife Conservation Commission, recreational fishing, hunting and wildlife-viewing in Florida generate an economic impact of $10.1 billion annually.[108] Florida has one of the largest public-hunting systems in the country, and there are approximately 242,000 hunters in the state.[109] Florida leads all states in economic impacts for its marine recreational fisheries,[110] and there are over two million Florida residents who are angler fisherman.[111]

Proposed Change

The bill establishes four sales tax holidays during the 2016-2017 Fiscal Year. DOR may adopt emergency rules to implement the provisions of each holiday.

Back-to-School Holiday

The bill provides for a ten-day sales tax holiday from August 5, 2016, through August 14, 2016. During the holiday, the following items that cost $100 or less are exempt from the state sales tax and county discretionary sales surtaxes:

- Clothing (defined as an "article of wearing apparel intended to be worn on or about the human body," but excluding watches, watchbands, jewelry, umbrellas, and handkerchiefs);
- Footwear (excluding skis, swim fins, roller blades, and skates);
- Wallets; and
- Bags (including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags).

The bill also exempts "school supplies" that cost $15 or less per item during the holiday.

Also exempt will be the first $750 of the sales price for personal computers and related accessories purchased for noncommercial home or personal use. This would include tablets, laptops, monitors, input devices, and non-recreational software. Cell phones, furniture and devices or software intended primarily for recreational use are not exempted.

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[106] American Express, *Small Business Saturday, available at* https://www.americanexpress.com/us/content/small-business/shop-small/about/?linknav=us-open-shopsmall-homepage-about (last visited Feb. 27, 2016).
[107] *Small Business Saturday® Results: Shoppers Provide Encouraging Start to the Holiday Shopping Season*, (Nov. 30, 2015) *available at* http://www.businesswire.com/news/home/20151130005359/en/Small-Business-Saturday%C2%AE-Results-Shoppers-Provide-Encouraging (last visited Feb. 26, 2016).
[108] Florida Fish and Wildlife Conservation Commission (FWC), Economic Impact of Outdoor Recreation, *available at* http://myfwc.com/conservation/value/outdoor-recreation (last visited Feb. 27, 2016).
[109] FWC, Overview – Fast Facts, *available at* http://myfwc.com/about/overview (last visited Feb. 27, 2016).
[110] FWC, Economic Impact of Outdoor Recreation, *available at* http://myfwc.com/conservation/value/outdoor-recreation/ (last visited Feb. 27, 2016).
[111] FWC, Overview – Fast Facts, *available at* http://myfwc.com/about/overview/(last visited Feb. 27, 2016).

Small Business Saturday Tax Holiday

The bill provides for a one day sales tax holiday on November 26, 2016. During the holiday, items priced $1,000 or less that are sold by certain "small businesses" are exempt from the state sales tax and county discretionary sales surtaxes.

The bill defines "small business" as a dealer, as defined in s. 212.06, F.S., that registered with the DOR and began operation no later than January 11, 2016, and that owed and remitted less than $200,000 in sales tax to the DOR during the one-year period ending September 30, 2016. If the business has not been in operation for a complete year as of September 30, 2016, the business may qualify if it owed and remitted less than $200,000 in sales tax from the first day of operation until September 30, 2016.

If the business is eligible to file a consolidated return (e.g., has multiple places of business), the total sales tax owed and remitted by the business' locations must be less than $200,000 during the applicable period ending September 30, 2016.

Hunting and Fishing Sales Tax Holiday

The bill provides for a one day sales tax holiday on August 20th, 2016, for certain firearms, ammunition, camping tents, and fishing supplies. During the holiday, the following items are exempt from the state sales tax and county discretionary sales surtaxes:

- Firearms (defined as rifles, shotguns, spearguns, crossbows, and bows);
- Ammunition for rifles, shotguns, spearguns, crossbows, and bows;
- Camping tents; and
- Fishing supplies (defined as non-commercial rods, reels, bait, and fishing tackle).

Technology Sales Tax Holiday

The bill provides a one-day sales tax holiday on April 22, 2017. During the holiday, the first $1,000 of the sales price of the following items is exempt from the state sales tax and county discretionary sales surtaxes:

- Personal Computers (includes electronic book readers, laptops, desktops, handhelds, tablets, cellular telephones, or tower computers); and
- "Personal computer-related accessories" (includes keyboards, mice, personal digital assistants, monitors, other peripheral devices, modems, routers, and nonrecreational software).

The "back to school," "hunting and fishing" and "technology" sales tax holidays do not apply to the following sales:

- Sales within a theme park or entertainment complex, as defined in s. 509.013(9), F.S.;
- Sales within a public lodging establishment, as defined in s. 509.013(4), F.S.; and
- Sales within an airport, as defined in s. 330.27(2), F.S.

Section 39

Present Situation

Books sold at a book fair on the premises of K through 12 schools are currently subject to sales tax.

Proposed Change

The bill creates a one-year exemption on the sale of books and other reading materials at book fairs on the premises of K through 12 schools. If the sales are made by a third-party vendor, the vendor must commit all or some of the profit from the book fair to be used for the benefit of the school.

Sections 40

Present Situation

In 2015, the Legislature created a one-year sales tax exemption[112] for textbooks, and printed and digital materials required or recommended for a course offered by a public postsecondary educational institution or a nonpublic postsecondary educational institution that is eligible to participate in the tuition assistance programs.

To obtain the tax exemption, a student must provide either a physical or an electronic copy of the following to the vendor:

- His or her student identification number; and
- Either an applicable course syllabus or list of required and recommended textbooks and instructional materials.

The vendor must maintain proper documentation, as prescribed by rule, to identify either complete transactions or the portion of a transaction which involves the sale of tax-exempted textbooks.

Proposed Change

The bill would extend the exemption on college textbooks through June 30, 2017.

Section 41

Appropriates $55,908 in nonrecurring funds for Fiscal Year 2016-2017 from the General Revenue Fund to the Department of Revenue for the purpose of implementing the changes to s. 212.031, F.S.

Section 42

Appropriates $279,857 in nonrecurring funds for Fiscal Year 2016-2017 from the General Revenue Fund to the Property Tax Oversight Program Department of Revenue for the purpose of providing aerial photographs and maps to counties that meet the increased population thresholds as required by s. 195.022, F.S., as amended by the bill. The bill provides that these funds are in

[112] Chapter 2015-221, s. 29, Laws of Fla.

addition to any funds that may be provided in the 2016-2017 General Appropriations Act for providing aerial photographs and maps to counties with a population of 50,000 or fewer.

Sections 44 - 46

Present Situation

Property used predominantly for educational, literary, scientific, religious, or charitable purposes is exempt.[113] In determining whether the property is predominantly used for an exempt purpose, the property appraiser must consider the nature and extent of the qualifying activity compared to other activities performed by the organization owning the property, and the availability of the property for use by charitable or other qualifying entities.[114] Only the portions of the property used predominantly for an exempt purpose may be exempt from ad valorem taxation.

Property is also exempt when the owner has taken affirmative steps to prepare the property for exempt use. This treatment is authorized for property owned by an educational institution that is being prepared for educational use,[115] property owned by an exempt organization that is being prepared as a house of public worship,[116] and property owned by a 501(c)(3) organization that is being prepared to provide affordable housing to extremely-low, very-low, low, and moderate income persons or families.[117] This treatment is commonly referred to as "affirmative steps" treatment.

The term "affirmative steps" is defined to mean:
- Environmental or land use permitting activities,
- Creation of architectural or schematic drawings,
- Land clearing or site preparation,
- Construction or renovation activities, or
- Other similar activities that demonstrate a commitment to an exempt use.[118]

The affirmative steps treatment for affordable housing requires that the property appraiser serve the property owner with a notice of intent to record a tax lien against any property owned in the county by the property owner if the property is transferred for a purpose other than affordable housing or is not in actual use to provide affordable housing within 5 years after first being granted affirmative steps treatment.[119] Furthermore, the organization owning such property is required to pay the unpaid taxes, an additional 15 percent interest per annum, and a penalty equal to 50 percent of the taxes owed. The property owner has 30 days to pay the taxes, penalties, and interest, after which the property appraiser may file a lien against any property owned by the organization.[120] However, the property appraiser may grant an extension if the property owner

[113] Sections 196.196(2) and 196.198, F.S. *See also* s. 196.1978, F.S. (providing that certain property used to provide affordable housing is property used for a charitable purpose).
[114] Section 196.196(1)(a)-(b), F.S.
[115] Section 196.198, F.S.
[116] Section 196.196(3), F.S. "Public worship" is defined to mean religious worship services and incidental activities such as educational activities, parking, recreation, partaking of meals, and fellowship.
[117] Section 196.196(5)(a), F.S.
[118] Sections 196.196(3),(5)(a), and 196.198, F.S.
[119] Section 196.196(5)(b), F.S.
[120] Section 196.196(5)(b), F.S.

can demonstrate that the owner is still taking affirmative steps.[121] If an exemption is improperly granted as a result of a clerical mistake or an omission by the property appraiser, the organization improperly receiving the exemption may not be assessed a penalty or interest.[122]

Proposed Change

The bill creates s. 196.1955, F.S., to consolidate the current affirmative steps provisions into a single statute and authorize affirmative steps treatment for all exempt organizations. The bill amends the current definition of "affirmative steps" to include any activity that demonstrates a commitment to prepare the property for an exempt use. All organizations that qualify for affirmative steps treatment under current law (educational institutions, religious organizations, and 501(c)(3) organizations that provide affordable housing) continue to qualify for such treatment under the bill.

The bill provides that if property granted affirmative steps treatment is sold, transferred, or used for a nonexempt purpose or is not in actual use for an exempt purpose within five years, the property appraiser shall serve a notice of intent to record a tax lien in the public records of the county against any property in the county which is owned by the organization. Furthermore, the organization owning such property is required to pay the unpaid taxes and an additional 15 percent interest per annum.[123] The property owner has 30 days to pay the taxes and interest. The property owner may not be assessed interest if the exemption was improperly granted due to an error or omission by the property appraiser, and the property appraiser must grant an extension of the 5-year limitation, on an annual basis, if the property owner continues to take affirmative steps to prepare the property for exempt purposes.
Property that an exempt organization is preparing for use as a house of public worship is excluded from the lien provisions.[124]

The bill removes the current affirmative steps provisions in ss. 196.196 and 196.198, F.S.

Section 47

Provides a finding that the act fulfills an important state interest.

Section 48

Provides an effective date of upon becoming law, except as otherwise provided, and provides that the act takes effect July 1, 2016.

[121] Section 196.196(5)(b)4., F.S.
[122] Section 196.196(5)(b)3., F.S.
[123] The bill does not include the assessment of penalties, which is provided for in certain circumstances under current law. *See* s. 196.196(5)(b)1., F.S.
[124] The definition of "house of public worship" is the same as in s. 196.196(3), F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The county/municipality mandates provision of Art. VII, section 18(b), of the Florida Constitution may apply because this bill, by expanding current ad valorem tax exemptions, reduces county and municipal government authority to raise revenue. The bill does not appear to qualify under any exemption or exception.

Additionally, the provision of Art. VII, section 18(a), of the Florida Constitution may apply because the bill, by requiring certain minimum expenditures of tourist development taxes and requiring the provision of return-on-investment or cost-benefit analysis under certain circumstances, may require counties or municipalities to expend funds. It is unclear whether or not such expenditures will be significant.

If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

HB 7099, 2nd Eng., will reduce General Revenue receipts in Fiscal Year 2016-2017 by $304.5 million, with a recurring impact of $329.6 million. The bill will reduce nonrecurring General Revenue receipts in future years by an additional $310.9 million.

HB 7099, 2nd Eng., will reduce local revenues in Fiscal Year 2016-2017 by $52.9 million, with a recurring impact of $89.9 million. The bill will reduce nonrecurring local revenues in future years by $39.2 million.

The fiscal impact is detailed in the table on the next page.

Fiscal Year 2016-17 Estimated Fiscal Impacts (millions of $)

	General Revenue		State Trust Funds		Local		Total	
Issue	**1st Yr**	**Recur.**	**1st Yr**	**Recur.**	**1st Yr**	**Recur.**	**1st Yr**	**Recur.**
Sales Tax: Business Rent/1% Permanent/2% for 1 Yr	(106.8)	(256.4)	(*)	(*)	(13.8)	(33.1)	(120.6)	(289.5)
Sales Tax: Machinery/Equipment--Manufacturing Exemption Permanent Extension	-	(59.7)	-	(*)	-	(13.4)	-	(73.1)
Sales Tax: Machinery/Equipment--Fruit & Vegetable Packinghouses	(0.8)	(0.9)	(*)	(*)	(0.2)	(0.2)	(1.0)	(1.1)
Sales Tax: Machinery/Equipment--Metal Recyclers	(1.7)	(1.7)	(*)	(*)	(0.5)	(0.5)	(2.2)	(2.2)
Sales Tax: Tax Holiday/"Back-to-School" **[Aug 5 -14]**	(55.9)	-	(*)	-	(12.9)	-	(68.8)	-
Sales Tax: Tax Holiday/Small Business **[Nov 26]**	(35.0)	-	(*)	-	(8.1)	-	(43.1)	-
Sales Tax: Tax Holiday/Technology **[April 22, 2017]**	(22.8)	-	(*)	-	(5.3)	-	(28.1)	-
Sales Tax: Tax Holiday/Hunting and Fishing **[Aug 20]**	(2.6)	-	(*)	-	(0.7)	-	(3.3)	-
Sales Tax: College Textbooks/1 Yr Extension	(33.3)	-	(*)	-	(7.6)	-	(40.9)	-
Sales Tax: Datacenters Exemption	(5.7)	(8.7)	(0.1)	(0.9)	(1.4)	(2.0)	(7.2)	(11.6)
Sales Tax: Admissions Resales (3 Yrs)	(1.5)	-	(*)	-	(0.4)	-	(1.9)	-
Sales Tax: Rural Areas of Opportunity/Bldg Materials	(3.3)	-	(*)	-	(1.3)	-	(4.6)	-
Sales Tax: School Book Fairs/1 Yr Exemption	(2.3)	-	(*)	-	(0.5)	-	(2.8)	-
Sales Tax: Veterans' Service Organizations/Food & Drink	(1.2)	(1.4)	(*)	(*)	(0.2)	(0.2)	(1.4)	(1.6)
Corp Inc Tax: Federal Code Conformance Issues	(20.0)	(1.5)	-	-	-	-	(20.0)	(1.5)
Corp Inc Tax: R&D Credits/1 Yr Increase @ 9m	(6.4)	-	-	-	-	-	(6.4)	-
Corp Inc Tax: Brownfield Credits/1 Yr Increase	(5.0)	-	-	-	-	-	(5.0)	-
Corp Inc Tax: Renewable Energy Prod Credits/ 1 Yr Extension	-	-	-	-	-	-	-	-
Corp Inc Tax: Renewable Energy Technology Credits/ 1 Yr Extension	-	-	-	-	-	-	-	-
Ad Valorem: Affordable Housing/Recorded Agreements (1)	-	-	-	-	-	(37.9)	-	(37.9)
Ad Valorem: Charitable Exemptions/Site Prep (1)	-	-	-	-	-	(0.9)	-	(0.9)
Ad Valorem: Surviving Spouse/Disabled Veterans - Residency (1)	-	-	-	-	-	(1.7)	-	(1.7)
Ad Valorem: Disabled Vets Exemption Transferability	-	-	-	-	+/-	+/-	+/-	+/-
Ad Valorem: EDATE Clarification/Enterprise Zones	-	-	-	-	(**)	(**)	(**)	(**)
Ad Valorem: Aerial Photography (Appropriation)	(0.3)	-	-	-	-	-	(0.3)	-
Aviation Fuel Tax: Exemption Elimination/Rate Cut	-	-	-	-	-	-	-	-
Bev Tax/Tobacco Tax: Cruise Line Tax Simplification	(0.1)	*	(*)	(*)	-	-	(0.1)	-
Bev Tax: Pear Cider Rate Reduction	(0.1)	(0.1)	-	-	-	-	(0.1)	(0.1)
Doc Stamp Tax: Affordable Housing-related Notes	(0.1)	(0.1)	(0.2)	(0.2)	-	-	(0.3)	(0.3)
Tobacco Tax: Other Tob Prod/Definition Clarification	0.9	0.9	1.5	1.5	-	-	2.4	2.4
Appropriations: Tax Holidays & Admin	(0.5)	-	-	-	-	-	(0.5)	-
FY 2016-17 Total	**(304.5)**	**(329.6)**	**1.2**	**0.4**	**(52.9)**	**(89.9)**	**(356.2)**	**(419.1)**
Non-recurring Impacts After FY 2016-17	**Cash**		**Cash**		**Cash**		**Cash**	
Sales Tax: Admissions Resales (17/18 & 18/19)	(3.5)	-	-	-	(1.0)	-	(4.5)	-
Sales Tax: Rural Areas of Opportunity/Bldg Materials	(7.2)	-	-	-	(2.7)	-	(9.9)	-
Sales Tax: Business Rent/1% for 1 yr (1/1/2018)	(274.8)	-	(*)	-	(35.5)	-	(310.3)	-
Corp Inc Tax: Federal Code Conformance Issues	(2.8)	-	-	-	-	-	(2.8)	-
Corp Inc Tax: Renewable Energy Prod Credits (17/18)	(10.0)	-	-	-	-	-	(10.0)	-
Corp Inc Tax: Renewable Energy Technology Credits (17/18)	(10.0)	-	-	-	-	-	(10.0)	-
Corp Inc Tax: R&D Credits (17/18)	(2.6)	-	-	-	-	-	(2.6)	-
Bill Total	**(615.4)**	**(329.6)**	**1.2**	**0.4**	**(92.1)**	**(89.9)**	**(706.3)**	**(419.1)**
							Recurring + Pure Nonrecurring (2) =	**(992.7)**

(*) Impact less than $50,000; (**) Impact is indeterminate.
(+/-) Indeterminate impact, direction can be positive or negative
(1) Ad valorem tax impacts assume current tax rates.
(2) Recurring total = -$419.1 million; pure nonrecurring in FY 2016-17 = -$223.5 million; pure nonrecurring after FY 2016-17 = -$350.1 million.

B. Private Sector Impact:

The bill provides for a wide range of tax reductions and modifications designed to directly impact both households and businesses. Direct economic impacts on the private sector include:

- Reductions in the business rent tax that will provide tax relief to thousands of Florida businesses that rent real property in Florida.
- Manufacturers will be able to continue to enjoy the sales tax exemption on certain industrial machinery and equipment with the permanent extension of that exemption. Certain fruit and vegetable packinghouses and metals recyclers will also now be able to make use of this sales tax exemption.
- The back to school, hunting and fishing, small business and technology sales tax holidays will provide tax relief to Florida consumers. The college textbook and book fair exemptions in the bill will provide tax relief to students and their parents.
- Certain veterans and their spouses may realize property tax savings from the provisions of the bill, while members of veteran's service organizations will see elimination of sales taxes paid on certain food and drink.
- Administrative costs for Florida's cruise industry, associated with alcoholic beverage and tobacco-related taxes will be reduced.
- Private sector providers of affordable housing will see reduced property tax burdens as long as they continue to provide affordable housing.
- Participants in the brownfield cleanup tax credit program will see more resources available to undertake those activities.

C. Government Sector Impact:

The $762,154 appropriated in the bill consists of the following: $229,982 to implement the "back-to-school" sales tax holiday; and $55,908 to implement the business rent tax rate changes; $91,470 to implement the hunting and fishing sales tax holiday; $104,937 to implement the technology sales tax holiday; and $279,857 to pay additional costs associated with provision of aerial photography by DOR. The appropriations for the back-to-school holiday, the technology sales tax holiday, and the hunting and fishing tax holiday are to pay the cost of mailing a taxpayer information publication (TIP) to approximately 590,000, 290,000, and 264,900 sales tax dealers notifying them of the respective tax free periods. Of the appropriation for the business rent tax rate reduction, $45,188 is for tax dealer notification and the remainder is for computer system reprogramming.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 125.0104, 159.621, 163.387, 195.022, 196.011, 196.012, 196.081, 196.196, 196.1978, 196.198, 196.1995, 201.15, 206.9825, 210.13, 210.25, 212.031, 212.04, 212.05, 212.08, 220.03, 220.13, 220.1845, 220.192, 220.193, 220.196, 220.222, 220.241, 220.33, 220.34, 376.30781, 561.121, 564.06, 565.02, and 951.22.

This bill substantially amends chapter 2015-221, Laws of Florida.

This bill creates section 196.1955 of the Florida Statutes.

IX. Additional Information:

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

None.

B. Amendments:

Barcode 673118 by Appropriations on March 3, 2016:

Retained Issues

The following provisions of HB 7099 are retained in the amendment:

- Makes permanent the sales tax exemption for machinery and equipment used in manufacturing and provides exemptions for machinery and equipment used in agricultural post-harvest activities and used by metal recyclers. (See pages 23-24, above.)
- Effective July 1, 2019, eliminates a current aviation fuel tax exemption and reduces the aviation fuel tax rate from 6.9 cents per gallon to 4.27 cents per gallon. (See pages 13-16, above.)
- Replaces the current tax calculation for determining the alcohol and tobacco taxes sold on cruise ships with a simpler revenue-neutral calculation. (See page 17, above.)
- Makes a technical change to the documentary stamp statute to provide that documentary stamp tax revenue is pledged and made first available to pay debt service on bonds authorized before July 1, 2017. (See page 12, above.)
- Clarifies that counties and municipalities may grant economic development property tax exemptions in areas which were previously designated as enterprise zones for projects that were preapproved before December 31, 2015. (See page 10, above.)
- Adopts the Internal Revenue Code as in effect on January 1, 2016, for purposes of corporate income tax, but decouples from certain federal bonus depreciation provisions. (See pages 24-25, above.)
- Makes changes to corporate income tax filing dates and estimated payment due dates to conform to changes made to the federal corporate tax. (See pages 29-30, above.)
- Provides a sales tax exemption for sales of food and drink by veterans service organizations. (See pages 22-23, above.)

- Reduces the beverage tax rate imposed on pear cider to make it the same as the rate on apple cider. (See page 31, above.)
- Allows purchasers of airplanes to retain the airplane in Florida while waiting for the airplane to be registered in a foreign country. (See pages 20-21, above.)

Changed Issues

The following provisions of HB 7099 are changed by the amendment:

- The amendment clarifies the definition of "wholesale sales price" of other tobacco products, but it does not change the definition of "other tobacco products." (See pages 17-18, above.)
- Instead of the 10-day holiday contained in the bill, the amendment provides a three-day "back-to-school" sales tax holiday for clothing and footwear costing $60 or less, and school supplies costing less than $15 from August 5, 2016, to August 7, 2016. A dealer may choose to not participate in the holiday if less than five percent of the dealer's gross sales of tangible personal property in the prior calendar year are comprised of items that would be exempt under this section. Non-participating dealers must notify the Department of Revenue by August 1, 2016, and post that notice in a conspicuous location at its place of business. (See pages 31-33, above.)
- Instead of the tourist development tax issues contained in the bill, the amendment authorizes a county located adjacent to the Gulf of Mexico or the Atlantic Ocean to use up to 10 percent of the revenue from existing tourist development taxes to reimburse expenses incurred in providing public safety services. To receive the reimbursement, the county must: (1) generate a minimum of $10 million in annual proceeds from any tax, or any combination of taxes, authorized to be levied pursuant to s. 125.0104, F.S.; (2) have at least three municipalities; and (3) have an estimated population of less than 225,000. The board of county commissioners must, by majority vote, approve reimbursement upon receipt of a recommendation from the tourist development council. (See pages 3-4, above.)
- For the Fiscal Year 2016-2017, the amendment appropriates $330,356 in nonrecurring funds from the General Revenue Fund to the Department of Revenue to administer the sales tax holiday and the changes to the corporate return and estimated payment due dates.

New Issues

The following provisions are added by the amendment:

Sales Tax on Asphalt Used for Government Projects

Present Situation

Section 212.06(b), F.S., imposes a six percent use tax on any person who manufactures, produces, compounds, processes, or fabricates tangible personal property for his or her own use. The tax is based upon the cost of the product, without any deduction for the cost of material, labor or transportation. Section 212.06(c)1, F.S., provides that, notwithstanding the provisions of paragraph (b), the use tax on asphalt manufactured for

one's own use is calculated only upon the cost of materials which become a component part or which are an ingredient of the finished asphalt and upon the cost of transportation of such components and ingredients. In addition, an indexed tax is imposed upon the manufactured asphalt, adjusted each July 1 by the average of the "materials and components for construction" as published by the United States Department of Labor Bureau of Statistics. The current indexed tax is 74 cents per ton for the period July 1, 2015, through June 30, 2016. Under current law, the indexed tax on manufactured asphalt used for any federal, state, or local government public works project is reduced by 40 percent as required by s. 212.06(1)(c)2.b., F.S. After the reduction, the current indexed tax rate for such asphalt used for the identified public works projects is 45 cents per ton for the period July 1, 2015, through June 30, 2016. The tax is due in the month the asphalt is manufactured for use by the contractor.

Proposed Change

The amendment phases out, over three years, the indexed sales tax on asphalt used for government projects.

Data Center Equipment

Present Situation

Section 196.1995, F.S., authorizes counties and municipalities to offer property tax exemptions for new businesses and expanding businesses. The exemption applies to property when it is part of a qualifying new business or expansion of an existing business; however, the replacement of equipment does not qualify for exemption. Property that qualifies for the exemption is exempt for 10 years. (See page 10, above.)

Proposed Change

The bill exempts equipment purchased to replace data center equipment that qualified for the exemption and extends the exemption period from 10 to 20 years.

Fiscal Impact of Amendment

The effect of the amendment on state and local government revenues is detailed in the table on the next page:

HB 7099 Senate Amendment

Barcode 673118

Fiscal Year 2016-17 Estimated Fiscal Impacts (millions of $)

		General Revenue		State Trust Funds		Local		Total	
	Issue	**1st Yr**	**Recur.**	**1st Yr**	**Recur.**	**1st Yr**	**Recur.**	**1st Yr**	**Recur.**
1	Sales Tax: Machinery/Equipment--Manufacturing Exemption Permanent Extension	-	(59.7)	-	(*)	-	(13.4)	-	(73.1)
2	Sales Tax: Machinery/Equipment--Fruit & Vegetable Packinghouses	(0.8)	(0.9)	(*)	(*)	(0.2)	(0.2)	(1.0)	(1.1)
3	Sales Tax: Machinery/Equipment--Metal Recyclers	(1.7)	(1.7)	(*)	(*)	(0.5)	(0.5)	(2.2)	(2.2)
4	Corp Inc Tax: Federal Code Conformance Issues	(20.0)	(1.5)	-	-	-	-	(20.0)	(1.5)
5	Appropriation: Federal Code Conformance Issues	(0.1)	-	-	-	-	-	(0.1)	-
6	Sales Tax: Tax Holiday/"Back-to-School" **[Aug 5 -7]**	(23.3)	-	(*)	-	(5.4)	-	(28.7)	-
7	Appropriation: Back-to-School Holiday	(0.2)	-	-	-	-	-	(0.2)	-
8	Aviation Fuel Tax: Exemption Elimination/Rate Cut	-	-	-	-	-	-	-	-
9	Bev Tax/Tobacco Tax: Cruise Line Tax Simplification	(0.1)	*	(*)	(*)	-	-	(0.1)	-
10	Bev Tax: Pear Cider Rate Reduction	(0.1)	(0.1)	-	-	-	-	(0.1)	(0.1)
11	Tobacco Tax: Other Tob Prod/Definition Clarification	0.9	0.9	1.5	1.5	-	-	2.4	2.4
12	Sales Tax: Aircraft/Foreign Registered Clarification	-	-	-	-	-	-	-	-
13	Doc Stamp Tax: Bond Coverage/Date Change	-	-	-	-	-	-	-	-
14	Ad Valorem: EDATE Clarification/Enterprise Zones	-	-	-	-	(**)	(**)	-	-
15	Sales Tax: Veterans' Service Organizations/Food & Drink	(1.2)	(1.4)	(*)	(*)	(0.2)	(0.2)	(1.4)	(1.6)
16	Sales Tax: Asphalt Use Tax Phase-out	(0.5)	(1.5)	(*)	(*)	-	(0.2)	(0.5)	(1.7)
17	Tourist Development Tax: Uses	-	-	-	-	-	-	-	-
18	**FY 2016-17 Total**	**(47.1)**	**(65.9)**	**1.5**	**1.5**	**(6.3)**	**(14.5)**	**(51.9)**	**(78.9)**
19	***Non-recurring Impacts After FY 2016-17***	**Cash**		**Cash**		**Cash**		**Cash**	
20	Corp Inc Tax: Federal Code Conformance Issues	(2.8)	-	-	-	-	-	(2.8)	-
	Bill Total	**(49.9)**	**(65.9)**	**1.5**	**1.5**	**(6.3)**	**(14.5)**	**(54.7)**	**(78.9)**
							Recurring + Temporary =		**(129.00)**

The total of $129.0 million in tax reductions contained in the amendment is the sum of the recurring impacts, reflecting the annual value of permanent tax cuts when fully implemented, and of the nonrecurring impacts from temporary tax reductions.

(WITH TITLE AMENDMENT)

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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/02/2016	.	
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The Committee on Appropriations (Hukill and Lee) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraph (kkk) of subsection (7) of section 212.08, Florida Statutes, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following

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are hereby specifically exempt from the tax imposed by this chapter.

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

(kkk) *Certain machinery and equipment.*—

1. Industrial machinery and equipment purchased by eligible manufacturing businesses which is used at a fixed location in ~~within~~ this state~~, or a mixer drum affixed to a mixer truck which is used at any location within this state to mix, agitate, and transport freshly mixed concrete in a plastic state,~~ for the manufacture, processing, compounding, or production of items of tangible personal property for sale is ~~shall be~~ exempt from the tax imposed by this chapter. ~~Parts and labor required to affix a~~

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~~mixer drum exempt under this paragraph to a mixer truck are also exempt.~~ If, at the time of purchase, the purchaser furnishes the seller with a signed certificate certifying the purchaser's entitlement to exemption pursuant to this paragraph, the seller is not required to collect ~~is relieved of the responsibility for collecting~~ the tax on the sale of such items, and the department shall look solely to the purchaser for recovery of the tax if it determines that the purchaser was not entitled to the exemption.

2. For purposes of this paragraph, the term:

a. "Eligible manufacturing business" means any business whose primary business activity at the location where the industrial machinery and equipment is located is within the industries classified under NAICS codes 31, 32, ~~and~~ 33, and 423930.

b. "Eligible postharvest activity business" means a business whose primary business activity, at the location where the postharvest machinery and equipment is located, is within the industries classified under NAICS code 115114.

c. ~~As used in this subparagraph,~~ "NAICS" means those classifications contained in the North American Industry Classification System, as published in 2007 by the Office of Management and Budget, Executive Office of the President.

d.~~b.~~ "Primary business activity" means an activity representing more than 50 percent of the activities conducted at the location where the industrial machinery and equipment or postharvest machinery and equipment is located.

e.~~c.~~ "Industrial machinery and equipment" means tangible personal property or other property that has a depreciable life of 3 years or more and that is used as an integral part in the

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manufacturing, processing, compounding, or production of tangible personal property for sale. The term includes tangible personal property or other property that has a depreciable life of 3 years or more which is used as an integral part in the recycling of metals for sale. A building and its structural components are not industrial machinery and equipment unless the building or structural component is so closely related to the industrial machinery and equipment that it houses or supports that the building or structural component can be expected to be replaced when the machinery and equipment are replaced. Heating and air conditioning systems are not industrial machinery and equipment unless the sole justification for their installation is to meet the requirements of the production process, even though the system may provide incidental comfort to employees or serve, to an insubstantial degree, nonproduction activities. The term includes parts and accessories for industrial machinery and equipment only to the extent that the parts and accessories are purchased before ~~prior to~~ the date the machinery and equipment are placed in service.

f. "Postharvest activities" means services performed on crops, after their harvest, with the intent of preparing them for market or further processing. Postharvest activities include, but are not limited to, crop cleaning, sun drying, shelling, fumigating, curing, sorting, grading, packing, and cooling.

g. "Postharvest machinery and equipment" means tangible personal property or other property with a depreciable life of 3 years or more which is used primarily for postharvest activities. A building and its structural components are not

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postharvest industrial machinery and equipment unless the building or structural component is so closely related to the postharvest machinery and equipment that it houses or supports that the building or structural component can be expected to be replaced when the postharvest machinery and equipment is replaced. Heating and air conditioning systems are not postharvest machinery and equipment unless the sole justification for their installation is to meet the requirements of the postharvest activities process, even though the system may provide incidental comfort to employees or serve, to an insubstantial degree, nonpostharvest activities.

3. Postharvest machinery and equipment purchased by an eligible postharvest activity business which is used at a fixed location in this state is exempt from the tax imposed by this chapter. All labor charges for the repair of, and parts and materials used in the repair of and incorporated into, such postharvest machinery and equipment are also exempt. If, at the time of purchase, the purchaser furnishes the seller with a signed certificate certifying the purchaser's entitlement to exemption pursuant to this subparagraph, the seller is not required to collect the tax on the sale of such items, and the department shall look solely to the purchaser for recovery of the tax if it determines that the purchaser was not entitled to the exemption.

4.~~3.~~ A mixer drum affixed to a mixer truck which is used at any location in this state to mix, agitate, and transport freshly mixed concrete in a plastic state for sale is exempt from the tax imposed by this chapter. Parts and labor required to affix a mixer drum exempt under this subparagraph to a mixer

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truck are also exempt. If, at the time of purchase, the purchaser furnishes the seller with a signed certificate certifying the purchaser's entitlement to exemption pursuant to this subparagraph, the seller is not required to collect the tax on the sale of such items, and the department shall look solely to the purchaser for recovery of the tax if it determines that the purchaser was not entitled to the exemption. This subparagraph ~~paragraph~~ is repealed April 30, 2017.

Section 2. Effective upon this act becoming a law and operating retroactively to January 1, 2016, paragraph (n) of subsection (1) and paragraph (c) of subsection (2) of section 220.03, Florida Statutes, are amended to read:

220.03 Definitions.—

(1) SPECIFIC TERMS.—When used in this code, and when not otherwise distinctly expressed or manifestly incompatible with the intent thereof, the following terms shall have the following meanings:

(n) "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended and in effect on January 1, 2016 ~~2015~~, except as provided in subsection (3).

(2) DEFINITIONAL RULES.—When used in this code and neither otherwise distinctly expressed nor manifestly incompatible with the intent thereof:

(c) Any term used in this code has the same meaning as when used in a comparable context in the Internal Revenue Code and other statutes of the United States relating to federal income taxes, as such code and statutes are in effect on January 1, 2016 ~~2015~~. However, if subsection (3) is implemented, the meaning of a term shall be taken at the time the term is applied

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under this code.

Section 3. Effective upon this act becoming a law and operating retroactively to January 1, 2016, paragraph (e) of subsection (1) of section 220.13, Florida Statutes, is amended to read:

220.13 "Adjusted federal income" defined.—

(1) The term "adjusted federal income" means an amount equal to the taxpayer's taxable income as defined in subsection (2), or such taxable income of more than one taxpayer as provided in s. 220.131, for the taxable year, adjusted as follows:

(e) *Adjustments related to federal acts.*—Taxpayers shall be required to make the adjustments prescribed in this paragraph for Florida tax purposes with respect to certain tax benefits received pursuant to the Economic Stimulus Act of 2008, the American Recovery and Reinvestment Act of 2009, the Small Business Jobs Act of 2010, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, the American Taxpayer Relief Act of 2012, ~~and~~ the Tax Increase Prevention Act of 2014, and the Consolidated Appropriations Act, 2016.

1. There shall be added to such taxable income an amount equal to 100 percent of any amount deducted for federal income tax purposes as bonus depreciation for the taxable year pursuant to ss. 167 and 168(k) of the Internal Revenue Code of 1986, as amended by s. 103 of Pub. L. No. 110-185, s. 1201 of Pub. L. No. 111-5, s. 2022 of Pub. L. No. 111-240, s. 401 of Pub. L. No. 111-312, s. 331 of Pub. L. No. 112-240, ~~and~~ s. 125 of Pub. L. No. 113-295, and s. 143 of Division Q of Pub. L. No. 114-113,

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for property placed in service after December 31, 2007, and before January 1, 2021 ~~2015~~. For the taxable year and for each of the 6 subsequent taxable years, there shall be subtracted from such taxable income an amount equal to one-seventh of the amount by which taxable income was increased pursuant to this subparagraph, notwithstanding any sale or other disposition of the property that is the subject of the adjustments and regardless of whether such property remains in service in the hands of the taxpayer.

2. There shall be added to such taxable income an amount equal to 100 percent of any amount in excess of $128,000 deducted for federal income tax purposes for the taxable year pursuant to s. 179 of the Internal Revenue Code of 1986, as amended by s. 102 of Pub. L. No. 110-185, s. 1202 of Pub. L. No. 111-5, s. 2021 of Pub. L. No. 111-240, s. 402 of Pub. L. No. 111-312, s. 315 of Pub. L. No. 112-240, and s. 127 of Pub. L. No. 113-295, for taxable years beginning after December 31, 2007, and before January 1, 2015. For the taxable year and for each of the 6 subsequent taxable years, there shall be subtracted from such taxable income one-seventh of the amount by which taxable income was increased pursuant to this subparagraph, notwithstanding any sale or other disposition of the property that is the subject of the adjustments and regardless of whether such property remains in service in the hands of the taxpayer.

3. There shall be added to such taxable income an amount equal to the amount of deferred income not included in such taxable income pursuant to s. 108(i)(1) of the Internal Revenue Code of 1986, as amended by s. 1231 of Pub. L. No. 111-5. There

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shall be subtracted from such taxable income an amount equal to the amount of deferred income included in such taxable income pursuant to s. 108(i)(1) of the Internal Revenue Code of 1986, as amended by s. 1231 of Pub. L. No. 111-5.

4. Subtractions available under this paragraph may be transferred to the surviving or acquiring entity following a merger or acquisition and used in the same manner and with the same limitations as specified by this paragraph.

5. The additions and subtractions specified in this paragraph are intended to adjust taxable income for Florida tax purposes, and, notwithstanding any other provision of this code, such additions and subtractions shall be permitted to change a taxpayer's net operating loss for Florida tax purposes.

Section 4. (1) The Department of Revenue is authorized, and all conditions are deemed to be met, to adopt emergency rules pursuant to s. 120.54(4), Florida Statutes, for the purpose of implementing the amendments made by this act to ss. 220.03(1)(n) and (2)(c), Florida Statutes, and s. 220.13(1)(e), Florida Statutes.

(2) Notwithstanding any other provision of law, emergency rules adopted pursuant to subsection (1) are effective for 6 months after adoption and may be renewed during the pendency of procedures to adopt permanent rules addressing the subject of the emergency rules.

(3) This section expires January 1, 2020.

Section 5. Effective upon this act becoming a law and applicable to taxable years beginning on or after January 1, 2016, section 220.222, Florida Statutes, is amended to read:

220.222 Returns; time and place for filing.—


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(1)(a) Returns required by this code shall be filed with the office of the department in Leon County or at such other place as the department may by regulation prescribe. All returns required for a DISC (Domestic International Sales Corporation) under paragraph 6011(c)(2) of the Internal Revenue Code shall be filed on or before the 1st day of the 10th month after ~~following~~ the close of the taxable year; all partnership information returns shall be filed on or before the 1st day of the 4th ~~5th~~ month after ~~following~~ the close of the taxable year; and all other returns shall be filed on or before the 1st day of the 5th ~~4th~~ month after ~~following~~ the close of the taxable year or the 15th day after ~~following~~ the due date, without extension, for the filing of the related federal return for the taxable year, unless under subsection (2) one or more extensions of time, not to exceed 6 months in the aggregate, for any such filing is granted.

(b) Notwithstanding paragraph (a), for taxable years beginning before January 1, 2026, returns of taxpayers with a taxable year ending on June 30 shall be filed on or before the 1st day of the 4th month after the close of the taxable year or the 15th day after the due date, without extension, for the filing of the related federal return for the taxable year, unless under subsection (2) one or more extensions of time for any such filing is granted.

(2)(a) When a taxpayer has been granted an extension or extensions of time within which to file its federal income tax return for any taxable year, and if the requirements of s. 220.32 are met, the filing of a request for such extension or extensions with the department shall automatically extend the


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due date of the return required under this code until ~~15 days after the expiration of the federal extension or until~~ the expiration of 6 months from the original due date~~, whichever first occurs~~.

(b) The department may grant an extension or extensions of time for the filing of any return required under this code upon receiving a prior request therefor if good cause for an extension is shown. However, the aggregate extensions of time under paragraph ~~paragraphs~~ (a) and this paragraph must ~~(b) shall~~ not exceed 6 months. An ~~No~~ extension granted under this paragraph is not ~~shall be~~ valid unless the taxpayer complies with ~~the requirements of~~ s. 220.32.

(c) For purposes of this subsection, a taxpayer is not in compliance with ~~the requirements of~~ s. 220.32 if the taxpayer underpays the required payment by more than the greater of $2,000 or 30 percent of the tax shown on the return when filed.

(d) For taxable years beginning before January 1, 2026, the 6-month time period in paragraphs (a) and (b) shall be 7 months for taxpayers with a taxable year ending June 30 and shall be 5 months for taxpayers with a taxable year ending December 31.

Section 6. Effective upon this act becoming a law and applicable to taxable years beginning on or after January 1, 2017, section 220.241, Florida Statutes, is amended to read:

220.241 Declaration; time for filing.—

(1) A declaration of estimated tax under this code shall be filed before the 1st day of the 6th ~~5th~~ month of each taxable year, except that if the minimum tax requirement of s. 220.24(1) is first met:

(a) ~~(1)~~ After the 3rd month and before the 6th month of the

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taxable year, the declaration shall be filed before the 1st day of the 7th month;

(b) ~~(2)~~ After the 5th month and before the 9th month of the taxable year, the declaration shall be filed before the 1st day of the 10th month; or

(c) ~~(3)~~ After the 8th month and before the 12th month of the taxable year, the declaration shall be filed for the taxable year before the 1st day of the succeeding taxable year.

(2) Notwithstanding subsection (1), for taxable years beginning before January 1, 2026, taxpayers with a taxable year ending on June 30 shall file declarations before the 1st day of the 5th month of each taxable year, unless paragraph (1)(a), paragraph (1)(b), or paragraph (1)(c) applies.

Section 7. Effective upon this act becoming a law and applicable to taxable years beginning on or after January 1, 2017, subsection (1) of section 220.33, Florida Statutes, is amended to read:

220.33 Payments of estimated tax.—A taxpayer required to file a declaration of estimated tax pursuant to s. 220.24 shall pay such estimated tax as follows:

(1) If the declaration is required to be filed before the 1st day of the 6th ~~5th~~ month of the taxable year, the estimated tax shall be paid in four equal installments. The first installment shall be paid at the time of the required filing of the declaration; the second and third installments shall be paid before the 1st day of the 7th month and before the 1st day of the 10th month of the taxable year, respectively; and the fourth installment shall be paid before the 1st day of the next taxable year.

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Section 8. Effective upon this act becoming a law and applicable to taxable years beginning on or after January 1, 2017, paragraph (c) of subsection (2) of section 220.34, Florida Statutes, is amended to read:

220.34 Special rules relating to estimated tax.—

(2) No interest or penalty shall be due or paid with respect to a failure to pay estimated taxes except the following:

(c) The period of the underpayment for which interest and penalties apply shall commence on the date the installment was required to be paid, determined without regard to any extensions of time, and shall terminate on the earlier of the following dates:

1. The 1st ~~first~~ day of the 5th ~~fourth~~ month after ~~following~~ the close of the taxable year;

2. For taxable years beginning before January 1, 2026, for taxpayers with a taxable year ending June 30, the 1st day of the 4th month after the close of the taxable year; or

3.~~2.~~ With respect to any portion of the underpayment, the date on which such portion is paid.

For purposes of this paragraph, a payment of estimated tax on any installment date shall be considered a payment of any previous underpayment only to the extent such payment exceeds the amount of the installment determined under subparagraph (b)1. for such installment date.

Section 9. For the 2016-2017 fiscal year, the sum of $100,374 in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Revenue for the purpose of

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implementing ss. 220.03, 220.13, 220.222, 220.241, 220.33 and 220.34, Florida Statutes, as amended by this act.

Section 10. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect July 1, 2016.

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to taxation; amending s. 212.08, F.S.; revising definitions regarding certain industrial machinery and equipment; removing the expiration date on the exemption for purchases of certain machinery and equipment; revising the definition of the term "eligible manufacturing business" for purposes of qualification for the sales and use tax exemption; providing definitions for certain postharvest machinery and equipment, postharvest activities, and eligible postharvest activity businesses; providing an exemption for the purchase of such machinery and equipment; amending s. 220.03, F.S.; adopting the 2016 version of the Internal Revenue Code; providing retroactive applicability; amending s. 220.13, F.S.; incorporating a reference to a recent federal act into state law for the purpose of defining the term "adjusted federal income"; revising the treatment by


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this state of certain depreciation of assets allowed for federal income tax purposes; providing retroactive applicability; authorizing the Department of Revenue to adopt emergency rules; amending s. 220.222, F.S.; revising due dates for partnership information returns and corporate tax returns; amending s. 220.241, F.S.; revising due dates to file a declaration of estimated corporate income tax; amending s. 220.33, F.S.; revising the due date of estimated payments of corporate income tax; amending 220.34, F.S.; revising the dates for purposes of calculating interest and penalties on underpayments of estimated corporate income tax; providing an appropriation; providing effective dates.

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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/02/2016	.	
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The Committee on Appropriations (Hays) recommended the following:

Senate Amendment to Amendment (941552) (with title amendment)

Between lines 4 and 5
insert:

Section 1. Section 196.1955, Florida Statutes, is created to read:

196.1955 Preparing property for educational, literary, scientific, religious, or charitable use.—

(1) Property owned by an exempt organization is used for an

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exempt purpose if the owner has taken affirmative steps to prepare the property for an exempt educational, literary, scientific, religious, or charitable use and no portion of the property is being used for a nonexempt purpose. The term "affirmative steps" means environmental or land use permitting activities, creation of architectural plans or schematic drawings, land clearing or site preparation, construction or renovation activities, or other activities that demonstrate a commitment to prepare the property for an exempt use.

(2)(a) If property owned by an organization that has been granted an exemption under this section is sold, transferred, or used for a purpose other than an exempt use or is not in actual exempt use within 5 years after the date the organization is granted an exemption, the property appraiser making such determination shall serve upon the organization that received the exemption a notice of intent to record in the public records of the county a notice of tax lien against any property owned by that organization in that county, and such property must be identified in the notice of tax lien. The organization owning such property is subject to the taxes otherwise due as a result of the failure to use the property in an exempt manner, plus 15 percent interest per annum.

1. The lien, when filed, attaches to any property identified in the notice of tax lien which is owned by the organization that received the exemption. If the organization no longer owns property in the county but owns property in another county in the state, the property appraiser shall record in each such county a notice of tax lien identifying the property owned by the organization in each respective county, which shall

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become a lien against the identified property.

2. Before a lien may be filed, the organization must be given 30 days to pay the taxes and interest.

3. If an exemption is improperly granted as a result of a clerical mistake or an omission by the property appraiser, the organization improperly receiving the exemption may not be assessed interest.

4. The 5-year limitation specified in this subsection shall be extended by the property appraiser on an annual basis if the organization continues to take affirmative steps to prepare the property for the purposes specified in this section.

(b) This subsection does not apply to property being prepared for use as a house of public worship. The term "public worship" means religious worship services and those activities that are incidental to religious worship services, such as educational activities, parking, recreation, partaking of meals, and fellowship.

Section 2. Subsections (3), (4), and (5) of section 196.196, Florida Statutes, are amended to read:

196.196 Determining whether property is entitled to charitable, religious, scientific, or literary exemption.—

~~(3) Property owned by an exempt organization is used for a religious purpose if the institution has taken affirmative steps to prepare the property for use as a house of public worship. The term "affirmative steps" means environmental or land use permitting activities, creation of architectural plans or schematic drawings, land clearing or site preparation, construction or renovation activities, or other similar activities that demonstrate a commitment of the property to a~~

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~~religious use as a house of public worship. For purposes of this subsection, the term "public worship" means religious worship services and those other activities that are incidental to religious worship services, such as educational activities, parking, recreation, partaking of meals, and fellowship.~~

(3)~~(4)~~ Except as otherwise provided in this section ~~herein~~, property claimed as exempt for literary, scientific, religious, or charitable purposes which is used for profitmaking purposes is ~~shall be~~ subject to ad valorem taxation. Use of property for functions not requiring a business or occupational license conducted by the organization at its primary residence, the revenue of which is used wholly for exempt purposes, is ~~shall~~ not ~~be~~ considered profitmaking ~~profit making~~. In this connection the playing of bingo on such property is ~~shall~~ not ~~be~~ considered a use of ~~as using such~~ property which ~~in such a manner as~~ would impair its exempt status.

~~(5)(a) Property owned by an exempt organization qualified as charitable under s. 501(c)(3) of the Internal Revenue Code is used for a charitable purpose if the organization has taken affirmative steps to prepare the property to provide affordable housing to persons or families that meet the extremely-low-income, very-low-income, low-income, or moderate-income limits, as specified in s. 420.0004. The term "affirmative steps" means environmental or land use permitting activities, creation of architectural plans or schematic drawings, land clearing or site preparation, construction or renovation activities, or other similar activities that demonstrate a commitment of the property to providing affordable housing.~~

~~(b)1. If property owned by an organization granted an~~


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~~exemption under this subsection is transferred for a purpose other than directly providing affordable homeownership or rental housing to persons or families who meet the extremely-low-income, very-low-income, low-income, or moderate-income limits, as specified in s. 420.0004, or is not in actual use to provide such affordable housing within 5 years after the date the organization is granted the exemption, the property appraiser making such determination shall serve upon the organization that illegally or improperly received the exemption a notice of intent to record in the public records of the county a notice of tax lien against any property owned by that organization in the county, and such property shall be identified in the notice of tax lien. The organization owning such property is subject to the taxes otherwise due and owing as a result of the failure to use the property to provide affordable housing plus 15 percent interest per annum and a penalty of 50 percent of the taxes owed.~~

~~2. Such lien, when filed, attaches to any property identified in the notice of tax lien owned by the organization that illegally or improperly received the exemption. If such organization no longer owns property in the county but owns property in any other county in the state, the property appraiser shall record in each such other county a notice of tax lien identifying the property owned by such organization in such county which shall become a lien against the identified property. Before any such lien may be filed, the organization so notified must be given 30 days to pay the taxes, penalties, and interest.~~

~~3. If an exemption is improperly granted as a result of a~~

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~~clerical mistake or an omission by the property appraiser, the organization improperly receiving the exemption shall not be assessed a penalty or interest.~~

~~4. The 5-year limitation specified in this subsection may be extended if the holder of the exemption continues to take affirmative steps to develop the property for the purposes specified in this subsection.~~

Section 3. Section 196.198, Florida Statutes, is amended to read:

196.198 Educational property exemption.—

(1) Educational institutions within this state and their property used by them or by any other exempt entity or educational institution exclusively for educational purposes are exempt from taxation.

(a) Sheltered workshops providing rehabilitation and retraining of individuals who have disabilities and exempted by a certificate under s. (d) of the federal Fair Labor Standards Act of 1938, as amended, are declared wholly educational in purpose and are exempt from certification, accreditation, and membership requirements set forth in s. 196.012.

(b) Those portions of property of college fraternities and sororities certified by the president of the college or university to the appropriate property appraiser as being essential to the educational process are exempt from ad valorem taxation.

(c) The use of property by public fairs and expositions chartered by chapter 616 is presumed to be an educational use of such property and is exempt from ad valorem taxation to the extent of such use.

(2) Property used exclusively for educational purposes shall be deemed owned by an educational institution if the entity owning 100 percent of the educational institution is owned by the identical persons who own the property, or if the entity owning 100 percent of the educational institution and the entity owning the property are owned by the identical natural persons.

(a) Land, buildings, and other improvements to real property used exclusively for educational purposes shall be deemed owned by an educational institution if the entity owning 100 percent of the land is a nonprofit entity and the land is used, under a ground lease or other contractual arrangement, by an educational institution that owns the buildings and other improvements to the real property, is a nonprofit entity under s. 501(c)(3) of the Internal Revenue Code, and provides education limited to students in prekindergarten through grade 8.

(b) If legal title to property is held by a governmental agency that leases the property to a lessee, the property shall be deemed to be owned by the governmental agency and used exclusively for educational purposes if the governmental agency continues to use such property exclusively for educational purposes pursuant to a sublease or other contractual agreement with that lessee.

(c) If the title to land is held by the trustee of an irrevocable inter vivos trust and if the trust grantor owns 100 percent of the entity that owns an educational institution that is using the land exclusively for educational purposes, the land is deemed to be property owned by the educational institution

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for purposes of this exemption. ~~Property owned by an educational institution shall be deemed to be used for an educational purpose if the institution has taken affirmative steps to prepare the property for educational use. The term "affirmative steps" means environmental or land use permitting activities, creation of architectural plans or schematic drawings, land clearing or site preparation, construction or renovation activities, or other similar activities that demonstrate commitment of the property to an educational use.~~

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

And the title is amended as follows:

Delete line 371

and insert:

An act relating to taxation; creating s. 196.1955, F.S.; consolidating and revising provisions relating to obtaining an ad valorem exemption for property owned by an exempt organization, including the requirement that the owner of an exempt organization take affirmative steps to demonstrate an exempt use; defining the term "affirmative steps"; requiring the property appraiser to serve a notice of tax lien on exempt property that is not in exempt use after a certain time; providing that the lien attaches to any property owned by the organization identified in the notice of lien; providing that the provisions authorizing the tax lien do not apply to a house of public worship; defining the term "public worship"; amending s. 196.196, F.S.; deleting provisions

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relating to the exemption as it applies to public worship and affordable housing and provisions incorporated into s. 196.1955, F.S.; amending s. 196.198, F.S.; deleting provisions relating to property owned by an educational institution and used for an educational purpose which are incorporated in s. 196.1955, F.S.; amending s. 212.08, F.S.;

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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/02/2016	.	
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The Committee on Appropriations (Negron) recommended the following:

Senate Amendment to Amendment (941552) (with title amendment)

Between lines 4 and 5
insert:
Section 1. Effective upon this act becoming a law, subsections (5) and (11) of section 196.1995, Florida Statutes, are amended to read:
196.1995 Economic development ad valorem tax exemption.—
(5) Upon a majority vote in favor of such authority, the

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board of county commissioners or the governing authority of the municipality, at its discretion, by ordinance may exempt from ad valorem taxation up to 100 percent of the assessed value of all improvements to real property made by or for the use of a new business and of all tangible personal property of such new business, or up to 100 percent of the assessed value of all added improvements to real property made to facilitate the expansion of an existing business and of the net increase in all tangible personal property acquired to facilitate such expansion of an existing business. To qualify for this exemption, the improvements to real property must be made or the tangible personal property must be added or increased after approval by motion or resolution of the local governing body, subject to ordinance adoption or on or after the day the ordinance is adopted. However, if the authority to grant exemptions is approved in a referendum in which the ballot question contained in subsection (3) appears on the ballot, the authority of the board of county commissioners or the governing authority of the municipality to grant exemptions is limited solely to new businesses and expansions of existing businesses that are located in an enterprise zone or brownfield area. Property acquired to replace existing property shall not be considered to facilitate a business expansion. <u>All data center equipment for a qualifying data center shall be exempt from ad valorem taxation for the term of the approved exemption.</u> The exemption applies only to taxes levied by the respective unit of government granting the exemption. The exemption does not apply, however, to taxes levied for the payment of bonds or to taxes authorized by a vote of the electors pursuant to s. 9(b) or s. 12, Art. VII

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of the State Constitution. Any such exemption shall remain in effect for up to 10 years with respect to any particular facility, or up to 20 years for a qualifying data center, regardless of any change in the authority of the county or municipality to grant such exemptions. The exemption shall not be prolonged or extended by granting exemptions from additional taxes or by virtue of any reorganization or sale of the business receiving the exemption.

(11) An ordinance granting an exemption under this section shall be adopted in the same manner as any other ordinance of the county or municipality and shall include the following:

(a) The name and address of the new business or expansion of an existing business to which the exemption is granted;

(b) The total amount of revenue available to the county or municipality from ad valorem tax sources for the current fiscal year, the total amount of revenue lost to the county or municipality for the current fiscal year by virtue of economic development ad valorem tax exemptions currently in effect, and the estimated revenue loss to the county or municipality for the current fiscal year attributable to the exemption of the business named in the ordinance;

(c) The period of time for which the exemption will remain in effect and the expiration date of the exemption, which may be any period of time up to 10 years, or up to 20 years for a qualifying data center; and

(d) A finding that the business named in the ordinance meets the requirements of s. 196.012(14) or (15).

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

453284

And the title is amended as follows:

Delete line 371

and insert:

An act relating to taxation; amending s. 196.1995, F.S.; providing applicability of an economic development ad valorem tax exemption to qualifying data centers; amending s. 212.08, F.S.;

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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/02/2016	.	
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The Committee on Appropriations (Gaetz) recommended the following:

Senate Amendment to Amendment (941552) (with title amendment)

Between lines 4 and 5
insert:

Section 1. Effective October 1, 2016, paragraph (m) of subsection (3) and subsection (5) of section 125.0104, Florida Statutes, are amended to read:

125.0104 Tourist development tax; procedure for levying; authorized uses; referendum; enforcement.—

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(3) TAXABLE PRIVILEGES; EXEMPTIONS; LEVY; RATE.—

(m)1. In addition to any other tax which is imposed pursuant to this section, a high tourism impact county may impose an additional 1-percent tax on the exercise of the privilege described in paragraph (a) by extraordinary vote of the governing board of the county. The tax revenues received pursuant to this paragraph shall be used for one or more of the authorized uses pursuant to subparagraph (5)(a)2., paragraph (5)(b), or paragraph (5)(c) ~~subsection (5)~~.

2. A county is considered to be a high tourism impact county after the Department of Revenue has certified to such county that the sales subject to the tax levied pursuant to this section exceeded $600 million during the previous calendar year, or were at least 18 percent of the county's total taxable sales under chapter 212 where the sales subject to the tax levied pursuant to this section were a minimum of $200 million, except that no county authorized to levy a convention development tax pursuant to s. 212.0305 shall be considered a high tourism impact county. Once a county qualifies as a high tourism impact county, it shall retain this designation for the period the tax is levied pursuant to this paragraph.

3. ~~The provisions of~~ Paragraphs (4)(a)-(d) do ~~shall~~ not apply to the adoption of the additional tax authorized in this paragraph. The effective date of the levy and imposition of the tax authorized under this paragraph shall be the first day of the second month following approval of the ordinance by the governing board or the first day of any subsequent month as may be specified in the ordinance. A certified copy of such ordinance shall be furnished by the county to the Department of

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Revenue within 10 days after approval of such ordinance.

(5) AUTHORIZED USES OF REVENUE.—

(a) Except as otherwise provided in this section, and after deducting payments required by subparagraph (c)2., all tax revenues received pursuant to this section by a county imposing the tourist development tax shall be used by that county as follows ~~for the following purposes only~~:

1. In a Gulf Coast tourism county, to fund lifeguards, and up to 10 percent of the revenues may be used to provide emergency medical services, as defined in s. 401.107(3), or law enforcement services that are needed for enhanced emergency medical or public safety services related to increased tourism and visitors to an area. If taxes collected pursuant to this section are used to fund emergency medical services or public safety services for tourism or special events, the governing board of a county or municipality is prohibited from using such taxes to supplant the normal operating expenses of an emergency services department, a fire department, a sheriff's office, or a police department. For the purposes of this subparagraph, the term "Gulf Coast Tourism County" shall mean a county which:

a. Is located adjacent to the Gulf of Mexico but not adjacent to the Atlantic Ocean; or

b. Collects a minimum of $10 million in annual revenues from any tax, or any combination of taxes, authorized to be levied pursuant to this section.

2. The remaining revenues shall be used for the following purposes only:

a.~~1.~~ To acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate, or promote one or more:

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(I)~~a.~~ Publicly owned and operated convention centers, sports stadiums, sports arenas, coliseums, or auditoriums within the boundaries of the county or subcounty special taxing district in which the tax is levied; or

(II)~~b.~~ Aquariums or museums that are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public, within the boundaries of the county or subcounty special taxing district in which the tax is levied;

b.~~2.~~ To promote zoological parks that are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public;

c.~~3.~~ To promote and advertise tourism in this state and nationally and internationally; however, if tax revenues are expended for an activity, service, venue, or event, the activity, service, venue, or event must have as one of its main purposes the attraction of tourists as evidenced by the promotion of the activity, service, venue, or event to tourists;

d.~~4.~~ To fund convention bureaus, tourist bureaus, tourist information centers, and news bureaus as county agencies or by contract with the chambers of commerce or similar associations in the county, which may include any indirect administrative costs for services performed by the county on behalf of the promotion agency; or

e.~~5.~~ To finance beach park facilities or beach improvement, maintenance, renourishment, restoration, and erosion control, including shoreline protection, enhancement, cleanup, or restoration of inland lakes and rivers to which there is public access as those uses relate to the physical preservation of the beach, shoreline, or inland lake or river. However, any funds

identified by a county as the local matching source for beach renourishment, restoration, or erosion control projects included in the long-range budget plan of the state's Beach Management Plan, pursuant to s. 161.091, or funds contractually obligated by a county in the financial plan for a federally authorized shore protection project may not be used or loaned for any other purpose. In counties with a population of fewer than 100,000 ~~population~~, up to 10 percent of the revenues from the tourist development tax may be used for beach park facilities.

Sub-subparagraphs a. and b. ~~Subparagraphs 1. and 2.~~ may be implemented through service contracts and leases with lessees that have sufficient expertise or financial capability to operate such facilities.

(b) Tax revenues received pursuant to this section by a county with a population of less than 750,000 ~~population~~ imposing a tourist development tax may only be used by that county for the following purposes in addition to those purposes allowed pursuant to paragraph (a): to acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate, or promote one or more zoological parks, fishing piers, or nature centers which are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public. All population figures relating to this subsection shall be based on the most recent population estimates prepared pursuant to ~~the provisions of~~ s. 186.901. These population estimates shall be those in effect on July 1 of each year.

(c)1. The revenues to be derived from the tourist development tax may be pledged to secure and liquidate revenue

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bonds issued by the county for the purposes set forth in sub-subparagraphs (a)2.a., b., and e. ~~subparagraphs (a)1., 2., and 5.~~ or for the purpose of refunding bonds previously issued for such purposes, or both; however, no more than 50 percent of the revenues from the tourist development tax may be pledged to secure and liquidate revenue bonds or revenue refunding bonds issued for the purposes set forth in sub-subparagraph (a)2.e. ~~subparagraph (a)5.~~ Such revenue bonds and revenue refunding bonds may be authorized and issued in such principal amounts, with such interest rates and maturity dates, and subject to such other terms, conditions, and covenants as the governing board of the county shall provide. The Legislature intends that this paragraph be full and complete authority for accomplishing such purposes, but such authority is supplemental and additional to, and not in derogation of, any powers now existing or later conferred under law.

2. Revenues from tourist development taxes that are pledged to secure and liquidate revenue bonds or other forms of indebtedness issued pursuant to subparagraph 1. that are outstanding as of March 11, 2016, shall be made available first to make payments when due on the outstanding bonds or other forms of indebtedness before any other uses of the tax revenues.

(d) In order to recommend a proposed use of tourist development tax revenues authorized in subparagraph (a)2. or paragraph (b) to the governing board of a county, the tourist development council or a member of the public must submit a written proposal to the governing board of the county. The governing board of each county may determine the requirements for a written proposal, but, at a minimum, each proposal must

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include a description of the proposed use and an estimate of the cost.

(e) Before expending any revenues from a tourist development tax on a use authorized in subparagraph (a)2. or paragraph (b) in excess of $100,000, the governing board of a county or a person authorized by the governing board must perform or provide for the performance of a return-on-investment analysis or cost-benefit analysis for the proposed use. The return-on-investment analysis or cost-benefit analysis must be performed by an individual who has prior experience with input-output modeling or the application of economic multipliers, such as the Regional Input-Output Modeling System created by the Bureau of Economic Analysis of the United States Department of Commerce. The return-on-investment analysis or cost-benefit analysis shall be paid for by revenues received pursuant to paragraphs (3)(c) and (d).

(f) ~~(d)~~ Any use of the local option tourist development tax revenues collected pursuant to this section for a purpose not expressly authorized by paragraph (3)(l) or paragraph (3)(n) or paragraph (a), paragraph (b), or paragraph (c) of this subsection is expressly prohibited.

(g) As an additional means of enforcing the prohibition in paragraph (f), a county's decision to use revenues in violation of paragraph (f) is subject to administrative review pursuant to ss. 120.569 and 120.57. A party may file a petition with the Division of Administrative Hearings within 60 days after such decision, except that a county's decision to use such revenues for a facility for which tax revenues under this section have already been pledged to secure and liquidate revenue bonds

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pursuant to paragraph (c) is not subject to administrative review. Any remitter of the tax provided for in this section, or any organization representing multiple remitters of the tax, shall be considered to be a party whose substantial interests are affected by such use and may challenge a particular use or uses alleged to be in violation of paragraph (f). During the pendency of the administrative proceeding and any resulting appeal, tax revenues collected under this section may not be used to fund the challenged use or uses. The county's interpretation of this section shall be afforded no deference in the proceedings. The decision of the administrative law judge constitutes a final order in such action, subject to judicial review as provided in s. 120.68. A prevailing remitter or remitter organization shall be awarded the reasonable costs of the action plus reasonable attorney fees, including on appeal.

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

And the title is amended as follows:

Delete line 371

and insert:

An act relating to taxation; amending s. 125.0104, F.S.; revising uses of certain tourist development taxes; requiring the performance of a return-on-investment or cost-benefit analysis in specified circumstances; authorizing certain entities to file administrative challenges against counties for using tourist development taxes for unauthorized purposes; prohibiting use of those revenues for purposes which are the subject of a challenge; authorizing reasonable

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attorney fees and costs under specified circumstances;
amending s. 212.08, F.S.;

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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/02/2016	.	
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The Committee on Appropriations (Hays) recommended the following:

Senate Amendment to Amendment (941552) (with title amendment)

Between lines 355 and 356
insert:

Section 9. Paragraph (a) of subsection (2) of section 565.03, Florida Statutes, is amended to read:

565.03 License fees; manufacturers, distributors, brokers, sales agents, and importers of alcoholic beverages; vendor licenses and fees; craft distilleries.—

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(2)(a) A distillery authorized to do business under the Beverage Law shall pay an annual state license tax for each plant or branch operating in the state, as follows:

1. If engaged in the business of manufacturing distilled spirits, a state license tax of $4,000.

2. If engaged in the business of rectifying and blending spirituous liquors and nothing else, a state license tax of $4,000.

3. If engaged in the business of manufacturing distilled spirits as a qualified craft distillery, a state license tax of $1,000.

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

And the title is amended as follows:

Delete line 400

and insert:

income tax; amending s. 565.03, F.S.; specifying the annual state license tax for certain plants or branches of a specified distillery; providing an appropriation; providing

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LEGISLATIVE ACTION

Senate	.	House
Comm: RE	.	
03/04/2016	.	
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The Committee on Appropriations (Hukill and Lee) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Effective upon this act becoming a law, paragraph (b) of subsection (14) and paragraph (b) of subsection (15) of section 196.012, Florida Statutes, are amended to read:

196.012 Definitions.—For the purpose of this chapter, the following terms are defined as follows, except where the context clearly indicates otherwise:


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(14) "New business" means:

(b) Any business or organization located in an area that was designated as an enterprise zone pursuant to chapter 290 as of December 30, 2015, or brownfield area that first begins operation on a site clearly separate from any other commercial or industrial operation owned by the same business or organization.

(15) "Expansion of an existing business" means:

(b) Any business or organization located in an area that was designated as an enterprise zone pursuant to chapter 290 as of December 30, 2015, or brownfield area that increases operations on a site located within the same zone or area colocated with a commercial or industrial operation owned by the same business or organization under common control with the same business or organization.

Section 2. Effective upon this act becoming a law, subsections (5) and (11) of section 196.1995, Florida Statutes, are amended to read:

196.1995 Economic development ad valorem tax exemption.—

(5) Upon a majority vote in favor of such authority, the board of county commissioners or the governing authority of the municipality, at its discretion, by ordinance may exempt from ad valorem taxation up to 100 percent of the assessed value of all improvements to real property made by or for the use of a new business and of all tangible personal property of such new business, or up to 100 percent of the assessed value of all added improvements to real property made to facilitate the expansion of an existing business and of the net increase in all tangible personal property acquired to facilitate such expansion

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of an existing business. To qualify for this exemption, the improvements to real property must be made or the tangible personal property must be added or increased after approval by motion or resolution of the local governing body, subject to ordinance adoption or on or after the day the ordinance is adopted. However, if the authority to grant exemptions is approved in a referendum in which the ballot question contained in subsection (3) appears on the ballot, the authority of the board of county commissioners or the governing authority of the municipality to grant exemptions is limited solely to new businesses and expansions of existing businesses that are located in an area which was designated as an enterprise zone pursuant to chapter 290 as of December 30, 2015, or in a brownfield area. New businesses and expansions of existing businesses located in an area that was designated as an enterprise zone pursuant to chapter 290 as of December 30, 2015, but is not in a brownfield area, may qualify for the ad valorem tax exemption only if approved by motion or resolution of the local governing body, subject to ordinance adoption, or by ordinance, enacted before December 31, 2015. Property acquired to replace existing property shall not be considered to facilitate a business expansion. All data center equipment for a data center shall be exempt from ad valorem taxation for the term of the approved exemption. The exemption applies only to taxes levied by the respective unit of government granting the exemption. The exemption does not apply, however, to taxes levied for the payment of bonds or to taxes authorized by a vote of the electors pursuant to s. 9(b) or s. 12, Art. VII of the State Constitution. Any such exemption shall remain in effect


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for up to 10 years with respect to any particular facility, or up to 20 years for a data center, regardless of any change in the authority of the county or municipality to grant such exemptions or the expiration of the Enterprise Zone Act pursuant to chapter 290. The exemption shall not be prolonged or extended by granting exemptions from additional taxes or by virtue of any reorganization or sale of the business receiving the exemption.

(11) An ordinance granting an exemption under this section shall be adopted in the same manner as any other ordinance of the county or municipality and shall include the following:

(a) The name and address of the new business or expansion of an existing business to which the exemption is granted;

(b) The total amount of revenue available to the county or municipality from ad valorem tax sources for the current fiscal year, the total amount of revenue lost to the county or municipality for the current fiscal year by virtue of economic development ad valorem tax exemptions currently in effect, and the estimated revenue loss to the county or municipality for the current fiscal year attributable to the exemption of the business named in the ordinance;

(c) The period of time for which the exemption will remain in effect and the expiration date of the exemption, which may be any period of time up to 10 years, or up to 20 years for a data center; and

(d) A finding that the business named in the ordinance meets the requirements of s. 196.012(14) or (15).

Section 3. The amendments made by this act to ss. 196.012 and 196.1995, Florida Statutes, which relate to the ad valorem tax exemption for certain enterprise zone businesses are


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remedial in nature and apply retroactively to December 31, 2015, and the amendments to s. 196.1995, Florida Statutes, made by this act which relate to the ad valorem tax exemption for data center equipment apply upon this act becoming a law.

Section 4. Section 201.15, Florida Statutes, is amended to read:

201.15 Distribution of taxes collected.—All taxes collected under this chapter are hereby pledged and shall be first made available to make payments when due on bonds issued pursuant to s. 215.618 or s. 215.619, or any other bonds authorized to be issued on a parity basis with such bonds. Such pledge and availability for the payment of these bonds shall have priority over any requirement for the payment of service charges or costs of collection and enforcement under this section. All taxes collected under this chapter, except taxes distributed to the Land Acquisition Trust Fund pursuant to subsections (1) and (2), are subject to the service charge imposed in s. 215.20(1). Before distribution pursuant to this section, the Department of Revenue shall deduct amounts necessary to pay the costs of the collection and enforcement of the tax levied by this chapter. The costs and service charge may not be levied against any portion of taxes pledged to debt service on bonds to the extent that the costs and service charge are required to pay any amounts relating to the bonds. All of the costs of the collection and enforcement of the tax levied by this chapter and the service charge shall be available and transferred to the extent necessary to pay debt service and any other amounts payable with respect to bonds authorized before January 1, 2017 ~~2015~~, secured by revenues distributed pursuant to this section.

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All taxes remaining after deduction of costs shall be distributed as follows:

(1) Amounts necessary to make payments on bonds issued pursuant to s. 215.618 or s. 215.619, as provided under paragraphs (3)(a) and (b), or on any other bonds authorized to be issued on a parity basis with such bonds shall be deposited into the Land Acquisition Trust Fund.

(2) If the amounts deposited pursuant to subsection (1) are less than 33 percent of all taxes collected after first deducting the costs of collection, an amount equal to 33 percent of all taxes collected after first deducting the costs of collection, minus the amounts deposited pursuant to subsection (1), shall be deposited into the Land Acquisition Trust Fund.

(3) Amounts on deposit in the Land Acquisition Trust Fund shall be used in the following order:

(a) Payment of debt service or funding of debt service reserve funds, rebate obligations, or other amounts payable with respect to Florida Forever bonds issued pursuant to s. 215.618. The amount used for such purposes may not exceed $300 million in each fiscal year. It is the intent of the Legislature that all bonds issued to fund the Florida Forever Act be retired by December 31, 2040. Except for bonds issued to refund previously issued bonds, no series of bonds may be issued pursuant to this paragraph unless such bonds are approved and the debt service for the remainder of the fiscal year in which the bonds are issued is specifically appropriated in the General Appropriations Act.

(b) Payment of debt service or funding of debt service reserve funds, rebate obligations, or other amounts due with


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respect to Everglades restoration bonds issued pursuant to s. 215.619. Taxes distributed under paragraph (a) and this paragraph must be collectively distributed on a pro rata basis when the available moneys under this subsection are not sufficient to cover the amounts required under paragraph (a) and this paragraph.

Bonds issued pursuant to s. 215.618 or s. 215.619 are equally and ratably secured by moneys distributable to the Land Acquisition Trust Fund.

(4) After the required distributions to the Land Acquisition Trust Fund pursuant to subsections (1) and (2) and deduction of the service charge imposed pursuant to s. 215.20(1), the remainder shall be distributed as follows:

(a) The lesser of 24.18442 percent of the remainder or $541.75 million in each fiscal year shall be paid into the State Treasury to the credit of the State Transportation Trust Fund. Of such funds, $75 million for each fiscal year shall be transferred to the State Economic Enhancement and Development Trust Fund within the Department of Economic Opportunity. Notwithstanding any other law, the remaining amount credited to the State Transportation Trust Fund shall be used for:

1. Capital funding for the New Starts Transit Program, authorized by Title 49, U.S.C. s. 5309 and specified in s. 341.051, in the amount of 10 percent of the funds;

2. The Small County Outreach Program specified in s. 339.2818, in the amount of 10 percent of the funds;

3. The Strategic Intermodal System specified in ss. 339.61, 339.62, 339.63, and 339.64, in the amount of 75 percent of the

funds after deduction of the payments required pursuant to subparagraphs 1. and 2.; and

4. The Transportation Regional Incentive Program specified in s. 339.2819, in the amount of 25 percent of the funds after deduction of the payments required pursuant to subparagraphs 1. and 2. The first $60 million of the funds allocated pursuant to this subparagraph shall be allocated annually to the Florida Rail Enterprise for the purposes established in s. 341.303(5).

(b) The lesser of 0.1456 percent of the remainder or $3.25 million in each fiscal year shall be paid into the State Treasury to the credit of the Grants and Donations Trust Fund in the Department of Economic Opportunity to fund technical assistance to local governments.

Moneys distributed pursuant to paragraphs (a) and (b) may not be pledged for debt service unless such pledge is approved by referendum of the voters.

(c) Eleven and twenty-four hundredths percent of the remainder in each fiscal year shall be paid into the State Treasury to the credit of the State Housing Trust Fund. Of such funds, the first $35 million shall be transferred annually, subject to any distribution required under subsection (5), to the State Economic Enhancement and Development Trust Fund within the Department of Economic Opportunity. The remainder shall be used as follows:

1. Half of that amount shall be used for the purposes for which the State Housing Trust Fund was created and exists by law.

2. Half of that amount shall be paid into the State Treasury to the credit of the Local Government Housing Trust

Fund and used for the purposes for which the Local Government Housing Trust Fund was created and exists by law.

(d) Twelve and ninety-three hundredths percent of the remainder in each fiscal year shall be paid into the State Treasury to the credit of the State Housing Trust Fund. Of such funds, the first $40 million shall be transferred annually, subject to any distribution required under subsection (5), to the State Economic Enhancement and Development Trust Fund within the Department of Economic Opportunity. The remainder shall be used as follows:

1. Twelve and one-half percent of that amount shall be deposited into the State Housing Trust Fund and expended by the Department of Economic Opportunity and the Florida Housing Finance Corporation for the purposes for which the State Housing Trust Fund was created and exists by law.

2. Eighty-seven and one-half percent of that amount shall be distributed to the Local Government Housing Trust Fund and used for the purposes for which the Local Government Housing Trust Fund was created and exists by law. Funds from this category may also be used to provide for state and local services to assist the homeless.

(e) The lesser of 0.017 percent of the remainder or $300,000 in each fiscal year shall be paid into the State Treasury to the credit of the General Inspection Trust Fund to be used to fund oyster management and restoration programs as provided in s. 379.362(3).

(5) Distributions to the State Housing Trust Fund pursuant to paragraphs (4)(c) and (d) must be sufficient to cover amounts required to be transferred to the Florida Affordable Housing

Guarantee Program's annual debt service reserve and guarantee fund pursuant to s. 420.5092(6)(a) and (b) up to the amount required to be transferred to such reserve and fund based on the percentage distribution of documentary stamp tax revenues to the State Housing Trust Fund which is in effect in the 2004-2005 fiscal year.

(6) After the distributions provided in the preceding subsections, any remaining taxes shall be paid into the State Treasury to the credit of the General Revenue Fund.

Section 5. Paragraph (b) of subsection (1) of section 206.9825, Florida Statutes, is amended to read:

206.9825 Aviation fuel tax.—

(1)

(b) Any licensed wholesaler or terminal supplier that delivers aviation fuel to an air carrier offering transcontinental jet service and that, after January 1, 1996, but before July 1, 2016, increases the air carrier's Florida workforce by more than 1,000 ~~1000~~ percent and by 250 or more full-time equivalent employee positions, may receive a credit or refund as the ultimate vendor of the aviation fuel for the 6.9 cents excise tax previously paid, provided that the air carrier has no facility for fueling highway vehicles from the tank in which the aviation fuel is stored. In calculating the new or additional Florida full-time equivalent employee positions, any full-time equivalent employee positions of parent or subsidiary corporations which existed before January 1, 1996, shall not be counted toward reaching the Florida employment increase thresholds. The refund allowed under this paragraph is in furtherance of the goals and policies of the State Comprehensive


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Plan set forth in s. 187.201(16)(a), (b)1., 2., (17)(a), (b)1., 4., (19)(a), (b)5., (21)(a), (b)1., 2., 4., 7., 9., and 12.

Section 6. Effective July 1, 2019, section 206.9825, Florida Statutes, as amended by this act, is amended to read:

206.9825 Aviation fuel tax.—

(1)(a) Except as otherwise provided in this part, an excise tax of 4.27 ~~6.9~~ cents per gallon of aviation fuel is imposed upon every gallon of aviation fuel sold in this state, or brought into this state for use, upon which such tax has not been paid or the payment thereof has not been lawfully assumed by some person handling the same in this state. Fuel taxed pursuant to this part is ~~shall~~ not ~~be~~ subject to the taxes imposed by ss. 206.41(1)(d), (e), and (f) and 206.87(1)(b), (c), and (d).

~~(b) Any licensed wholesaler or terminal supplier that delivers aviation fuel to an air carrier offering transcontinental jet service and that, after January 1, 1996, but before July 1, 2016, increases the air carrier's Florida workforce by more than 1,000 percent and by 250 or more full-time equivalent employee positions, may receive a credit or refund as the ultimate vendor of the aviation fuel for the 6.9 cents excise tax previously paid, provided that the air carrier has no facility for fueling highway vehicles from the tank in which the aviation fuel is stored. In calculating the new or additional Florida full-time equivalent employee positions, any full-time equivalent employee positions of parent or subsidiary corporations which existed before January 1, 1996, shall not be counted toward reaching the Florida employment increase thresholds. The refund allowed under this paragraph is in~~

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~~furtherance of the goals and policies of the State Comprehensive Plan set forth in s. 187.201(16)(a), (b)1., 2., (17)(a), (b)1., 4., (19)(a), (b)5., (21)(a), (b)1., 2., 4., 7., 9., and 12.~~

~~(c) If, before July 1, 2001, the number of full-time equivalent employee positions created or added to the air carrier's Florida workforce falls below 250, the exemption granted pursuant to this section shall not apply during the period in which the air carrier has fewer than the 250 additional employees.~~

~~(d) The exemption taken by credit or refund pursuant to paragraph (b) shall apply only under the terms and conditions set forth therein. If any part of that paragraph is judicially declared to be unconstitutional or invalid, the validity of any provisions taxing aviation fuel shall not be affected and all fuel exempted pursuant to paragraph (b) shall be subject to tax as if the exemption was never enacted. Every person benefiting from such exemption shall be liable for and make payment of all taxes for which a credit or refund was granted.~~

(b) ~~(e)~~1. Sales of aviation fuel to, and exclusively used for flight training through a school of aeronautics or college of aviation by, a college based in this state which is a tax-exempt organization under s. 501(c)(3) of the Internal Revenue Code or a university based in this state are exempt from the tax imposed by this part if the college or university:

a. Is accredited by or has applied for accreditation by the Aviation Accreditation Board International; and

b. Offers a graduate program in aeronautical or aerospace engineering or offers flight training through a school of aeronautics or college of aviation.


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2. A licensed wholesaler or terminal supplier that sells aviation fuel to a college or university qualified under this paragraph and that does not collect the aviation fuel tax from the college or university on such sale may receive an ultimate vendor credit for the 4.27-cent ~~6.9-cent~~ excise tax previously paid on the aviation fuel delivered to such college or university.

3. A college or university qualified under this paragraph which purchases aviation fuel from a retail supplier, including a fixed-base operator, and pays the 4.27-cent ~~6.9-cent~~ excise tax on the purchase may apply for and receive a refund of the aviation fuel tax paid.

(2)(a) An excise tax of 4.27 ~~6.9~~ cents per gallon is imposed on each gallon of kerosene in the same manner as prescribed for diesel fuel under ss. 206.87(2) and 206.872.

(b) The exemptions provided by s. 206.874 shall apply to kerosene if the dyeing and marking requirements of s. 206.8741 are met.

(c) Kerosene prepackaged in containers of 5 gallons or less and labeled "Not for Use in a Motor Vehicle" is exempt from the taxes imposed by this part when sold for home heating and cooking. Packagers may qualify for a refund of taxes previously paid, as prescribed by the department.

(d) Sales of kerosene in quantities of 5 gallons or less by a person not licensed under this chapter who has no facilities for placing kerosene in the fuel supply system of a motor vehicle may qualify for a refund of taxes paid. Refunds of taxes paid shall be limited to sales for use in home heating or cooking and shall be documented as prescribed by the department.

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(3) An excise tax of 4.27 ~~6.9~~ cents per gallon is imposed on each gallon of aviation gasoline in the manner prescribed by paragraph (2)(a). However, the exemptions allowed by paragraph (2)(b) do not apply to aviation gasoline.

(4) Any licensed wholesaler or terminal supplier that delivers undyed kerosene to a residence for home heating or cooking may receive a credit or refund as the ultimate vendor of the kerosene for the 4.27-cent ~~6.9 cents~~ excise tax previously paid.

(5) Any licensed wholesaler or terminal supplier that delivers undyed kerosene to a retail dealer not licensed as a wholesaler or terminal supplier for sale as a home heating or cooking fuel may receive a credit or refund as the ultimate vendor of the kerosene for the 4.27-cent ~~6.9 cents~~ excise tax previously paid, provided the retail dealer has no facility for fueling highway vehicles from the tank in which the kerosene is stored.

(6) Any person who fails to meet the requirements of this section is subject to a backup tax as provided by s. 206.873.

Section 7. Section 210.13, Florida Statutes, is amended to read:

210.13 Determination of tax on failure to file a return.—If a dealer or other person required to remit the tax under this part fails to file any return required under this part~~,~~ or, having filed an incorrect or insufficient return, fails to file a correct or sufficient return, as the case may require, within 10 days after the giving of notice to the dealer or other person by the Division of Alcoholic Beverages and Tobacco that such return or corrected or sufficient return is required, the

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division shall determine the amount of tax due by such dealer or other person any time within 3 years after the making of the earliest sale included in such determination and give written notice of such determination to such dealer or other person. Such a determination shall finally and irrevocably fix the tax unless the dealer or other person against whom it is assessed ~~shall~~, within 30 days after the giving of notice of such determination, applies ~~apply~~ to the division for a hearing. Judicial review shall not be granted unless the amount of tax stated in the decision, with penalties thereon, if any, is ~~shall have been~~ first deposited with the division, and an undertaking or bond filed in the court in which such cause may be pending in such amount and with such sureties as the court shall approve, conditioned that if such proceeding be dismissed or the decision of the division confirmed, the applicant for review will pay all costs and charges which may accrue against the applicant in the prosecution of the proceeding. At the option of the applicant, such undertaking or bond may be in an additional sum sufficient to cover the tax, penalties, costs, and charges aforesaid, in which event the applicant shall not be required to pay such tax and penalties precedent to the granting of such review by such court.

Section 8. Subsections (1) through (13) of section 210.25, Florida Statutes, are renumbered as subsections (2) through (14), respectively, a new subsection (1) is added to that section, and present subsection (13) of that section is amended, to read:

210.25 Definitions.—As used in this part:

(1) "Affiliate" means a manufacturer or other person that

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directly or indirectly, through one or more intermediaries, controls or is controlled by a distributor or that is under common control with a distributor.

(14) ~~(13)~~ "Wholesale sales price" means the sum of:

(a) The full price paid by the distributor to acquire the tobacco products, including charges by the seller for the cost of materials, the cost of labor and service, charges for transportation and delivery, the federal excise tax, and any other charge, even if the charge is listed as a separate item on the invoice paid by the ~~established price for which a manufacturer sells a tobacco product to a~~ distributor, exclusive of any diminution by volume or other discounts, including a discount provided to a distributor by an affiliate; and

(b) The federal excise tax paid by the distributor on the tobacco products if the tax is not included in the full price under paragraph (a).

Section 9. Paragraph (a) of subsection (1) of section 212.05, Florida Statutes, is amended to read:

212.05 Sales, storage, use tax.—It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible personal property at retail in this state, including the business of making mail order sales, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this state any item or article of tangible personal property as defined herein and who leases or rents such property within the state.

(1) For the exercise of such privilege, a tax is levied on each taxable transaction or incident, which tax is due and

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payable as follows:

(a)1.a. At the rate of 6 percent of the sales price of each item or article of tangible personal property when sold at retail in this state, computed on each taxable sale for the purpose of remitting the amount of tax due the state, and including each and every retail sale.

b. Each occasional or isolated sale of an aircraft, boat, mobile home, or motor vehicle of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Government shall be subject to tax at the rate provided in this paragraph. The department shall by rule adopt any nationally recognized publication for valuation of used motor vehicles as the reference price list for any used motor vehicle which is required to be licensed pursuant to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any party to an occasional or isolated sale of such a vehicle reports to the tax collector a sales price which is less than 80 percent of the average loan price for the specified model and year of such vehicle as listed in the most recent reference price list, the tax levied under this paragraph shall be computed by the department on such average loan price unless the parties to the sale have provided to the tax collector an affidavit signed by each party, or other substantial proof, stating the actual sales price. Any party to such sale who reports a sales price less than the actual sales price is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. The department shall collect or attempt to collect from such party any delinquent sales taxes. In addition, such party shall pay any tax due and any penalty

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and interest assessed plus a penalty equal to twice the amount of the additional tax owed. Notwithstanding any other provision of law, the Department of Revenue may waive or compromise any penalty imposed pursuant to this subparagraph.

2. This paragraph does not apply to the sale of a boat or aircraft by or through a registered dealer under this chapter to a purchaser who, at the time of taking delivery, is a nonresident of this state, does not make his or her permanent place of abode in this state, and is not engaged in carrying on in this state any employment, trade, business, or profession in which the boat or aircraft will be used in this state, or is a corporation none of the officers or directors of which is a resident of, or makes his or her permanent place of abode in, this state, or is a noncorporate entity that has no individual vested with authority to participate in the management, direction, or control of the entity's affairs who is a resident of, or makes his or her permanent abode in, this state. For purposes of this exemption, either a registered dealer acting on his or her own behalf as seller, a registered dealer acting as broker on behalf of a seller, or a registered dealer acting as broker on behalf of the purchaser may be deemed to be the selling dealer. This exemption shall not be allowed unless:

a. The purchaser removes a qualifying boat, as described in sub-subparagraph f., from the state within 90 days after the date of purchase or extension, or the purchaser removes a nonqualifying boat or an aircraft from this state within 10 days after the date of purchase or, when the boat or aircraft is repaired or altered, within 20 days after completion of the repairs or alterations; or if the aircraft will be registered in

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a foreign jurisdiction and:

(I) Application for the aircraft's registration is properly filed with a civil airworthiness authority of a foreign jurisdiction within 10 days after the date of purchase;

(II) The purchaser removes the aircraft from the state to a foreign jurisdiction within 10 days after the date the aircraft is registered by the applicable foreign airworthiness authority; and

(III) The aircraft is operated in the state solely to remove it from the state to a foreign jurisdiction.

For purposes of this sub-subparagraph, the term "foreign jurisdiction" means any jurisdiction outside of the United States or any of its territories;

b. The purchaser, within 30 days from the date of departure, provides ~~shall provide~~ the department with written proof that the purchaser licensed, registered, titled, or documented the boat or aircraft outside the state. If such written proof is unavailable, within 30 days the purchaser shall provide proof that the purchaser applied for such license, title, registration, or documentation. The purchaser shall forward to the department proof of title, license, registration, or documentation upon receipt;

c. The purchaser, within 10 days of removing the boat or aircraft from Florida, furnishes ~~shall furnish~~ the department with proof of removal in the form of receipts for fuel, dockage, slippage, tie-down, or hangaring from outside of Florida. The information so provided must clearly and specifically identify the boat or aircraft;


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d. The selling dealer, within 5 days of the date of sale, provides ~~shall provide~~ to the department a copy of the sales invoice, closing statement, bills of sale, and the original affidavit signed by the purchaser attesting that he or she has read the provisions of this section;

e. The seller makes a copy of the affidavit a part of his or her record for as long as required by s. 213.35; and

f. Unless the nonresident purchaser of a boat of 5 net tons of admeasurement or larger intends to remove the boat from this state within 10 days after the date of purchase or when the boat is repaired or altered, within 20 days after completion of the repairs or alterations, the nonresident purchaser applies ~~shall apply~~ to the selling dealer for a decal which authorizes 90 days after the date of purchase for removal of the boat. The nonresident purchaser of a qualifying boat may apply to the selling dealer within 60 days after the date of purchase for an extension decal that authorizes the boat to remain in this state for an additional 90 days, but not more than a total of 180 days, before the nonresident purchaser is required to pay the tax imposed by this chapter. The department is authorized to issue decals in advance to dealers. The number of decals issued in advance to a dealer shall be consistent with the volume of the dealer's past sales of boats which qualify under this sub-subparagraph. The selling dealer or his or her agent shall mark and affix the decals to qualifying boats in the manner prescribed by the department, before ~~prior to~~ delivery of the boat.

(I) The department is hereby authorized to charge dealers a fee sufficient to recover the costs of decals issued, except the

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extension decal shall cost $425.

(II) The proceeds from the sale of decals will be deposited into the administrative trust fund.

(III) Decals shall display information to identify the boat as a qualifying boat under this sub-subparagraph, including, but not limited to, the decal's date of expiration.

(IV) The department is authorized to require dealers who purchase decals to file reports with the department and may prescribe all necessary records by rule. All such records are subject to inspection by the department.

(V) Any dealer or his or her agent who issues a decal falsely, fails to affix a decal, mismarks the expiration date of a decal, or fails to properly account for decals will be considered prima facie to have committed a fraudulent act to evade the tax and will be liable for payment of the tax plus a mandatory penalty of 200 percent of the tax, and shall be liable for fine and punishment as provided by law for a conviction of a misdemeanor of the first degree, as provided in s. 775.082 or s. 775.083.

(VI) Any nonresident purchaser of a boat who removes a decal before ~~prior to~~ permanently removing the boat from the state, or defaces, changes, modifies, or alters a decal in a manner affecting its expiration date before ~~prior to~~ its expiration, or who causes or allows the same to be done by another, will be considered prima facie to have committed a fraudulent act to evade the tax and will be liable for payment of the tax plus a mandatory penalty of 200 percent of the tax, and shall be liable for fine and punishment as provided by law for a conviction of a misdemeanor of the first degree, as

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provided in s. 775.082 or s. 775.083.

(VII) The department is authorized to adopt rules necessary to administer and enforce this subparagraph and to publish the necessary forms and instructions.

(VIII) The department is hereby authorized to adopt emergency rules pursuant to s. 120.54(4) to administer and enforce the provisions of this subparagraph.

If the purchaser fails to remove the qualifying boat from this state within the maximum 180 days after purchase or a nonqualifying boat or an aircraft from this state within 10 days after purchase or, when the boat or aircraft is repaired or altered, within 20 days after completion of such repairs or alterations, or permits the boat or aircraft to return to this state within 6 months from the date of departure, except as provided in s. 212.08(7)(fff), or if the purchaser fails to furnish the department with any of the documentation required by this subparagraph within the prescribed time period, the purchaser shall be liable for use tax on the cost price of the boat or aircraft and, in addition thereto, payment of a penalty to the Department of Revenue equal to the tax payable. This penalty shall be in lieu of the penalty imposed by s. 212.12(2). The maximum 180-day period following the sale of a qualifying boat tax-exempt to a nonresident may not be tolled for any reason.

Section 10. Paragraph (c) of subsection (1) of section 212.06, Florida Statutes, is amended to read:

212.06 Sales, storage, use tax; collectible from dealers; “dealer” defined; dealers to collect from purchasers;

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legislative intent as to scope of tax.—

(1)

(c)1. Notwithstanding the provisions of paragraph (b), the use tax on asphalt manufactured for one's own use shall be calculated with respect to paragraph (b) only upon the cost of materials which become a component part or which are an ingredient of the finished asphalt and upon the cost of the transportation of such components and ingredients. In addition, an indexed tax of 38 cents per ton of such manufactured asphalt shall be due at the same time and in the same manner as taxes due pursuant to paragraph (b). Beginning July 1, 1989, the indexed tax shall be adjusted each July 1 to an amount, rounded to the nearest cent, equal to the product of 38 cents multiplied by a fraction, the numerator of which is the annual average of the "materials and components for construction" series of the producer price index, as calculated and published by the United States Department of Labor, Bureau of Statistics, for the previous calendar year, and the denominator of which is the annual average of said series for calendar year 1988.

2.a. Beginning July 1, 1999, the indexed tax imposed by this paragraph on manufactured asphalt which is used for any federal, state, or local government public works project shall be reduced by 20 percent.

b. Beginning July 1, 2000, the indexed tax imposed by this paragraph on manufactured asphalt which is used for any federal, state, or local government public works project shall be reduced by 40 percent.

c. Beginning July 1, 2016, the indexed tax imposed by this paragraph on manufactured asphalt which is used for any federal,

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state, or local government public works project shall be reduced by 60 percent.

d. Beginning July 1, 2017, the indexed tax imposed by this paragraph on manufactured asphalt which is used for any federal, state, or local government public works project shall be reduced by 80 percent.

e. Beginning July 1, 2018, manufactured asphalt used for any federal, state, or local government public works project shall be exempt from the indexed tax imposed by this paragraph.

Section 11. Paragraphs (n) and (kkk) of subsection (7) of section 212.08, Florida Statutes, are amended to read:

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

(7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any entity by this chapter do not inure to any transaction that is otherwise taxable under this chapter when payment is made by a representative or employee of the entity by any means, including, but not limited to, cash, check, or credit card, even when that representative or employee is subsequently reimbursed by the entity. In addition, exemptions provided to any entity by this subsection do not inure to any transaction that is otherwise taxable under this chapter unless the entity has obtained a sales tax exemption certificate from the department or the entity obtains or provides other documentation as required by the department. Eligible purchases or leases made

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with such a certificate must be in strict compliance with this subsection and departmental rules, and any person who makes an exempt purchase with a certificate that is not in strict compliance with this subsection and the rules is liable for and shall pay the tax. The department may adopt rules to administer this subsection.

(n) *Veterans' organizations.*—

1. There are exempt from the tax imposed by this chapter transactions involving sales or leases to qualified veterans' organizations and their auxiliaries when used in carrying on their customary veterans' organization activities or sales of food or drink by qualified veterans' organizations in connection with customary veterans' organization activities to members of qualified veterans' organizations.

2. As used in this paragraph, the term "veterans' organizations" means nationally chartered or recognized veterans' organizations, including, but not limited to, the American Legion, Veterans of Foreign Wars of the United States, Florida chapters of the Paralyzed Veterans of America, Catholic War Veterans of the U.S.A., Jewish War Veterans of the U.S.A., and the Disabled American Veterans, Department of Florida, Inc., which hold current exemptions from federal income tax under s. 501(c)(4) or (19) of the Internal Revenue Code of 1986, as amended.

(kkk) *Certain machinery and equipment.*—

1. Industrial machinery and equipment purchased by eligible manufacturing businesses which is used at a fixed location in ~~within~~ this state~~, or a mixer drum affixed to a mixer truck which is used at any location within this state to mix, agitate,~~

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~~and transport freshly mixed concrete in a plastic state,~~ for the manufacture, processing, compounding, or production of items of tangible personal property for sale is ~~shall be~~ exempt from the tax imposed by this chapter. ~~Parts and labor required to affix a mixer drum exempt under this paragraph to a mixer truck are also exempt.~~ If, at the time of purchase, the purchaser furnishes the seller with a signed certificate certifying the purchaser's entitlement to exemption pursuant to this paragraph, the seller is not required to collect ~~is relieved of the responsibility for collecting~~ the tax on the sale of such items, and the department shall look solely to the purchaser for recovery of the tax if it determines that the purchaser was not entitled to the exemption.

2. For purposes of this paragraph, the term:

a. "Eligible manufacturing business" means any business whose primary business activity at the location where the industrial machinery and equipment is located is within the industries classified under NAICS codes 31, 32, ~~and~~ 33, and 423930.

b. "Eligible postharvest activity business" means a business whose primary business activity, at the location where the postharvest machinery and equipment is located, is within the industries classified under NAICS code 115114.

c. ~~As used in this subparagraph,~~ "NAICS" means those classifications contained in the North American Industry Classification System, as published in 2007 by the Office of Management and Budget, Executive Office of the President.

d.~~b.~~ "Primary business activity" means an activity representing more than 50 percent of the activities conducted at the location where the industrial machinery and equipment or


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postharvest machinery and equipment is located.

e.~~c.~~ "Industrial machinery and equipment" means tangible personal property or other property that has a depreciable life of 3 years or more and that is used as an integral part in the manufacturing, processing, compounding, or production of tangible personal property for sale. The term includes tangible personal property or other property that has a depreciable life of 3 years or more which is used as an integral part in the recycling of metals for sale. A building and its structural components are not industrial machinery and equipment unless the building or structural component is so closely related to the industrial machinery and equipment that it houses or supports that the building or structural component can be expected to be replaced when the machinery and equipment are replaced. Heating and air conditioning systems are not industrial machinery and equipment unless the sole justification for their installation is to meet the requirements of the production process, even though the system may provide incidental comfort to employees or serve, to an insubstantial degree, nonproduction activities. The term includes parts and accessories for industrial machinery and equipment only to the extent that the parts and accessories are purchased before ~~prior to~~ the date the machinery and equipment are placed in service.

f. "Postharvest activities" means services performed on crops, after their harvest, with the intent of preparing them for market or further processing. Postharvest activities include, but are not limited to, crop cleaning, sun drying, shelling, fumigating, curing, sorting, grading, packing, and cooling.

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g. "Postharvest machinery and equipment" means tangible personal property or other property with a depreciable life of 3 years or more which is used primarily for postharvest activities. A building and its structural components are not postharvest industrial machinery and equipment unless the building or structural component is so closely related to the postharvest machinery and equipment that it houses or supports that the building or structural component can be expected to be replaced when the postharvest machinery and equipment is replaced. Heating and air conditioning systems are not postharvest machinery and equipment unless the sole justification for their installation is to meet the requirements of the postharvest activities process, even though the system may provide incidental comfort to employees or serve, to an insubstantial degree, nonpostharvest activities.

3. Postharvest machinery and equipment purchased by an eligible postharvest activity business which is used at a fixed location in this state is exempt from the tax imposed by this chapter. All labor charges for the repair of, and parts and materials used in the repair of and incorporated into, such postharvest machinery and equipment are also exempt. If, at the time of purchase, the purchaser furnishes the seller with a signed certificate certifying the purchaser's entitlement to exemption pursuant to this subparagraph, the seller is not required to collect the tax on the sale of such items, and the department shall look solely to the purchaser for recovery of the tax if it determines that the purchaser was not entitled to the exemption.

4.~~3.~~ A mixer drum affixed to a mixer truck which is used at

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any location in this state to mix, agitate, and transport freshly mixed concrete in a plastic state for sale is exempt from the tax imposed by this chapter. Parts and labor required to affix a mixer drum exempt under this subparagraph to a mixer truck are also exempt. If, at the time of purchase, the purchaser furnishes the seller with a signed certificate certifying the purchaser's entitlement to exemption pursuant to this subparagraph, the seller is not required to collect the tax on the sale of such items, and the department shall look solely to the purchaser for recovery of the tax if it determines that the purchaser was not entitled to the exemption. This subparagraph ~~paragraph~~ is repealed April 30, 2017.

Section 12. Effective upon this act becoming a law and operating retroactively to January 1, 2016, paragraph (n) of subsection (1) and paragraph (c) of subsection (2) of section 220.03, Florida Statutes, are amended to read:

220.03 Definitions.—

(1) SPECIFIC TERMS.—When used in this code, and when not otherwise distinctly expressed or manifestly incompatible with the intent thereof, the following terms shall have the following meanings:

(n) "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended and in effect on January 1, 2016 ~~2015~~, except as provided in subsection (3).

(2) DEFINITIONAL RULES.—When used in this code and neither otherwise distinctly expressed nor manifestly incompatible with the intent thereof:

(c) Any term used in this code has the same meaning as when used in a comparable context in the Internal Revenue Code and

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other statutes of the United States relating to federal income taxes, as such code and statutes are in effect on January 1, 2016 ~~2015~~. However, if subsection (3) is implemented, the meaning of a term shall be taken at the time the term is applied under this code.

Section 13. Effective upon this act becoming a law and operating retroactively to January 1, 2016, paragraph (e) of subsection (1) of section 220.13, Florida Statutes, is amended to read:

220.13 "Adjusted federal income" defined.—

(1) The term "adjusted federal income" means an amount equal to the taxpayer's taxable income as defined in subsection (2), or such taxable income of more than one taxpayer as provided in s. 220.131, for the taxable year, adjusted as follows:

(e) *Adjustments related to federal acts.*—Taxpayers shall be required to make the adjustments prescribed in this paragraph for Florida tax purposes with respect to certain tax benefits received pursuant to the Economic Stimulus Act of 2008, the American Recovery and Reinvestment Act of 2009, the Small Business Jobs Act of 2010, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, the American Taxpayer Relief Act of 2012, ~~and~~ the Tax Increase Prevention Act of 2014, and the Consolidated Appropriations Act, 2016.

1. There shall be added to such taxable income an amount equal to 100 percent of any amount deducted for federal income tax purposes as bonus depreciation for the taxable year pursuant to ss. 167 and 168(k) of the Internal Revenue Code of 1986, as


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amended by s. 103 of Pub. L. No. 110-185, s. 1201 of Pub. L. No. 111-5, s. 2022 of Pub. L. No. 111-240, s. 401 of Pub. L. No. 111-312, s. 331 of Pub. L. No. 112-240, ~~and~~ s. 125 of Pub. L. No. 113-295, and s. 143 of Division Q of Pub. L. No. 114-113, for property placed in service after December 31, 2007, and before January 1, 2021 ~~2015~~. For the taxable year and for each of the 6 subsequent taxable years, there shall be subtracted from such taxable income an amount equal to one-seventh of the amount by which taxable income was increased pursuant to this subparagraph, notwithstanding any sale or other disposition of the property that is the subject of the adjustments and regardless of whether such property remains in service in the hands of the taxpayer.

2. There shall be added to such taxable income an amount equal to 100 percent of any amount in excess of $128,000 deducted for federal income tax purposes for the taxable year pursuant to s. 179 of the Internal Revenue Code of 1986, as amended by s. 102 of Pub. L. No. 110-185, s. 1202 of Pub. L. No. 111-5, s. 2021 of Pub. L. No. 111-240, s. 402 of Pub. L. No. 111-312, s. 315 of Pub. L. No. 112-240, and s. 127 of Pub. L. No. 113-295, for taxable years beginning after December 31, 2007, and before January 1, 2015. For the taxable year and for each of the 6 subsequent taxable years, there shall be subtracted from such taxable income one-seventh of the amount by which taxable income was increased pursuant to this subparagraph, notwithstanding any sale or other disposition of the property that is the subject of the adjustments and regardless of whether such property remains in service in the hands of the taxpayer.

3. There shall be added to such taxable income an amount equal to the amount of deferred income not included in such taxable income pursuant to s. 108(i)(1) of the Internal Revenue Code of 1986, as amended by s. 1231 of Pub. L. No. 111-5. There shall be subtracted from such taxable income an amount equal to the amount of deferred income included in such taxable income pursuant to s. 108(i)(1) of the Internal Revenue Code of 1986, as amended by s. 1231 of Pub. L. No. 111-5.

4. Subtractions available under this paragraph may be transferred to the surviving or acquiring entity following a merger or acquisition and used in the same manner and with the same limitations as specified by this paragraph.

5. The additions and subtractions specified in this paragraph are intended to adjust taxable income for Florida tax purposes, and, notwithstanding any other provision of this code, such additions and subtractions shall be permitted to change a taxpayer’s net operating loss for Florida tax purposes.

Section 14. (1) The Department of Revenue is authorized, and all conditions are deemed to be met, to adopt emergency rules pursuant to s. 120.54(4), Florida Statutes, for the purpose of implementing the amendments made by this act to s. 220.03(1)(n) and (2)(c), Florida Statutes, and s. 220.13(1)(e), Florida Statutes.

(2) Notwithstanding any other provision of law, emergency rules adopted pursuant to subsection (1) are effective for 6 months after adoption and may be renewed during the pendency of procedures to adopt permanent rules addressing the subject of the emergency rules.

(3) This section expires January 1, 2020.

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Section 15. Effective upon this act becoming a law and applicable to taxable years beginning on or after January 1, 2016, section 220.222, Florida Statutes, is amended to read:

220.222 Returns; time and place for filing.—

(1)(a) Returns required by this code shall be filed with the office of the department in Leon County or at such other place as the department may by regulation prescribe. All returns required for a DISC (Domestic International Sales Corporation) under paragraph 6011(c)(2) of the Internal Revenue Code shall be filed on or before the 1st day of the 10th month after ~~following~~ the close of the taxable year; all partnership information returns shall be filed on or before the 1st day of the 4th ~~5th~~ month after ~~following~~ the close of the taxable year; and all other returns shall be filed on or before the 1st day of the 5th ~~4th~~ month after ~~following~~ the close of the taxable year or the 15th day after ~~following~~ the due date, without extension, for the filing of the related federal return for the taxable year, unless under subsection (2) one or more extensions of time, not to exceed 6 months in the aggregate, for any such filing is granted.

(b) Notwithstanding paragraph (a), for taxable years beginning before January 1, 2026, returns of taxpayers with a taxable year ending on June 30 shall be filed on or before the 1st day of the 4th month after the close of the taxable year or the 15th day after the due date, without extension, for the filing of the related federal return for the taxable year, unless under subsection (2) one or more extensions of time for any such filing is granted.

(2)(a) When a taxpayer has been granted an extension or

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extensions of time within which to file its federal income tax return for any taxable year, and if the requirements of s. 220.32 are met, the filing of a request for such extension or extensions with the department shall automatically extend the due date of the return required under this code until ~~15 days after the expiration of the federal extension or until~~ the expiration of 6 months from the original due date~~, whichever first occurs~~.

(b) The department may grant an extension or extensions of time for the filing of any return required under this code upon receiving a prior request therefor if good cause for an extension is shown. However, the aggregate extensions of time under paragraph ~~paragraphs~~ (a) and this paragraph must ~~(b) shall~~ not exceed 6 months. An ~~No~~ extension granted under this paragraph is not ~~shall be~~ valid unless the taxpayer complies with ~~the requirements of~~ s. 220.32.

(c) For purposes of this subsection, a taxpayer is not in compliance with ~~the requirements of~~ s. 220.32 if the taxpayer underpays the required payment by more than the greater of $2,000 or 30 percent of the tax shown on the return when filed.

(d) For taxable years beginning before January 1, 2026, the 6-month time period in paragraphs (a) and (b) shall be 7 months for taxpayers with a taxable year ending June 30 and shall be 5 months for taxpayers with a taxable year ending December 31.

Section 16. Effective upon this act becoming a law and applicable to taxable years beginning on or after January 1, 2017, section 220.241, Florida Statutes, is amended to read:

220.241 Declaration; time for filing.—

(1) A declaration of estimated tax under this code shall be

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filed before the 1st day of the 6th ~~5th~~ month of each taxable year, except that if the minimum tax requirement of s. 220.24(1) is first met:

(a) ~~(1)~~ After the 3rd month and before the 6th month of the taxable year, the declaration shall be filed before the 1st day of the 7th month;

(b) ~~(2)~~ After the 5th month and before the 9th month of the taxable year, the declaration shall be filed before the 1st day of the 10th month; or

(c) ~~(3)~~ After the 8th month and before the 12th month of the taxable year, the declaration shall be filed for the taxable year before the 1st day of the succeeding taxable year.

(2) Notwithstanding subsection (1), for taxable years beginning before January 1, 2026, taxpayers with a taxable year ending on June 30 shall file declarations before the 1st day of the 5th month of each taxable year, unless paragraph (1)(a), paragraph (1)(b), or paragraph (1)(c) applies.

Section 17. Effective upon this act becoming a law and applicable to taxable years beginning on or after January 1, 2017, subsection (1) of section 220.33, Florida Statutes, is amended to read:

220.33 Payments of estimated tax.—A taxpayer required to file a declaration of estimated tax pursuant to s. 220.24 shall pay such estimated tax as follows:

(1) If the declaration is required to be filed before the 1st day of the 6th ~~5th~~ month of the taxable year, the estimated tax shall be paid in four equal installments. The first installment shall be paid at the time of the required filing of the declaration; the second and third installments shall be paid

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before the 1st day of the 7th month and before the 1st day of the 10th month of the taxable year, respectively; and the fourth installment shall be paid before the 1st day of the next taxable year.

Section 18. Effective upon this act becoming a law and applicable to taxable years beginning on or after January 1, 2017, paragraph (c) of subsection (2) of section 220.34, Florida Statutes, is amended to read:

220.34 Special rules relating to estimated tax.—

(2) No interest or penalty shall be due or paid with respect to a failure to pay estimated taxes except the following:

(c) The period of the underpayment for which interest and penalties apply shall commence on the date the installment was required to be paid, determined without regard to any extensions of time, and shall terminate on the earlier of the following dates:

1. The 1st ~~first~~ day of the 5th ~~fourth~~ month after ~~following~~ the close of the taxable year;

2. For taxable years beginning before January 1, 2026, for taxpayers with a taxable year ending June 30, the 1st day of the 4th month after the close of the taxable year; or

3.~~2.~~ With respect to any portion of the underpayment, the date on which such portion is paid.

For purposes of this paragraph, a payment of estimated tax on any installment date shall be considered a payment of any previous underpayment only to the extent such payment exceeds the amount of the installment determined under subparagraph

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(b)1. for such installment date.

Section 19. Subsections (1) and (2) of section 561.121, Florida Statutes, are amended to read:

561.121 Deposit of revenue.—

(1) All state funds collected pursuant to ss. 563.05, 564.06, 565.02(9), and 565.12 shall be paid into the State Treasury and disbursed in the following manner:

(a) Two percent of monthly collections of the excise taxes on alcoholic beverages established in ss. 563.05, 564.06, and 565.12 and the tax on alcoholic beverages, cigarettes, and other tobacco products established in s. 565.02(9) shall be deposited into the Alcoholic Beverage and Tobacco Trust Fund to meet the division's appropriation for the state fiscal year.

(b) The remainder of the funds collected pursuant to ss. 563.05, 564.06, and 565.12 and the tax on alcoholic beverages, cigarettes, and other tobacco products established in s. 565.02(9) shall be credited to the General Revenue Fund.

(2) The unencumbered balance in the Alcoholic Beverage and Tobacco Trust Fund at the close of each fiscal year may not exceed $2 million. These funds shall be held in reserve for use in the event that trust fund revenues are unable to meet the division's appropriation for the next fiscal year. In the event of a revenue shortfall, these funds shall be spent pursuant to subsection (3). Notwithstanding subsection (1), if the unencumbered balance on June 30 in any fiscal year is less than $2 million, the department is authorized to retain the difference between the June 30 unencumbered balance in the trust fund and $2 million from the July collections of state funds collected pursuant to ss. 563.05, 564.06, and 565.12 and the tax

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on alcoholic beverages, cigarettes, and other tobacco products established in s. 565.02(9). Any unencumbered funds in excess of reserve funds shall be transferred unallocated to the General Revenue Fund by August 31 of the next fiscal year.

Section 20. Subsection (4) of section 564.06, Florida Statutes, is amended to read:

564.06 Excise taxes on wines and beverages.—

(4) As to cider, which is made from the normal alcoholic fermentation of the juice of sound, ripe apples or pears, including but not limited to flavored, sparkling, or carbonated cider and cider made from condensed apple or pear must, that contain not less than one-half of 1 percent of alcohol by volume and not more than 7 percent of alcohol by volume, there shall be paid by all manufacturers and distributors a tax at the rate of $.89 per gallon. With the sole exception of the excise tax rate, cider shall be considered wine and shall be subject to the provisions of this chapter.

Section 21. Subsection (9) of section 565.02, Florida Statutes, is amended to read:

565.02 License fees; vendors; clubs; caterers; and others.—

(9)(a) As used in this subsection, the term:

1. "Annual capacity" means an amount equal to the number of lower berths on a vessel multiplied by the number of embarkations of that vessel during a calendar year.

2. "Base rate" means an amount equal to the total taxes and surcharges paid by all permittees pursuant to the Beverage Law and chapter 210 for sales of alcoholic beverages, cigarettes, and other tobacco products taking place between January 1, 2015, and December 31, 2015, inclusive, divided by the sum of the


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annual capacities of all vessels permitted pursuant to former s. 565.02(9), Florida Statutes 2015, for calendar year 2015.

3. "Embarkation" means an instance in which a vessel departs from a port in this state.

4. "Lower berth" means a bed that is:

a. Affixed to a vessel;

b. Not located above another bed in the same cabin; and

c. Located in a cabin not in use by employees of the operator of the vessel or its contractors.

5. "Quarterly capacity" means an amount equal to the number of lower berths on a vessel multiplied by the number of embarkations of that vessel during a calendar quarter.

(b) It is the finding of the Legislature that passenger vessels engaged exclusively in foreign commerce are susceptible to a distinct and separate classification for purposes of the sale of alcoholic beverages, cigarettes, and other tobacco products under the Beverage Law and chapter 210.

(c) Upon the filing of an application and payment of an annual fee of $1,100, the director is authorized to issue a permit authorizing the operator, or, if applicable, his or her concessionaire, of a passenger vessel which has cabin-berth capacity for at least 75 passengers, and which is engaged exclusively in foreign commerce, to sell alcoholic beverages, cigarettes, and other tobacco products on the vessel for consumption on board only:

1.~~(a)~~ For no more than ~~During a period not in excess of~~ 24 hours before ~~prior to~~ departure while the vessel is moored at a dock or wharf in a port of this state; or

2.~~(b)~~ At any time while the vessel is located in Florida

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territorial waters and is in transit to or from international waters.

One such permit shall be required for each such vessel and shall name the vessel for which it is issued. No license shall be required or tax levied by any municipality or county for the privilege of selling beverages, cigarettes, or other tobacco products for consumption on board such vessels. The beverages, cigarettes, or other tobacco products so sold may be purchased outside the state by the permittee, and the same shall not be considered as imported for the purposes of s. 561.14(3) solely because of such sale. The permittee is not required to obtain its beverages, cigarettes, or other tobacco products from licensees under the Beverage Law or chapter 210. Each permittee~~,~~ ~~but it~~ shall keep a strict account of the quarterly capacity of each of its vessels ~~all such beverages sold within this state~~ and shall make quarterly ~~monthly~~ reports to the division on forms prepared and furnished by the division. ~~A permittee who sells on board the vessel beverages withdrawn from United States Bureau of Customs and Border Protection bonded storage on board the vessel may satisfy such accounting requirement by supplying the division with copies of the appropriate United States Bureau of Customs and Border Protection forms evidencing such withdrawals as importations under United States customs laws.~~

(d) Each ~~Such~~ permittee shall pay to the state a ~~an excise~~ tax for beverages, cigarettes, and other tobacco products sold pursuant to this subsection in an amount equal to the base rate multiplied by the permittee's quarterly capacity during the calendar quarter, less any tax or surcharge already paid by a

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licensed manufacturer or distributor pursuant to the Beverage Law or chapter 210 on beverages, cigarettes, and other tobacco products sold by the permittee pursuant to this subsection during the quarter for which tax is due ~~section, if such excise tax has not previously been paid, in an amount equal to the tax which would be required to be paid on such sales by a licensed manufacturer or distributor~~.

(e) A vendor holding such permit shall pay the tax quarterly ~~monthly~~ to the division at the same time he or she furnishes the required report. Such report shall be filed on or before the 15th day of each calendar quarter ~~month~~ for the quarterly capacity ~~sales occurring~~ during the previous calendar quarter ~~month~~.

(f) No later than August 1, 2016, each permittee shall report the annual capacity for each of its vessels for calendar year 2015 to the division on forms prepared and furnished by the division. No later than September 1, 2016, the division shall calculate the base rate and report it to each permittee. The base rate shall also be published in the Florida Administrative Register and on the department's website. The division may verify independently the information provided under this paragraph.

(g) Revenues collected pursuant to this subsection shall be distributed pursuant to s. 561.121(1).

Section 22. Subsection (1) of section 951.22, Florida Statutes, is amended to read:

951.22 County detention facilities; contraband articles.—

(1) It is unlawful, except through regular channels as duly authorized by the sheriff or officer in charge, to introduce

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into or possess upon the grounds of any county detention facility as defined in s. 951.23 or to give to or receive from any inmate of any such facility wherever said inmate is located at the time or to take or to attempt to take or send therefrom any of the following articles which are hereby declared to be contraband for the purposes of this act, to wit: Any written or recorded communication; any currency or coin; any article of food or clothing; any tobacco products as defined in s. 210.25(12) ~~210.25(11)~~; any cigarette as defined in s. 210.01(1); any cigar; any intoxicating beverage or beverage which causes or may cause an intoxicating effect; any narcotic, hypnotic, or excitative drug or drug of any kind or nature, including nasal inhalators, sleeping pills, barbiturates, and controlled substances as defined in s. 893.02(4); any firearm or any instrumentality customarily used or which is intended to be used as a dangerous weapon; and any instrumentality of any nature that may be or is intended to be used as an aid in effecting or attempting to effect an escape from a county facility.

Section 23. Clothing and school supplies; sales tax holiday.—

(1) The tax levied under chapter 212, Florida Statutes, may not be collected during the period from 12:01 a.m. on August 5, 2016, through 11:59 p.m. on August 7, 2016, on the retail sale of:

(a) Clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags, having a sales price of $60 or less per item. As used in this paragraph, the term “clothing” means:


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1. Any article of wearing apparel intended to be worn on or about the human body, excluding watches, watchbands, jewelry, umbrellas, and handkerchiefs; and

2. All footwear, excluding skis, swim fins, roller blades, and skates.

(b) School supplies having a sales price of $15 or less per item. As used in this paragraph, the term "school supplies" means pens, pencils, erasers, crayons, notebooks, notebook filler paper, legal pads, binders, lunch boxes, construction paper, markers, folders, poster board, composition books, poster paper, scissors, cellophane tape, glue or paste, rulers, computer disks, protractors, compasses, and calculators.

(2) The tax exemptions provided in this section do not apply to sales within a theme park or entertainment complex as defined in s. 509.013(9), Florida Statutes, within a public lodging establishment as defined in s. 509.013(4), Florida Statutes, or within an airport as defined in s. 330.27(2), Florida Statutes.

(3) The tax exemptions provided in this section apply at the option of a dealer if less than 5 percent of the dealer's gross sales of tangible personal property in the prior calendar year are comprised of items that would be exempt under this section. If a qualifying dealer chooses not to participate in the tax holiday, by August 1, 2016, the dealer must notify the Department of Revenue in writing of its election to collect sales tax during the holiday and must post a copy of that notice in a conspicuous location at its place of business.

(4) The Department of Revenue may, and all conditions are deemed met to, adopt emergency rules pursuant to s. 120.54(4),

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Florida Statutes, to administer this section.

(5) For the 2016-2017 fiscal year, the sum of $229,982 in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Revenue for the purpose of implementing this section.

Section 24. For the 2016-2017 fiscal year, the sum of $100,374 in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Revenue for the purpose of implementing ss. 220.03, 220.13, 220.222, 220.241, 220.33, and 220.34, as amended by this act.

Section 25. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect July 1, 2016.

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to taxation; amending s. 196.012, F.S.; revising definitions related to certain businesses; amending s. 196.1995, F.S.; revising an economic development ad valorem tax exemption for certain enterprise zone businesses; providing applicability of the exemption to data centers; providing retroactive applicability for certain provisions; amending s. 201.15, F.S.; revising a date relating to the payment of debt service for certain


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bonds; amending s. 206.9825, F.S.; revising eligibility criteria for wholesalers and terminal suppliers to receive aviation fuel tax refunds or credits of previously paid excise taxes; providing for future repeal of such refunds or credits; revising the rate of the excise tax on certain aviation fuels on a specified date; amending s. 210.13, F.S.; providing procedures to be used when a person, other than a dealer, is required but fails to remit certain taxes; amending s. 210.25, F.S.; revising definitions related to tobacco; amending s. 212.05, F.S.; clarifying the requirements for the exemption from tax on certain sales of aircraft that will be registered in a foreign jurisdiction; amending s. 212.06, F.S.; reducing by a specified percentage over time an indexed tax on manufactured asphalt used for a government public works project; exempting such manufactured asphalt from the indexed tax beginning on a specified date; amending s. 212.08, F.S.; exempting the sales of food or drinks by certain qualified veterans' organizations; revising definitions regarding certain industrial machinery and equipment; removing the expiration date on the exemption for purchases of certain machinery and equipment; revising the definition of the term "eligible manufacturing business" for purposes of qualification for the sales and use tax exemption; providing definitions for certain postharvest machinery and equipment, postharvest activities, and eligible postharvest

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activity businesses; providing an exemption for the purchase of such machinery and equipment; amending s. 220.03, F.S.; adopting the 2016 version of the Internal Revenue Code; providing retroactive applicability; amending s. 220.13, F.S.; incorporating a reference to a recent federal act into state law for the purpose of defining the term "adjusted federal income"; revising the treatment by this state of certain depreciation of assets allowed for federal income tax purposes; providing retroactive applicability; authorizing the Department of Revenue to adopt emergency rules; providing for expiration; amending s. 220.222, F.S.; revising due dates for partnership information returns and corporate tax returns; amending s. 220.241, F.S.; revising due dates to file a declaration of estimated corporate income tax; amending s. 220.33, F.S.; revising the due date of estimated payments of corporate income tax; amending s. 220.34, F.S.; revising the dates for purposes of calculating interest and penalties on underpayments of estimated corporate income tax; amending s. 561.121, F.S.; requiring that certain taxes related to alcoholic beverages and tobacco products sold on cruise ships be deposited into specified funds; amending s. 564.06, F.S.; specifying the excise tax that is applicable to cider made from pears; amending s. 565.02, F.S.; creating an alternative method of taxation for alcoholic beverages and tobacco products sold on certain cruise ships;


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requiring the reporting of certain information by each permittee for purposes of determining the base rate applicable to the taxpayers; authorizing the Division of Alcoholic Beverages and Tobacco within the Department of Business and Professional Regulation to independently verify certain reported information; amending s. 951.22, F.S.; conforming a cross-reference; providing an exemption from the sales and use tax for the retail sale of certain clothes and school supplies during a specified period; providing exceptions; authorizing certain dealers to elect not to participate in such tax exemptions; providing requirements for such dealers; authorizing the Department of Revenue to adopt emergency rules; providing appropriations; providing effective dates.

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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/04/2016	.	
	.	
	.	
	.	

The Committee on Appropriations (Hays) recommended the following:

Senate Amendment to Amendment (403268) (with title amendment)

Between lines 4 and 5
insert:

Section 1. Paragraph (a) of subsection (2) of section 565.03, Florida Statutes, is amended to read:

565.03 License fees; manufacturers, distributors, brokers, sales agents, and importers of alcoholic beverages; vendor licenses and fees; craft distilleries.—

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(2)(a) A distillery authorized to do business under the Beverage Law shall pay an annual state license tax for each plant or branch operating in the state, as follows:

1. If engaged in the business of manufacturing distilled spirits, a state license tax of $4,000.

2. If engaged in the business of rectifying and blending spirituous liquors and nothing else, a state license tax of $4,000.

3. If engaged in the business of manufacturing distilled spirits as a qualified craft distillery, a state license tax of $1,000.

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

And the title is amended as follows:

Delete line 1249

and insert:

An act relating to taxation; amending s. 565.03, F.S.; specifying the annual state license tax for certain plants or branches of a specified distillery; amending s. 196.012,

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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/04/2016	.	
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	.	
	.	

The Committee on Appropriations (Hays) recommended the following:

Senate Amendment to Amendment (403268) (with title amendment)

Between lines 4 and 5
insert:

Section 1. Section 196.1955, Florida Statutes, is created to read:

196.1955 Preparing property for educational, literary, scientific, religious, or charitable use.—

(1) Property owned by an exempt organization is used for an

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exempt purpose if the owner has taken affirmative steps to prepare the property for an exempt educational, literary, scientific, religious, or charitable use and no portion of the property is being used for a nonexempt purpose. The term "affirmative steps" means environmental or land use permitting activities, creation of architectural plans or schematic drawings, land clearing or site preparation, construction or renovation activities, or other activities that demonstrate a commitment to prepare the property for an exempt use.

(2)(a) If property owned by an organization that has been granted an exemption under this section is sold, transferred, or used for a purpose other than an exempt use or is not in actual exempt use within 5 years after the date the organization is granted an exemption, the property appraiser making such determination shall serve upon the organization that received the exemption a notice of intent to record in the public records of the county a notice of tax lien against any property owned by that organization in that county, and such property must be identified in the notice of tax lien. The organization owning such property is subject to the taxes otherwise due as a result of the failure to use the property in an exempt manner, plus 15 percent interest per annum.

1. The lien, when filed, attaches to any property identified in the notice of tax lien which is owned by the organization that received the exemption. If the organization no longer owns property in the county but owns property in another county in the state, the property appraiser shall record in each such county a notice of tax lien identifying the property owned by the organization in each respective county, which shall

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become a lien against the identified property.

2. Before a lien may be filed, the organization must be given 30 days to pay the taxes and interest.

3. If an exemption is improperly granted as a result of a clerical mistake or an omission by the property appraiser, the organization improperly receiving the exemption may not be assessed interest.

4. The 5-year limitation specified in this subsection shall be extended by the property appraiser on an annual basis if the organization continues to take affirmative steps to prepare the property for the purposes specified in this section.

(b) This subsection does not apply to property being prepared for use as a house of public worship. The term "public worship" means religious worship services and those activities that are incidental to religious worship services, such as educational activities, parking, recreation, partaking of meals, and fellowship.

Section 2. Subsections (3), (4), and (5) of section 196.196, Florida Statutes, are amended to read:

196.196 Determining whether property is entitled to charitable, religious, scientific, or literary exemption.—

~~(3) Property owned by an exempt organization is used for a religious purpose if the institution has taken affirmative steps to prepare the property for use as a house of public worship. The term "affirmative steps" means environmental or land use permitting activities, creation of architectural plans or schematic drawings, land clearing or site preparation, construction or renovation activities, or other similar activities that demonstrate a commitment of the property to a~~

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~~religious use as a house of public worship. For purposes of this subsection, the term "public worship" means religious worship services and those other activities that are incidental to religious worship services, such as educational activities, parking, recreation, partaking of meals, and fellowship.~~

(3)~~(4)~~ Except as otherwise provided in this section ~~herein~~, property claimed as exempt for literary, scientific, religious, or charitable purposes which is used for profitmaking purposes is ~~shall be~~ subject to ad valorem taxation. Use of property for functions not requiring a business or occupational license conducted by the organization at its primary residence, the revenue of which is used wholly for exempt purposes, is ~~shall~~ not ~~be~~ considered profitmaking ~~profit making~~. In this connection the playing of bingo on such property is ~~shall~~ not ~~be~~ considered a use of ~~as using such~~ property which ~~in such a manner as~~ would impair its exempt status.

~~(5)(a) Property owned by an exempt organization qualified as charitable under s. 501(c)(3) of the Internal Revenue Code is used for a charitable purpose if the organization has taken affirmative steps to prepare the property to provide affordable housing to persons or families that meet the extremely-low-income, very-low-income, low-income, or moderate-income limits, as specified in s. 420.0004. The term "affirmative steps" means environmental or land use permitting activities, creation of architectural plans or schematic drawings, land clearing or site preparation, construction or renovation activities, or other similar activities that demonstrate a commitment of the property to providing affordable housing.~~

~~(b)1. If property owned by an organization granted an~~

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~~exemption under this subsection is transferred for a purpose other than directly providing affordable homeownership or rental housing to persons or families who meet the extremely-low-income, very-low-income, low-income, or moderate-income limits, as specified in s. 420.0004, or is not in actual use to provide such affordable housing within 5 years after the date the organization is granted the exemption, the property appraiser making such determination shall serve upon the organization that illegally or improperly received the exemption a notice of intent to record in the public records of the county a notice of tax lien against any property owned by that organization in the county, and such property shall be identified in the notice of tax lien. The organization owning such property is subject to the taxes otherwise due and owing as a result of the failure to use the property to provide affordable housing plus 15 percent interest per annum and a penalty of 50 percent of the taxes owed.~~

~~2. Such lien, when filed, attaches to any property identified in the notice of tax lien owned by the organization that illegally or improperly received the exemption. If such organization no longer owns property in the county but owns property in any other county in the state, the property appraiser shall record in each such other county a notice of tax lien identifying the property owned by such organization in such county which shall become a lien against the identified property. Before any such lien may be filed, the organization so notified must be given 30 days to pay the taxes, penalties, and interest.~~

~~3. If an exemption is improperly granted as a result of a~~


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~~clerical mistake or an omission by the property appraiser, the organization improperly receiving the exemption shall not be assessed a penalty or interest.~~

~~4. The 5-year limitation specified in this subsection may be extended if the holder of the exemption continues to take affirmative steps to develop the property for the purposes specified in this subsection.~~

Section 3. Section 196.198, Florida Statutes, is amended to read:

196.198 Educational property exemption.—

(1) Educational institutions within this state and their property used by them or by any other exempt entity or educational institution exclusively for educational purposes are exempt from taxation.

(a) Sheltered workshops providing rehabilitation and retraining of individuals who have disabilities and exempted by a certificate under s. (d) of the federal Fair Labor Standards Act of 1938, as amended, are declared wholly educational in purpose and are exempt from certification, accreditation, and membership requirements set forth in s. 196.012.

(b) Those portions of property of college fraternities and sororities certified by the president of the college or university to the appropriate property appraiser as being essential to the educational process are exempt from ad valorem taxation.

(c) The use of property by public fairs and expositions chartered by chapter 616 is presumed to be an educational use of such property and is exempt from ad valorem taxation to the extent of such use.


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(2) Property used exclusively for educational purposes shall be deemed owned by an educational institution if the entity owning 100 percent of the educational institution is owned by the identical persons who own the property, or if the entity owning 100 percent of the educational institution and the entity owning the property are owned by the identical natural persons.

(a) Land, buildings, and other improvements to real property used exclusively for educational purposes shall be deemed owned by an educational institution if the entity owning 100 percent of the land is a nonprofit entity and the land is used, under a ground lease or other contractual arrangement, by an educational institution that owns the buildings and other improvements to the real property, is a nonprofit entity under s. 501(c)(3) of the Internal Revenue Code, and provides education limited to students in prekindergarten through grade 8.

(b) If legal title to property is held by a governmental agency that leases the property to a lessee, the property shall be deemed to be owned by the governmental agency and used exclusively for educational purposes if the governmental agency continues to use such property exclusively for educational purposes pursuant to a sublease or other contractual agreement with that lessee.

(c) If the title to land is held by the trustee of an irrevocable inter vivos trust and if the trust grantor owns 100 percent of the entity that owns an educational institution that is using the land exclusively for educational purposes, the land is deemed to be property owned by the educational institution


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for purposes of this exemption. ~~Property owned by an educational institution shall be deemed to be used for an educational purpose if the institution has taken affirmative steps to prepare the property for educational use. The term "affirmative steps" means environmental or land use permitting activities, creation of architectural plans or schematic drawings, land clearing or site preparation, construction or renovation activities, or other similar activities that demonstrate commitment of the property to an educational use.~~

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

And the title is amended as follows:

Delete line 1249

and insert:

An act relating to taxation; creating s. 196.1955, F.S.; consolidating and revising provisions relating to obtaining an ad valorem exemption for property owned by an exempt organization, including the requirement that the owner of an exempt organization take affirmative steps to demonstrate an exempt use; defining the term "affirmative steps"; requiring the property appraiser to serve a notice of tax lien on exempt property that is not in exempt use after a certain time; providing that the lien attaches to any property owned by the organization identified in the notice of lien; providing that the provisions authorizing the tax lien do not apply to a house of public worship; defining the term "public worship"; amending s. 196.196, F.S.; deleting provisions

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relating to the exemption as it applies to public worship and affordable housing and provisions incorporated into s. 196.1955, F.S.; amending s. 196.198, F.S.; deleting provisions relating to property owned by an educational institution and used for an educational purpose which are incorporated in s. 196.1955, F.S.; amending s. 196.012,

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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/04/2016	.	
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The Committee on Appropriations (Gaetz) recommended the following:

Senate Amendment to Amendment (403268) (with title amendment)

Between lines 4 and 5
insert:

Section 1. Paragraph (a) of subsection (5) of section 125.0104, Florida Statutes, is amended to read:

125.0104 Tourist development tax; procedure for levying; authorized uses; referendum; enforcement.—

(5) AUTHORIZED USES OF REVENUE.—

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(a) All tax revenues received pursuant to this section by a county imposing the tourist development tax shall be used by that county for the following purposes only:

1. To acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate, or promote one or more:

a. Publicly owned and operated convention centers, sports stadiums, sports arenas, coliseums, or auditoriums within the boundaries of the county or subcounty special taxing district in which the tax is levied; or

b. Aquariums or museums that are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public, within the boundaries of the county or subcounty special taxing district in which the tax is levied;

2. To promote zoological parks that are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public;

3. To promote and advertise tourism in this state and nationally and internationally; however, if tax revenues are expended for an activity, service, venue, or event, the activity, service, venue, or event must have as one of its main purposes the attraction of tourists as evidenced by the promotion of the activity, service, venue, or event to tourists;

4. To fund convention bureaus, tourist bureaus, tourist information centers, and news bureaus as county agencies or by contract with the chambers of commerce or similar associations in the county, which may include any indirect administrative costs for services performed by the county on behalf of the promotion agency; ~~or~~

5. To finance beach park facilities or beach improvement,

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maintenance, renourishment, restoration, and erosion control, including shoreline protection, enhancement, cleanup, or restoration of inland lakes and rivers to which there is public access as those uses relate to the physical preservation of the beach, shoreline, or inland lake or river. However, any funds identified by a county as the local matching source for beach renourishment, restoration, or erosion control projects included in the long-range budget plan of the state's Beach Management Plan, pursuant to s. 161.091, or funds contractually obligated by a county in the financial plan for a federally authorized shore protection project may not be used or loaned for any other purpose. In counties of fewer than 100,000 population, up to 10 percent of the revenues from the tourist development tax may be used for beach park facilities; or.

6. In a Gulf Coast tourism county, to fund lifeguards, and up to 10 percent of the revenues may be used to provide emergency medical services, as defined in s. 401.107(3), or law enforcement services that are needed for enhanced emergency medical or public safety services related to increased tourism and visitors to an area. If taxes collected pursuant to this section are used to fund emergency medical services or public safety services for tourism or special events, the governing board of a county or municipality is prohibited from using such taxes to supplant the normal operating expenses of an emergency services department, a fire department, a sheriff's office, or a police department. For the purposes of this subparagraph, the term "Gulf Coast tourism county" shall mean a county which:

a. Is located adjacent to the Gulf of Mexico but not adjacent to the Atlantic Ocean; and

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b. Collects a minimum of $10 million in annual revenues from any tax, or any combination of taxes, authorized to be levied pursuant to this section.

Subparagraphs 1. and 2. may be implemented through service contracts and leases with lessees that have sufficient expertise or financial capability to operate such facilities.

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

And the title is amended as follows:

Delete line 1249

and insert:

An act relating to taxation; amending s. 125.0104, F.S.; authorizing the use of certain tourist development taxes in a Gulf Coast tourism county for specified purposes; prohibiting certain uses of such taxes by a governing board of a county or municipality; defining the term "Gulf Coast tourism county"; amending s. 196.012,

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LEGISLATIVE ACTION

Senate	.	House
Comm: RE	.	
03/04/2016	.	
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The Committee on Appropriations (Gaetz) recommended the following:

Senate Amendment to Amendment (403268) (with title amendment)

Between lines 4 and 5
insert:

Section 1. Paragraph (c) of subsection (5) of section 125.0104, Florida Statutes, is redesignated as paragraph (d), present paragraph (d) of that subsection is amended, and a new paragraph (c) is added to that subsection, to read:

125.0104 Tourist development tax; procedure for levying;

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authorized uses; referendum; enforcement.—

(5) AUTHORIZED USES OF REVENUE.—

(c) A county located adjacent to the Gulf of Mexico or the Atlantic Ocean, except a county that receives revenue from taxes levied pursuant to s. 125.0108, which meets the following criteria may use up to 10 percent of the tax revenue received pursuant to this section to reimburse expenses incurred in providing public safety services, including emergency medical services as defined in s. 401.107(3), and law enforcement services, which are needed to address impacts related to increased tourism and visitors to an area. However, if taxes collected pursuant to this section are used to reimburse emergency medical services or public safety services for tourism or special events, the governing board of a county or municipality may not use such taxes to supplant the normal operating expenses of an emergency medical services department, a fire department, a sheriff's office, or a police department. To receive reimbursement, the county must:

1. Generate a minimum of $10 million in annual proceeds from any tax, or any combination of taxes, authorized to be levied pursuant to this section;

2. Have at least three municipalities; and

3. Have an estimated population of less than 225,000, according to the most recent population estimate prepared pursuant to s. 186.901, excluding the inmate population.

The board of county commissioners must by majority vote approve reimbursement made pursuant to this paragraph upon receipt of a recommendation from the tourist development council.

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(e) ~~(d)~~ Any use of the local option tourist development tax revenues collected pursuant to this section for a purpose not expressly authorized by paragraph (3)(l) or paragraph (3)(n) or paragraphs (a)-(d) ~~paragraph (a), paragraph (b), or paragraph (c)~~ of this subsection is expressly prohibited.

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

And the title is amended as follows:

Delete line 1249

and insert:

An act relating to taxation; amending s. 125.0104, F.S.; specifying additional uses for revenues received from tourist development taxes for certain coastal counties; conforming a cross-reference; amending s. 196.012,

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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/04/2016	.	
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The Committee on Appropriations (Hukill and Lee) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraph (c) of subsection (5) of section 125.0104, Florida Statutes, is redesignated as paragraph (d), present paragraph (d) of that subsection is amended, and a new paragraph (c) is added to that subsection, to read:

125.0104 Tourist development tax; procedure for levying; authorized uses; referendum; enforcement.—

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(5) AUTHORIZED USES OF REVENUE.—

(c) A county located adjacent to the Gulf of Mexico or the Atlantic Ocean, except a county that receives revenue from taxes levied pursuant to s. 125.0108, which meets the following criteria may use up to 10 percent of the tax revenue received pursuant to this section to reimburse expenses incurred in providing public safety services, including emergency medical services as defined in s. 401.107(3), and law enforcement services, which are needed to address impacts related to increased tourism and visitors to an area. However, if taxes collected pursuant to this section are used to reimburse emergency medical services or public safety services for tourism or special events, the governing board of a county or municipality may not use such taxes to supplant the normal operating expenses of an emergency medical services department, a fire department, a sheriff's office, or a police department. To receive reimbursement, the county must:

1. Generate a minimum of $10 million in annual proceeds from any tax, or any combination of taxes, authorized to be levied pursuant to this section;

2. Have at least three municipalities; and

3. Have an estimated population of less than 225,000, according to the most recent population estimate prepared pursuant to s. 186.901, excluding the inmate population.

The board of county commissioners must by majority vote approve reimbursement made pursuant to this paragraph upon receipt of a recommendation from the tourist development council.

(e) ~~(d)~~ Any use of the local option tourist development tax

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revenues collected pursuant to this section for a purpose not expressly authorized by paragraph (3)(l) or paragraph (3)(n) or paragraphs (a)-(d) ~~paragraph (a), paragraph (b), or paragraph (c)~~ of this subsection is expressly prohibited.

Section 2. Effective upon this act becoming a law, paragraph (b) of subsection (14) and paragraph (b) of subsection (15) of section 196.012, Florida Statutes, are amended to read:

196.012 Definitions.—For the purpose of this chapter, the following terms are defined as follows, except where the context clearly indicates otherwise:

(14) "New business" means:

(b) Any business or organization located in an area that was designated as an enterprise zone pursuant to chapter 290 as of December 30, 2015, or brownfield area that first begins operation on a site clearly separate from any other commercial or industrial operation owned by the same business or organization.

(15) "Expansion of an existing business" means:

(b) Any business or organization located in an area that was designated as an enterprise zone pursuant to chapter 290 as of December 30, 2015, or brownfield area that increases operations on a site located within the same zone or area colocated with a commercial or industrial operation owned by the same business or organization under common control with the same business or organization.

Section 3. Effective upon this act becoming a law, subsections (5) and (11) of section 196.1995, Florida Statutes, are amended to read:

196.1995 Economic development ad valorem tax exemption.—

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(5) Upon a majority vote in favor of such authority, the board of county commissioners or the governing authority of the municipality, at its discretion, by ordinance may exempt from ad valorem taxation up to 100 percent of the assessed value of all improvements to real property made by or for the use of a new business and of all tangible personal property of such new business, or up to 100 percent of the assessed value of all added improvements to real property made to facilitate the expansion of an existing business and of the net increase in all tangible personal property acquired to facilitate such expansion of an existing business. To qualify for this exemption, the improvements to real property must be made or the tangible personal property must be added or increased after approval by motion or resolution of the local governing body, subject to ordinance adoption or on or after the day the ordinance is adopted. However, if the authority to grant exemptions is approved in a referendum in which the ballot question contained in subsection (3) appears on the ballot, the authority of the board of county commissioners or the governing authority of the municipality to grant exemptions is limited solely to new businesses and expansions of existing businesses that are located in an area which was designated as an enterprise zone pursuant to chapter 290 as of December 30, 2015, or in a brownfield area. New businesses and expansions of existing businesses located in an area that was designated as an enterprise zone pursuant to chapter 290 as of December 30, 2015, but is not in a brownfield area, may qualify for the ad valorem tax exemption only if approved by motion or resolution of the local governing body, subject to ordinance adoption, or by


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ordinance, enacted before December 31, 2015. Property acquired to replace existing property shall not be considered to facilitate a business expansion. All data center equipment for a data center shall be exempt from ad valorem taxation for the term of the approved exemption. The exemption applies only to taxes levied by the respective unit of government granting the exemption. The exemption does not apply, however, to taxes levied for the payment of bonds or to taxes authorized by a vote of the electors pursuant to s. 9(b) or s. 12, Art. VII of the State Constitution. Any such exemption shall remain in effect for up to 10 years with respect to any particular facility, or up to 20 years for a data center, regardless of any change in the authority of the county or municipality to grant such exemptions or the expiration of the Enterprise Zone Act pursuant to chapter 290. The exemption shall not be prolonged or extended by granting exemptions from additional taxes or by virtue of any reorganization or sale of the business receiving the exemption.

(11) An ordinance granting an exemption under this section shall be adopted in the same manner as any other ordinance of the county or municipality and shall include the following:

(a) The name and address of the new business or expansion of an existing business to which the exemption is granted;

(b) The total amount of revenue available to the county or municipality from ad valorem tax sources for the current fiscal year, the total amount of revenue lost to the county or municipality for the current fiscal year by virtue of economic development ad valorem tax exemptions currently in effect, and the estimated revenue loss to the county or municipality for the current fiscal year attributable to the exemption of the

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business named in the ordinance;

(c) The period of time for which the exemption will remain in effect and the expiration date of the exemption, which may be any period of time up to 10 years, or up to 20 years for a data center; and

(d) A finding that the business named in the ordinance meets the requirements of s. 196.012(14) or (15).

Section 4. The amendments made by this act to ss. 196.012 and 196.1995, Florida Statutes, which relate to the ad valorem tax exemption for certain enterprise zone businesses are remedial in nature and apply retroactively to December 31, 2015, and the amendments to s. 196.1995, Florida Statutes, made by this act which relate to the ad valorem tax exemption for data center equipment apply upon this act becoming a law.

Section 5. Section 201.15, Florida Statutes, is amended to read:

201.15 Distribution of taxes collected.—All taxes collected under this chapter are hereby pledged and shall be first made available to make payments when due on bonds issued pursuant to s. 215.618 or s. 215.619, or any other bonds authorized to be issued on a parity basis with such bonds. Such pledge and availability for the payment of these bonds shall have priority over any requirement for the payment of service charges or costs of collection and enforcement under this section. All taxes collected under this chapter, except taxes distributed to the Land Acquisition Trust Fund pursuant to subsections (1) and (2), are subject to the service charge imposed in s. 215.20(1). Before distribution pursuant to this section, the Department of Revenue shall deduct amounts necessary to pay the costs of the

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collection and enforcement of the tax levied by this chapter. The costs and service charge may not be levied against any portion of taxes pledged to debt service on bonds to the extent that the costs and service charge are required to pay any amounts relating to the bonds. All of the costs of the collection and enforcement of the tax levied by this chapter and the service charge shall be available and transferred to the extent necessary to pay debt service and any other amounts payable with respect to bonds authorized before January 1, 2017 ~~2015~~, secured by revenues distributed pursuant to this section. All taxes remaining after deduction of costs shall be distributed as follows:

(1) Amounts necessary to make payments on bonds issued pursuant to s. 215.618 or s. 215.619, as provided under paragraphs (3)(a) and (b), or on any other bonds authorized to be issued on a parity basis with such bonds shall be deposited into the Land Acquisition Trust Fund.

(2) If the amounts deposited pursuant to subsection (1) are less than 33 percent of all taxes collected after first deducting the costs of collection, an amount equal to 33 percent of all taxes collected after first deducting the costs of collection, minus the amounts deposited pursuant to subsection (1), shall be deposited into the Land Acquisition Trust Fund.

(3) Amounts on deposit in the Land Acquisition Trust Fund shall be used in the following order:

(a) Payment of debt service or funding of debt service reserve funds, rebate obligations, or other amounts payable with respect to Florida Forever bonds issued pursuant to s. 215.618. The amount used for such purposes may not exceed $300 million in

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each fiscal year. It is the intent of the Legislature that all bonds issued to fund the Florida Forever Act be retired by December 31, 2040. Except for bonds issued to refund previously issued bonds, no series of bonds may be issued pursuant to this paragraph unless such bonds are approved and the debt service for the remainder of the fiscal year in which the bonds are issued is specifically appropriated in the General Appropriations Act.

(b) Payment of debt service or funding of debt service reserve funds, rebate obligations, or other amounts due with respect to Everglades restoration bonds issued pursuant to s. 215.619. Taxes distributed under paragraph (a) and this paragraph must be collectively distributed on a pro rata basis when the available moneys under this subsection are not sufficient to cover the amounts required under paragraph (a) and this paragraph.

Bonds issued pursuant to s. 215.618 or s. 215.619 are equally and ratably secured by moneys distributable to the Land Acquisition Trust Fund.

(4) After the required distributions to the Land Acquisition Trust Fund pursuant to subsections (1) and (2) and deduction of the service charge imposed pursuant to s. 215.20(1), the remainder shall be distributed as follows:

(a) The lesser of 24.18442 percent of the remainder or $541.75 million in each fiscal year shall be paid into the State Treasury to the credit of the State Transportation Trust Fund. Of such funds, $75 million for each fiscal year shall be transferred to the State Economic Enhancement and Development

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Trust Fund within the Department of Economic Opportunity. Notwithstanding any other law, the remaining amount credited to the State Transportation Trust Fund shall be used for:

1. Capital funding for the New Starts Transit Program, authorized by Title 49, U.S.C. s. 5309 and specified in s. 341.051, in the amount of 10 percent of the funds;

2. The Small County Outreach Program specified in s. 339.2818, in the amount of 10 percent of the funds;

3. The Strategic Intermodal System specified in ss. 339.61, 339.62, 339.63, and 339.64, in the amount of 75 percent of the funds after deduction of the payments required pursuant to subparagraphs 1. and 2.; and

4. The Transportation Regional Incentive Program specified in s. 339.2819, in the amount of 25 percent of the funds after deduction of the payments required pursuant to subparagraphs 1. and 2. The first $60 million of the funds allocated pursuant to this subparagraph shall be allocated annually to the Florida Rail Enterprise for the purposes established in s. 341.303(5).

(b) The lesser of 0.1456 percent of the remainder or $3.25 million in each fiscal year shall be paid into the State Treasury to the credit of the Grants and Donations Trust Fund in the Department of Economic Opportunity to fund technical assistance to local governments.

Moneys distributed pursuant to paragraphs (a) and (b) may not be pledged for debt service unless such pledge is approved by referendum of the voters.

(c) Eleven and twenty-four hundredths percent of the remainder in each fiscal year shall be paid into the State Treasury to the credit of the State Housing Trust Fund. Of such

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funds, the first $35 million shall be transferred annually, subject to any distribution required under subsection (5), to the State Economic Enhancement and Development Trust Fund within the Department of Economic Opportunity. The remainder shall be used as follows:

1. Half of that amount shall be used for the purposes for which the State Housing Trust Fund was created and exists by law.

2. Half of that amount shall be paid into the State Treasury to the credit of the Local Government Housing Trust Fund and used for the purposes for which the Local Government Housing Trust Fund was created and exists by law.

(d) Twelve and ninety-three hundredths percent of the remainder in each fiscal year shall be paid into the State Treasury to the credit of the State Housing Trust Fund. Of such funds, the first $40 million shall be transferred annually, subject to any distribution required under subsection (5), to the State Economic Enhancement and Development Trust Fund within the Department of Economic Opportunity. The remainder shall be used as follows:

1. Twelve and one-half percent of that amount shall be deposited into the State Housing Trust Fund and expended by the Department of Economic Opportunity and the Florida Housing Finance Corporation for the purposes for which the State Housing Trust Fund was created and exists by law.

2. Eighty-seven and one-half percent of that amount shall be distributed to the Local Government Housing Trust Fund and used for the purposes for which the Local Government Housing Trust Fund was created and exists by law. Funds from this

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category may also be used to provide for state and local services to assist the homeless.

(e) The lesser of 0.017 percent of the remainder or $300,000 in each fiscal year shall be paid into the State Treasury to the credit of the General Inspection Trust Fund to be used to fund oyster management and restoration programs as provided in s. 379.362(3).

(5) Distributions to the State Housing Trust Fund pursuant to paragraphs (4)(c) and (d) must be sufficient to cover amounts required to be transferred to the Florida Affordable Housing Guarantee Program's annual debt service reserve and guarantee fund pursuant to s. 420.5092(6)(a) and (b) up to the amount required to be transferred to such reserve and fund based on the percentage distribution of documentary stamp tax revenues to the State Housing Trust Fund which is in effect in the 2004-2005 fiscal year.

(6) After the distributions provided in the preceding subsections, any remaining taxes shall be paid into the State Treasury to the credit of the General Revenue Fund.

Section 6. Paragraph (b) of subsection (1) of section 206.9825, Florida Statutes, is amended to read:

206.9825 Aviation fuel tax.—

(1)

(b) Any licensed wholesaler or terminal supplier that delivers aviation fuel to an air carrier offering transcontinental jet service and that, after January 1, 1996, but before July 1, 2016, increases the air carrier's Florida workforce by more than 1,000 ~~1000~~ percent and by 250 or more full-time equivalent employee positions, may receive a credit or

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refund as the ultimate vendor of the aviation fuel for the 6.9 cents excise tax previously paid, provided that the air carrier has no facility for fueling highway vehicles from the tank in which the aviation fuel is stored. In calculating the new or additional Florida full-time equivalent employee positions, any full-time equivalent employee positions of parent or subsidiary corporations which existed before January 1, 1996, shall not be counted toward reaching the Florida employment increase thresholds. The refund allowed under this paragraph is in furtherance of the goals and policies of the State Comprehensive Plan set forth in s. 187.201(16)(a), (b)1., 2., (17)(a), (b)1., 4., (19)(a), (b)5., (21)(a), (b)1., 2., 4., 7., 9., and 12.

Section 7. Effective July 1, 2019, section 206.9825, Florida Statutes, as amended by this act, is amended to read:

206.9825 Aviation fuel tax.—

(1)(a) Except as otherwise provided in this part, an excise tax of 4.27 ~~6.9~~ cents per gallon of aviation fuel is imposed upon every gallon of aviation fuel sold in this state, or brought into this state for use, upon which such tax has not been paid or the payment thereof has not been lawfully assumed by some person handling the same in this state. Fuel taxed pursuant to this part is ~~shall~~ not ~~be~~ subject to the taxes imposed by ss. 206.41(1)(d), (e), and (f) and 206.87(1)(b), (c), and (d).

~~(b) Any licensed wholesaler or terminal supplier that delivers aviation fuel to an air carrier offering transcontinental jet service and that, after January 1, 1996, but before July 1, 2016, increases the air carrier's Florida workforce by more than 1,000 percent and by 250 or more full-~~

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~~time equivalent employee positions, may receive a credit or refund as the ultimate vendor of the aviation fuel for the 6.9 cents excise tax previously paid, provided that the air carrier has no facility for fueling highway vehicles from the tank in which the aviation fuel is stored. In calculating the new or additional Florida full-time equivalent employee positions, any full-time equivalent employee positions of parent or subsidiary corporations which existed before January 1, 1996, shall not be counted toward reaching the Florida employment increase thresholds. The refund allowed under this paragraph is in furtherance of the goals and policies of the State Comprehensive Plan set forth in s. 187.201(16)(a), (b)1., 2., (17)(a), (b)1., 4., (19)(a), (b)5., (21)(a), (b)1., 2., 4., 7., 9., and 12.~~

~~(c) If, before July 1, 2001, the number of full-time equivalent employee positions created or added to the air carrier's Florida workforce falls below 250, the exemption granted pursuant to this section shall not apply during the period in which the air carrier has fewer than the 250 additional employees.~~

~~(d) The exemption taken by credit or refund pursuant to paragraph (b) shall apply only under the terms and conditions set forth therein. If any part of that paragraph is judicially declared to be unconstitutional or invalid, the validity of any provisions taxing aviation fuel shall not be affected and all fuel exempted pursuant to paragraph (b) shall be subject to tax as if the exemption was never enacted. Every person benefiting from such exemption shall be liable for and make payment of all taxes for which a credit or refund was granted.~~

(b) ~~(e)~~ 1. Sales of aviation fuel to, and exclusively used

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for flight training through a school of aeronautics or college of aviation by, a college based in this state which is a tax-exempt organization under s. 501(c)(3) of the Internal Revenue Code or a university based in this state are exempt from the tax imposed by this part if the college or university:

a. Is accredited by or has applied for accreditation by the Aviation Accreditation Board International; and

b. Offers a graduate program in aeronautical or aerospace engineering or offers flight training through a school of aeronautics or college of aviation.

2. A licensed wholesaler or terminal supplier that sells aviation fuel to a college or university qualified under this paragraph and that does not collect the aviation fuel tax from the college or university on such sale may receive an ultimate vendor credit for the 4.27-cent ~~6.9-cent~~ excise tax previously paid on the aviation fuel delivered to such college or university.

3. A college or university qualified under this paragraph which purchases aviation fuel from a retail supplier, including a fixed-base operator, and pays the 4.27-cent ~~6.9-cent~~ excise tax on the purchase may apply for and receive a refund of the aviation fuel tax paid.

(2)(a) An excise tax of 4.27 ~~6.9~~ cents per gallon is imposed on each gallon of kerosene in the same manner as prescribed for diesel fuel under ss. 206.87(2) and 206.872.

(b) The exemptions provided by s. 206.874 shall apply to kerosene if the dyeing and marking requirements of s. 206.8741 are met.

(c) Kerosene prepackaged in containers of 5 gallons or less

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and labeled "Not for Use in a Motor Vehicle" is exempt from the taxes imposed by this part when sold for home heating and cooking. Packagers may qualify for a refund of taxes previously paid, as prescribed by the department.

(d) Sales of kerosene in quantities of 5 gallons or less by a person not licensed under this chapter who has no facilities for placing kerosene in the fuel supply system of a motor vehicle may qualify for a refund of taxes paid. Refunds of taxes paid shall be limited to sales for use in home heating or cooking and shall be documented as prescribed by the department.

(3) An excise tax of 4.27 ~~6.9~~ cents per gallon is imposed on each gallon of aviation gasoline in the manner prescribed by paragraph (2)(a). However, the exemptions allowed by paragraph (2)(b) do not apply to aviation gasoline.

(4) Any licensed wholesaler or terminal supplier that delivers undyed kerosene to a residence for home heating or cooking may receive a credit or refund as the ultimate vendor of the kerosene for the 4.27-cent ~~6.9 cents~~ excise tax previously paid.

(5) Any licensed wholesaler or terminal supplier that delivers undyed kerosene to a retail dealer not licensed as a wholesaler or terminal supplier for sale as a home heating or cooking fuel may receive a credit or refund as the ultimate vendor of the kerosene for the 4.27-cent ~~6.9 cents~~ excise tax previously paid, provided the retail dealer has no facility for fueling highway vehicles from the tank in which the kerosene is stored.

(6) Any person who fails to meet the requirements of this section is subject to a backup tax as provided by s. 206.873.

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Section 8. Section 210.13, Florida Statutes, is amended to read:

210.13 Determination of tax on failure to file a return.—If a dealer or other person required to remit the tax under this part fails to file any return required under this part~~,~~ or, having filed an incorrect or insufficient return, fails to file a correct or sufficient return, as the case may require, within 10 days after the giving of notice to the dealer or other person by the Division of Alcoholic Beverages and Tobacco that such return or corrected or sufficient return is required, the division shall determine the amount of tax due by such dealer or other person any time within 3 years after the making of the earliest sale included in such determination and give written notice of such determination to such dealer or other person. Such a determination shall finally and irrevocably fix the tax unless the dealer or other person against whom it is assessed ~~shall~~, within 30 days after the giving of notice of such determination, applies ~~apply~~ to the division for a hearing. Judicial review shall not be granted unless the amount of tax stated in the decision, with penalties thereon, if any, is ~~shall have been~~ first deposited with the division, and an undertaking or bond filed in the court in which such cause may be pending in such amount and with such sureties as the court shall approve, conditioned that if such proceeding be dismissed or the decision of the division confirmed, the applicant for review will pay all costs and charges which may accrue against the applicant in the prosecution of the proceeding. At the option of the applicant, such undertaking or bond may be in an additional sum sufficient to cover the tax, penalties, costs, and charges aforesaid, in

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which event the applicant shall not be required to pay such tax and penalties precedent to the granting of such review by such court.

Section 9. Subsections (1) through (13) of section 210.25, Florida Statutes, are renumbered as subsections (2) through (14), respectively, a new subsection (1) is added to that section, and present subsection (13) of that section is amended, to read:

210.25 Definitions.—As used in this part:

(1) "Affiliate" means a manufacturer or other person that directly or indirectly, through one or more intermediaries, controls or is controlled by a distributor or that is under common control with a distributor.

(14) ~~(13)~~ "Wholesale sales price" means the sum of:

(a) The full price paid by the distributor to acquire the tobacco products, including charges by the seller for the cost of materials, the cost of labor and service, charges for transportation and delivery, the federal excise tax, and any other charge, even if the charge is listed as a separate item on the invoice paid by the ~~established price for which a manufacturer sells a tobacco product to a~~ distributor, exclusive of any diminution by volume or other discounts, including a discount provided to a distributor by an affiliate; and

(b) The federal excise tax paid by the distributor on the tobacco products if the tax is not included in the full price under paragraph (a).

Section 10. Paragraph (a) of subsection (1) of section 212.05, Florida Statutes, is amended to read:

212.05 Sales, storage, use tax.—It is hereby declared to be

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the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible personal property at retail in this state, including the business of making mail order sales, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this state any item or article of tangible personal property as defined herein and who leases or rents such property within the state.

(1) For the exercise of such privilege, a tax is levied on each taxable transaction or incident, which tax is due and payable as follows:

(a)1.a. At the rate of 6 percent of the sales price of each item or article of tangible personal property when sold at retail in this state, computed on each taxable sale for the purpose of remitting the amount of tax due the state, and including each and every retail sale.

b. Each occasional or isolated sale of an aircraft, boat, mobile home, or motor vehicle of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Government shall be subject to tax at the rate provided in this paragraph. The department shall by rule adopt any nationally recognized publication for valuation of used motor vehicles as the reference price list for any used motor vehicle which is required to be licensed pursuant to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any party to an occasional or isolated sale of such a vehicle reports to the tax collector a sales price which is less than 80 percent of the average loan price for the specified model and year of such vehicle as listed in the most recent reference

price list, the tax levied under this paragraph shall be computed by the department on such average loan price unless the parties to the sale have provided to the tax collector an affidavit signed by each party, or other substantial proof, stating the actual sales price. Any party to such sale who reports a sales price less than the actual sales price is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. The department shall collect or attempt to collect from such party any delinquent sales taxes. In addition, such party shall pay any tax due and any penalty and interest assessed plus a penalty equal to twice the amount of the additional tax owed. Notwithstanding any other provision of law, the Department of Revenue may waive or compromise any penalty imposed pursuant to this subparagraph.

2. This paragraph does not apply to the sale of a boat or aircraft by or through a registered dealer under this chapter to a purchaser who, at the time of taking delivery, is a nonresident of this state, does not make his or her permanent place of abode in this state, and is not engaged in carrying on in this state any employment, trade, business, or profession in which the boat or aircraft will be used in this state, or is a corporation none of the officers or directors of which is a resident of, or makes his or her permanent place of abode in, this state, or is a noncorporate entity that has no individual vested with authority to participate in the management, direction, or control of the entity's affairs who is a resident of, or makes his or her permanent abode in, this state. For purposes of this exemption, either a registered dealer acting on his or her own behalf as seller, a registered dealer acting as

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broker on behalf of a seller, or a registered dealer acting as broker on behalf of the purchaser may be deemed to be the selling dealer. This exemption shall not be allowed unless:

a. The purchaser removes a qualifying boat, as described in sub-subparagraph f., from the state within 90 days after the date of purchase or extension, or the purchaser removes a nonqualifying boat or an aircraft from this state within 10 days after the date of purchase or, when the boat or aircraft is repaired or altered, within 20 days after completion of the repairs or alterations; or if the aircraft will be registered in a foreign jurisdiction and:

(I) Application for the aircraft's registration is properly filed with a civil airworthiness authority of a foreign jurisdiction within 10 days after the date of purchase;

(II) The purchaser removes the aircraft from the state to a foreign jurisdiction within 10 days after the date the aircraft is registered by the applicable foreign airworthiness authority; and

(III) The aircraft is operated in the state solely to remove it from the state to a foreign jurisdiction.

For purposes of this sub-subparagraph, the term "foreign jurisdiction" means any jurisdiction outside of the United States or any of its territories;

b. The purchaser, within 30 days from the date of departure, provides ~~shall provide~~ the department with written proof that the purchaser licensed, registered, titled, or documented the boat or aircraft outside the state. If such written proof is unavailable, within 30 days the purchaser shall

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provide proof that the purchaser applied for such license, title, registration, or documentation. The purchaser shall forward to the department proof of title, license, registration, or documentation upon receipt;

c. The purchaser, within 10 days of removing the boat or aircraft from Florida, furnishes ~~shall furnish~~ the department with proof of removal in the form of receipts for fuel, dockage, slippage, tie-down, or hangaring from outside of Florida. The information so provided must clearly and specifically identify the boat or aircraft;

d. The selling dealer, within 5 days of the date of sale, provides ~~shall provide~~ to the department a copy of the sales invoice, closing statement, bills of sale, and the original affidavit signed by the purchaser attesting that he or she has read the provisions of this section;

e. The seller makes a copy of the affidavit a part of his or her record for as long as required by s. 213.35; and

f. Unless the nonresident purchaser of a boat of 5 net tons of admeasurement or larger intends to remove the boat from this state within 10 days after the date of purchase or when the boat is repaired or altered, within 20 days after completion of the repairs or alterations, the nonresident purchaser applies ~~shall apply~~ to the selling dealer for a decal which authorizes 90 days after the date of purchase for removal of the boat. The nonresident purchaser of a qualifying boat may apply to the selling dealer within 60 days after the date of purchase for an extension decal that authorizes the boat to remain in this state for an additional 90 days, but not more than a total of 180 days, before the nonresident purchaser is required to pay the

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tax imposed by this chapter. The department is authorized to issue decals in advance to dealers. The number of decals issued in advance to a dealer shall be consistent with the volume of the dealer's past sales of boats which qualify under this sub-subparagraph. The selling dealer or his or her agent shall mark and affix the decals to qualifying boats in the manner prescribed by the department, before ~~prior to~~ delivery of the boat.

(I) The department is hereby authorized to charge dealers a fee sufficient to recover the costs of decals issued, except the extension decal shall cost $425.

(II) The proceeds from the sale of decals will be deposited into the administrative trust fund.

(III) Decals shall display information to identify the boat as a qualifying boat under this sub-subparagraph, including, but not limited to, the decal's date of expiration.

(IV) The department is authorized to require dealers who purchase decals to file reports with the department and may prescribe all necessary records by rule. All such records are subject to inspection by the department.

(V) Any dealer or his or her agent who issues a decal falsely, fails to affix a decal, mismarks the expiration date of a decal, or fails to properly account for decals will be considered prima facie to have committed a fraudulent act to evade the tax and will be liable for payment of the tax plus a mandatory penalty of 200 percent of the tax, and shall be liable for fine and punishment as provided by law for a conviction of a misdemeanor of the first degree, as provided in s. 775.082 or s. 775.083.

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(VI) Any nonresident purchaser of a boat who removes a decal before ~~prior to~~ permanently removing the boat from the state, or defaces, changes, modifies, or alters a decal in a manner affecting its expiration date before ~~prior to~~ its expiration, or who causes or allows the same to be done by another, will be considered prima facie to have committed a fraudulent act to evade the tax and will be liable for payment of the tax plus a mandatory penalty of 200 percent of the tax, and shall be liable for fine and punishment as provided by law for a conviction of a misdemeanor of the first degree, as provided in s. 775.082 or s. 775.083.

(VII) The department is authorized to adopt rules necessary to administer and enforce this subparagraph and to publish the necessary forms and instructions.

(VIII) The department is hereby authorized to adopt emergency rules pursuant to s. 120.54(4) to administer and enforce the provisions of this subparagraph.

If the purchaser fails to remove the qualifying boat from this state within the maximum 180 days after purchase or a nonqualifying boat or an aircraft from this state within 10 days after purchase or, when the boat or aircraft is repaired or altered, within 20 days after completion of such repairs or alterations, or permits the boat or aircraft to return to this state within 6 months from the date of departure, except as provided in s. 212.08(7)(fff), or if the purchaser fails to furnish the department with any of the documentation required by this subparagraph within the prescribed time period, the purchaser shall be liable for use tax on the cost price of the

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boat or aircraft and, in addition thereto, payment of a penalty to the Department of Revenue equal to the tax payable. This penalty shall be in lieu of the penalty imposed by s. 212.12(2). The maximum 180-day period following the sale of a qualifying boat tax-exempt to a nonresident may not be tolled for any reason.

Section 11. Paragraph (c) of subsection (1) of section 212.06, Florida Statutes, is amended to read:

212.06 Sales, storage, use tax; collectible from dealers; "dealer" defined; dealers to collect from purchasers; legislative intent as to scope of tax.—

(1)

(c)1. Notwithstanding the provisions of paragraph (b), the use tax on asphalt manufactured for one's own use shall be calculated with respect to paragraph (b) only upon the cost of materials which become a component part or which are an ingredient of the finished asphalt and upon the cost of the transportation of such components and ingredients. In addition, an indexed tax of 38 cents per ton of such manufactured asphalt shall be due at the same time and in the same manner as taxes due pursuant to paragraph (b). Beginning July 1, 1989, the indexed tax shall be adjusted each July 1 to an amount, rounded to the nearest cent, equal to the product of 38 cents multiplied by a fraction, the numerator of which is the annual average of the "materials and components for construction" series of the producer price index, as calculated and published by the United States Department of Labor, Bureau of Statistics, for the previous calendar year, and the denominator of which is the annual average of said series for calendar year 1988.

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2.a. Beginning July 1, 1999, the indexed tax imposed by this paragraph on manufactured asphalt which is used for any federal, state, or local government public works project shall be reduced by 20 percent.

b. Beginning July 1, 2000, the indexed tax imposed by this paragraph on manufactured asphalt which is used for any federal, state, or local government public works project shall be reduced by 40 percent.

c. Beginning July 1, 2016, the indexed tax imposed by this paragraph on manufactured asphalt which is used for any federal, state, or local government public works project shall be reduced by 60 percent.

d. Beginning July 1, 2017, the indexed tax imposed by this paragraph on manufactured asphalt which is used for any federal, state, or local government public works project shall be reduced by 80 percent.

e. Beginning July 1, 2018, manufactured asphalt used for any federal, state, or local government public works project shall be exempt from the indexed tax imposed by this paragraph.

Section 12. Paragraphs (n) and (kkk) of subsection (7) of section 212.08, Florida Statutes, are amended to read:

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

(7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any entity by this chapter do not inure to any transaction that is

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

(n) *Veterans' organizations.*—

1. There are exempt from the tax imposed by this chapter transactions involving sales or leases to qualified veterans' organizations and their auxiliaries when used in carrying on their customary veterans' organization activities or sales of food or drink by qualified veterans' organizations in connection with customary veterans' organization activities to members of qualified veterans' organizations.

2. As used in this paragraph, the term "veterans' organizations" means nationally chartered or recognized veterans' organizations, including, but not limited to, the American Legion, Veterans of Foreign Wars of the United States, Florida chapters of the Paralyzed Veterans of America, Catholic

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War Veterans of the U.S.A., Jewish War Veterans of the U.S.A., and the Disabled American Veterans, Department of Florida, Inc., which hold current exemptions from federal income tax under s. 501(c)(4) or (19) of the Internal Revenue Code of 1986, as amended.

(kkk) *Certain machinery and equipment.*—

1. Industrial machinery and equipment purchased by eligible manufacturing businesses which is used at a fixed location in ~~within~~ this state~~, or a mixer drum affixed to a mixer truck which is used at any location within this state to mix, agitate, and transport freshly mixed concrete in a plastic state,~~ for the manufacture, processing, compounding, or production of items of tangible personal property for sale is ~~shall be~~ exempt from the tax imposed by this chapter. ~~Parts and labor required to affix a mixer drum exempt under this paragraph to a mixer truck are also exempt.~~ If, at the time of purchase, the purchaser furnishes the seller with a signed certificate certifying the purchaser's entitlement to exemption pursuant to this paragraph, the seller is not required to collect ~~is relieved of the responsibility for collecting~~ the tax on the sale of such items, and the department shall look solely to the purchaser for recovery of the tax if it determines that the purchaser was not entitled to the exemption.

2. For purposes of this paragraph, the term:

a. "Eligible manufacturing business" means any business whose primary business activity at the location where the industrial machinery and equipment is located is within the industries classified under NAICS codes 31, 32, ~~and~~ 33, and 423930.

b. "Eligible postharvest activity business" means a

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business whose primary business activity, at the location where the postharvest machinery and equipment is located, is within the industries classified under NAICS code 115114.

c. ~~As used in this subparagraph,~~ "NAICS" means those classifications contained in the North American Industry Classification System, as published in 2007 by the Office of Management and Budget, Executive Office of the President.

d.~~b.~~ "Primary business activity" means an activity representing more than 50 percent of the activities conducted at the location where the industrial machinery and equipment or postharvest machinery and equipment is located.

e.~~c.~~ "Industrial machinery and equipment" means tangible personal property or other property that has a depreciable life of 3 years or more and that is used as an integral part in the manufacturing, processing, compounding, or production of tangible personal property for sale. The term includes tangible personal property or other property that has a depreciable life of 3 years or more which is used as an integral part in the recycling of metals for sale. A building and its structural components are not industrial machinery and equipment unless the building or structural component is so closely related to the industrial machinery and equipment that it houses or supports that the building or structural component can be expected to be replaced when the machinery and equipment are replaced. Heating and air conditioning systems are not industrial machinery and equipment unless the sole justification for their installation is to meet the requirements of the production process, even though the system may provide incidental comfort to employees or serve, to an insubstantial degree, nonproduction activities. The

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term includes parts and accessories for industrial machinery and equipment only to the extent that the parts and accessories are purchased before ~~prior to~~ the date the machinery and equipment are placed in service.

f. "Postharvest activities" means services performed on crops, after their harvest, with the intent of preparing them for market or further processing. Postharvest activities include, but are not limited to, crop cleaning, sun drying, shelling, fumigating, curing, sorting, grading, packing, and cooling.

g. "Postharvest machinery and equipment" means tangible personal property or other property with a depreciable life of 3 years or more which is used primarily for postharvest activities. A building and its structural components are not postharvest industrial machinery and equipment unless the building or structural component is so closely related to the postharvest machinery and equipment that it houses or supports that the building or structural component can be expected to be replaced when the postharvest machinery and equipment is replaced. Heating and air conditioning systems are not postharvest machinery and equipment unless the sole justification for their installation is to meet the requirements of the postharvest activities process, even though the system may provide incidental comfort to employees or serve, to an insubstantial degree, nonpostharvest activities.

3. Postharvest machinery and equipment purchased by an eligible postharvest activity business which is used at a fixed location in this state is exempt from the tax imposed by this chapter. All labor charges for the repair of, and parts and

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materials used in the repair of and incorporated into, such postharvest machinery and equipment are also exempt. If, at the time of purchase, the purchaser furnishes the seller with a signed certificate certifying the purchaser's entitlement to exemption pursuant to this subparagraph, the seller is not required to collect the tax on the sale of such items, and the department shall look solely to the purchaser for recovery of the tax if it determines that the purchaser was not entitled to the exemption.

4.~~3.~~ A mixer drum affixed to a mixer truck which is used at any location in this state to mix, agitate, and transport freshly mixed concrete in a plastic state for sale is exempt from the tax imposed by this chapter. Parts and labor required to affix a mixer drum exempt under this subparagraph to a mixer truck are also exempt. If, at the time of purchase, the purchaser furnishes the seller with a signed certificate certifying the purchaser's entitlement to exemption pursuant to this subparagraph, the seller is not required to collect the tax on the sale of such items, and the department shall look solely to the purchaser for recovery of the tax if it determines that the purchaser was not entitled to the exemption. This subparagraph ~~paragraph~~ is repealed April 30, 2017.

Section 13. Effective upon this act becoming a law and operating retroactively to January 1, 2016, paragraph (n) of subsection (1) and paragraph (c) of subsection (2) of section 220.03, Florida Statutes, are amended to read:

220.03 Definitions.—

(1) SPECIFIC TERMS.—When used in this code, and when not otherwise distinctly expressed or manifestly incompatible with

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the intent thereof, the following terms shall have the following meanings:

(n) "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended and in effect on January 1, 2016 ~~2015~~, except as provided in subsection (3).

(2) DEFINITIONAL RULES.—When used in this code and neither otherwise distinctly expressed nor manifestly incompatible with the intent thereof:

(c) Any term used in this code has the same meaning as when used in a comparable context in the Internal Revenue Code and other statutes of the United States relating to federal income taxes, as such code and statutes are in effect on January 1, 2016 ~~2015~~. However, if subsection (3) is implemented, the meaning of a term shall be taken at the time the term is applied under this code.

Section 14. Effective upon this act becoming a law and operating retroactively to January 1, 2016, paragraph (e) of subsection (1) of section 220.13, Florida Statutes, is amended to read:

220.13 "Adjusted federal income" defined.—

(1) The term "adjusted federal income" means an amount equal to the taxpayer's taxable income as defined in subsection (2), or such taxable income of more than one taxpayer as provided in s. 220.131, for the taxable year, adjusted as follows:

(e) *Adjustments related to federal acts.*—Taxpayers shall be required to make the adjustments prescribed in this paragraph for Florida tax purposes with respect to certain tax benefits received pursuant to the Economic Stimulus Act of 2008, the

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American Recovery and Reinvestment Act of 2009, the Small Business Jobs Act of 2010, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, the American Taxpayer Relief Act of 2012, ~~and~~ the Tax Increase Prevention Act of 2014, and the Consolidated Appropriations Act, 2016.

1. There shall be added to such taxable income an amount equal to 100 percent of any amount deducted for federal income tax purposes as bonus depreciation for the taxable year pursuant to ss. 167 and 168(k) of the Internal Revenue Code of 1986, as amended by s. 103 of Pub. L. No. 110-185, s. 1201 of Pub. L. No. 111-5, s. 2022 of Pub. L. No. 111-240, s. 401 of Pub. L. No. 111-312, s. 331 of Pub. L. No. 112-240, ~~and~~ s. 125 of Pub. L. No. 113-295, and s. 143 of Division Q of Pub. L. No. 114-113, for property placed in service after December 31, 2007, and before January 1, 2021 ~~2015~~. For the taxable year and for each of the 6 subsequent taxable years, there shall be subtracted from such taxable income an amount equal to one-seventh of the amount by which taxable income was increased pursuant to this subparagraph, notwithstanding any sale or other disposition of the property that is the subject of the adjustments and regardless of whether such property remains in service in the hands of the taxpayer.

2. There shall be added to such taxable income an amount equal to 100 percent of any amount in excess of $128,000 deducted for federal income tax purposes for the taxable year pursuant to s. 179 of the Internal Revenue Code of 1986, as amended by s. 102 of Pub. L. No. 110-185, s. 1202 of Pub. L. No. 111-5, s. 2021 of Pub. L. No. 111-240, s. 402 of Pub. L. No.

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111-312, s. 315 of Pub. L. No. 112-240, and s. 127 of Pub. L. No. 113-295, for taxable years beginning after December 31, 2007, and before January 1, 2015. For the taxable year and for each of the 6 subsequent taxable years, there shall be subtracted from such taxable income one-seventh of the amount by which taxable income was increased pursuant to this subparagraph, notwithstanding any sale or other disposition of the property that is the subject of the adjustments and regardless of whether such property remains in service in the hands of the taxpayer.

3. There shall be added to such taxable income an amount equal to the amount of deferred income not included in such taxable income pursuant to s. 108(i)(1) of the Internal Revenue Code of 1986, as amended by s. 1231 of Pub. L. No. 111-5. There shall be subtracted from such taxable income an amount equal to the amount of deferred income included in such taxable income pursuant to s. 108(i)(1) of the Internal Revenue Code of 1986, as amended by s. 1231 of Pub. L. No. 111-5.

4. Subtractions available under this paragraph may be transferred to the surviving or acquiring entity following a merger or acquisition and used in the same manner and with the same limitations as specified by this paragraph.

5. The additions and subtractions specified in this paragraph are intended to adjust taxable income for Florida tax purposes, and, notwithstanding any other provision of this code, such additions and subtractions shall be permitted to change a taxpayer’s net operating loss for Florida tax purposes.

Section 15. (1) The Department of Revenue is authorized, and all conditions are deemed to be met, to adopt emergency

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rules pursuant to s. 120.54(4), Florida Statutes, for the purpose of implementing the amendments made by this act to s. 220.03(1)(n) and (2)(c), Florida Statutes, and s. 220.13(1)(e), Florida Statutes.

(2) Notwithstanding any other provision of law, emergency rules adopted pursuant to subsection (1) are effective for 6 months after adoption and may be renewed during the pendency of procedures to adopt permanent rules addressing the subject of the emergency rules.

(3) This section expires January 1, 2020.

Section 16. Effective upon this act becoming a law and applicable to taxable years beginning on or after January 1, 2016, section 220.222, Florida Statutes, is amended to read:

220.222 Returns; time and place for filing.—

(1)(a) Returns required by this code shall be filed with the office of the department in Leon County or at such other place as the department may by regulation prescribe. All returns required for a DISC (Domestic International Sales Corporation) under paragraph 6011(c)(2) of the Internal Revenue Code shall be filed on or before the 1st day of the 10th month after ~~following~~ the close of the taxable year; all partnership information returns shall be filed on or before the 1st day of the 4th ~~5th~~ month after ~~following~~ the close of the taxable year; and all other returns shall be filed on or before the 1st day of the 5th ~~4th~~ month after ~~following~~ the close of the taxable year or the 15th day after ~~following~~ the due date, without extension, for the filing of the related federal return for the taxable year, unless under subsection (2) one or more extensions of time, not to exceed 6 months in the aggregate, for any such filing is

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granted.

(b) Notwithstanding paragraph (a), for taxable years beginning before January 1, 2026, returns of taxpayers with a taxable year ending on June 30 shall be filed on or before the 1st day of the 4th month after the close of the taxable year or the 15th day after the due date, without extension, for the filing of the related federal return for the taxable year, unless under subsection (2) one or more extensions of time for any such filing is granted.

(2)(a) When a taxpayer has been granted an extension or extensions of time within which to file its federal income tax return for any taxable year, and if the requirements of s. 220.32 are met, the filing of a request for such extension or extensions with the department shall automatically extend the due date of the return required under this code until ~~15 days after the expiration of the federal extension or until~~ the expiration of 6 months from the original due date~~, whichever first occurs~~.

(b) The department may grant an extension or extensions of time for the filing of any return required under this code upon receiving a prior request therefor if good cause for an extension is shown. However, the aggregate extensions of time under paragraph ~~paragraphs~~ (a) and this paragraph must ~~(b) shall~~ not exceed 6 months. An ~~No~~ extension granted under this paragraph is not ~~shall be~~ valid unless the taxpayer complies with ~~the requirements of~~ s. 220.32.

(c) For purposes of this subsection, a taxpayer is not in compliance with ~~the requirements of~~ s. 220.32 if the taxpayer underpays the required payment by more than the greater of

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$2,000 or 30 percent of the tax shown on the return when filed.

(d) For taxable years beginning before January 1, 2026, the 6-month time period in paragraphs (a) and (b) shall be 7 months for taxpayers with a taxable year ending June 30 and shall be 5 months for taxpayers with a taxable year ending December 31.

Section 17. Effective upon this act becoming a law and applicable to taxable years beginning on or after January 1, 2017, section 220.241, Florida Statutes, is amended to read:

220.241 Declaration; time for filing.—

(1) A declaration of estimated tax under this code shall be filed before the 1st day of the 6th ~~5th~~ month of each taxable year, except that if the minimum tax requirement of s. 220.24(1) is first met:

(a) ~~(1)~~ After the 3rd month and before the 6th month of the taxable year, the declaration shall be filed before the 1st day of the 7th month;

(b) ~~(2)~~ After the 5th month and before the 9th month of the taxable year, the declaration shall be filed before the 1st day of the 10th month; or

(c) ~~(3)~~ After the 8th month and before the 12th month of the taxable year, the declaration shall be filed for the taxable year before the 1st day of the succeeding taxable year.

(2) Notwithstanding subsection (1), for taxable years beginning before January 1, 2026, taxpayers with a taxable year ending on June 30 shall file declarations before the 1st day of the 5th month of each taxable year, unless paragraph (1)(a), paragraph (1)(b), or paragraph (1)(c) applies.

Section 18. Effective upon this act becoming a law and applicable to taxable years beginning on or after January 1,

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2017, subsection (1) of section 220.33, Florida Statutes, is amended to read:

220.33 Payments of estimated tax.—A taxpayer required to file a declaration of estimated tax pursuant to s. 220.24 shall pay such estimated tax as follows:

(1) If the declaration is required to be filed before the 1st day of the 6th ~~5th~~ month of the taxable year, the estimated tax shall be paid in four equal installments. The first installment shall be paid at the time of the required filing of the declaration; the second and third installments shall be paid before the 1st day of the 7th month and before the 1st day of the 10th month of the taxable year, respectively; and the fourth installment shall be paid before the 1st day of the next taxable year.

Section 19. Effective upon this act becoming a law and applicable to taxable years beginning on or after January 1, 2017, paragraph (c) of subsection (2) of section 220.34, Florida Statutes, is amended to read:

220.34 Special rules relating to estimated tax.—

(2) No interest or penalty shall be due or paid with respect to a failure to pay estimated taxes except the following:

(c) The period of the underpayment for which interest and penalties apply shall commence on the date the installment was required to be paid, determined without regard to any extensions of time, and shall terminate on the earlier of the following dates:

1. The 1st ~~first~~ day of the 5th ~~fourth~~ month after ~~following~~ the close of the taxable year;

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2. For taxable years beginning before January 1, 2026, for taxpayers with a taxable year ending June 30, the 1st day of the 4th month after the close of the taxable year; or

3.~~2.~~ With respect to any portion of the underpayment, the date on which such portion is paid.

For purposes of this paragraph, a payment of estimated tax on any installment date shall be considered a payment of any previous underpayment only to the extent such payment exceeds the amount of the installment determined under subparagraph (b)1. for such installment date.

Section 20. Subsections (1) and (2) of section 561.121, Florida Statutes, are amended to read:

561.121 Deposit of revenue.—

(1) All state funds collected pursuant to ss. 563.05, 564.06, 565.02(9), and 565.12 shall be paid into the State Treasury and disbursed in the following manner:

(a) Two percent of monthly collections of the excise taxes on alcoholic beverages established in ss. 563.05, 564.06, and 565.12 and the tax on alcoholic beverages, cigarettes, and other tobacco products established in s. 565.02(9) shall be deposited into the Alcoholic Beverage and Tobacco Trust Fund to meet the division's appropriation for the state fiscal year.

(b) The remainder of the funds collected pursuant to ss. 563.05, 564.06, and 565.12 and the tax on alcoholic beverages, cigarettes, and other tobacco products established in s. 565.02(9) shall be credited to the General Revenue Fund.

(2) The unencumbered balance in the Alcoholic Beverage and Tobacco Trust Fund at the close of each fiscal year may not

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exceed $2 million. These funds shall be held in reserve for use in the event that trust fund revenues are unable to meet the division's appropriation for the next fiscal year. In the event of a revenue shortfall, these funds shall be spent pursuant to subsection (3). Notwithstanding subsection (1), if the unencumbered balance on June 30 in any fiscal year is less than $2 million, the department is authorized to retain the difference between the June 30 unencumbered balance in the trust fund and $2 million from the July collections of state funds collected pursuant to ss. 563.05, 564.06, and 565.12 and the tax on alcoholic beverages, cigarettes, and other tobacco products established in s. 565.02(9). Any unencumbered funds in excess of reserve funds shall be transferred unallocated to the General Revenue Fund by August 31 of the next fiscal year.

Section 21. Subsection (4) of section 564.06, Florida Statutes, is amended to read:

564.06 Excise taxes on wines and beverages.—

(4) As to cider, which is made from the normal alcoholic fermentation of the juice of sound, ripe apples or pears, including but not limited to flavored, sparkling, or carbonated cider and cider made from condensed apple or pear must, that contain not less than one-half of 1 percent of alcohol by volume and not more than 7 percent of alcohol by volume, there shall be paid by all manufacturers and distributors a tax at the rate of $.89 per gallon. With the sole exception of the excise tax rate, cider shall be considered wine and shall be subject to the provisions of this chapter.

Section 22. Subsection (9) of section 565.02, Florida Statutes, is amended to read:

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565.02 License fees; vendors; clubs; caterers; and others.—

(9)(a) As used in this subsection, the term:

1. "Annual capacity" means an amount equal to the number of lower berths on a vessel multiplied by the number of embarkations of that vessel during a calendar year.

2. "Base rate" means an amount equal to the total taxes and surcharges paid by all permittees pursuant to the Beverage Law and chapter 210 for sales of alcoholic beverages, cigarettes, and other tobacco products taking place between January 1, 2015, and December 31, 2015, inclusive, divided by the sum of the annual capacities of all vessels permitted pursuant to former s. 565.02(9), Florida Statutes 2015, for calendar year 2015.

3. "Embarkation" means an instance in which a vessel departs from a port in this state.

4. "Lower berth" means a bed that is:

a. Affixed to a vessel;

b. Not located above another bed in the same cabin; and

c. Located in a cabin not in use by employees of the operator of the vessel or its contractors.

5. "Quarterly capacity" means an amount equal to the number of lower berths on a vessel multiplied by the number of embarkations of that vessel during a calendar quarter.

(b) It is the finding of the Legislature that passenger vessels engaged exclusively in foreign commerce are susceptible to a distinct and separate classification for purposes of the sale of alcoholic beverages, cigarettes, and other tobacco products under the Beverage Law and chapter 210.

(c) Upon the filing of an application and payment of an annual fee of $1,100, the director is authorized to issue a

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permit authorizing the operator, or, if applicable, his or her concessionaire, of a passenger vessel which has cabin-berth capacity for at least 75 passengers, and which is engaged exclusively in foreign commerce, to sell alcoholic beverages, cigarettes, and other tobacco products on the vessel for consumption on board only:

1. ~~(a)~~ For no more than ~~During a period not in excess of~~ 24 hours before ~~prior to~~ departure while the vessel is moored at a dock or wharf in a port of this state; or

2. ~~(b)~~ At any time while the vessel is located in Florida territorial waters and is in transit to or from international waters.

One such permit shall be required for each such vessel and shall name the vessel for which it is issued. No license shall be required or tax levied by any municipality or county for the privilege of selling beverages, cigarettes, or other tobacco products for consumption on board such vessels. The beverages, cigarettes, or other tobacco products so sold may be purchased outside the state by the permittee, and the same shall not be considered as imported for the purposes of s. 561.14(3) solely because of such sale. The permittee is not required to obtain its beverages, cigarettes, or other tobacco products from licensees under the Beverage Law or chapter 210. Each permittee~~,~~ ~~but it~~ shall keep a strict account of the quarterly capacity of each of its vessels ~~all such beverages sold within this state~~ and shall make quarterly ~~monthly~~ reports to the division on forms prepared and furnished by the division. ~~A permittee who sells on board the vessel beverages withdrawn from United States~~

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~~Bureau of Customs and Border Protection bonded storage on board the vessel may satisfy such accounting requirement by supplying the division with copies of the appropriate United States Bureau of Customs and Border Protection forms evidencing such withdrawals as importations under United States customs laws.~~

(d) Each ~~Such~~ permittee shall pay to the state a ~~an excise~~ tax for beverages, cigarettes, and other tobacco products sold pursuant to this subsection in an amount equal to the base rate multiplied by the permittee's quarterly capacity during the calendar quarter, less any tax or surcharge already paid by a licensed manufacturer or distributor pursuant to the Beverage Law or chapter 210 on beverages, cigarettes, and other tobacco products sold by the permittee pursuant to this subsection during the quarter for which tax is due ~~section, if such excise tax has not previously been paid, in an amount equal to the tax which would be required to be paid on such sales by a licensed manufacturer or distributor~~.

(e) A vendor holding such permit shall pay the tax quarterly ~~monthly~~ to the division at the same time he or she furnishes the required report. Such report shall be filed on or before the 15th day of each calendar quarter ~~month~~ for the quarterly capacity ~~sales occurring~~ during the previous calendar quarter ~~month~~.

(f) No later than August 1, 2016, each permittee shall report the annual capacity for each of its vessels for calendar year 2015 to the division on forms prepared and furnished by the division. No later than September 1, 2016, the division shall calculate the base rate and report it to each permittee. The base rate shall also be published in the Florida Administrative

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Register and on the department's website. The division may verify independently the information provided under this paragraph.

(g) Revenues collected pursuant to this subsection shall be distributed pursuant to s. 561.121(1).

Section 23. Subsection (1) of section 951.22, Florida Statutes, is amended to read:

951.22 County detention facilities; contraband articles.—

(1) It is unlawful, except through regular channels as duly authorized by the sheriff or officer in charge, to introduce into or possess upon the grounds of any county detention facility as defined in s. 951.23 or to give to or receive from any inmate of any such facility wherever said inmate is located at the time or to take or to attempt to take or send therefrom any of the following articles which are hereby declared to be contraband for the purposes of this act, to wit: Any written or recorded communication; any currency or coin; any article of food or clothing; any tobacco products as defined in s. 210.25(12) ~~210.25(11)~~; any cigarette as defined in s. 210.01(1); any cigar; any intoxicating beverage or beverage which causes or may cause an intoxicating effect; any narcotic, hypnotic, or excitative drug or drug of any kind or nature, including nasal inhalators, sleeping pills, barbiturates, and controlled substances as defined in s. 893.02(4); any firearm or any instrumentality customarily used or which is intended to be used as a dangerous weapon; and any instrumentality of any nature that may be or is intended to be used as an aid in effecting or attempting to effect an escape from a county facility.

Section 24. Clothing and school supplies; sales tax

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holiday.—

(1) The tax levied under chapter 212, Florida Statutes, may not be collected during the period from 12:01 a.m. on August 5, 2016, through 11:59 p.m. on August 7, 2016, on the retail sale of:

(a) Clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags, having a sales price of $60 or less per item. As used in this paragraph, the term "clothing" means:

1. Any article of wearing apparel intended to be worn on or about the human body, excluding watches, watchbands, jewelry, umbrellas, and handkerchiefs; and

2. All footwear, excluding skis, swim fins, roller blades, and skates.

(b) School supplies having a sales price of $15 or less per item. As used in this paragraph, the term "school supplies" means pens, pencils, erasers, crayons, notebooks, notebook filler paper, legal pads, binders, lunch boxes, construction paper, markers, folders, poster board, composition books, poster paper, scissors, cellophane tape, glue or paste, rulers, computer disks, protractors, compasses, and calculators.

(2) The tax exemptions provided in this section do not apply to sales within a theme park or entertainment complex as defined in s. 509.013(9), Florida Statutes, within a public lodging establishment as defined in s. 509.013(4), Florida Statutes, or within an airport as defined in s. 330.27(2), Florida Statutes.

(3) The tax exemptions provided in this section apply at

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the option of a dealer if less than 5 percent of the dealer's gross sales of tangible personal property in the prior calendar year are comprised of items that would be exempt under this section. If a qualifying dealer chooses not to participate in the tax holiday, by August 1, 2016, the dealer must notify the Department of Revenue in writing of its election to collect sales tax during the holiday and must post a copy of that notice in a conspicuous location at its place of business.

(4) The Department of Revenue may, and all conditions are deemed met to, adopt emergency rules pursuant to s. 120.54(4), Florida Statutes, to administer this section.

(5) For the 2016-2017 fiscal year, the sum of $229,982 in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Revenue for the purpose of implementing this section.

Section 25. For the 2016-2017 fiscal year, the sum of $100,374 in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Revenue for the purpose of implementing ss. 220.03, 220.13, 220.222, 220.241, 220.33, and 220.34, as amended by this act.

Section 26. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect July 1, 2016.

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

And the title is amended as follows:

Delete everything before the enacting clause

and insert:

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A bill to be entitled

An act relating to taxation; amending s. 125.0104, F.S.; specifying additional uses for revenues received from tourist development taxes for certain coastal counties; conforming a cross-reference; amending s. 196.012, F.S.; revising definitions related to certain businesses; amending s. 196.1995, F.S.; revising an economic development ad valorem tax exemption for certain enterprise zone businesses; providing applicability of the exemption to data centers; providing retroactive applicability for certain provisions; amending s. 201.15, F.S.; revising a date relating to the payment of debt service for certain bonds; amending s. 206.9825, F.S.; revising eligibility criteria for wholesalers and terminal suppliers to receive aviation fuel tax refunds or credits of previously paid excise taxes; providing for future repeal of such refunds or credits; revising the rate of the excise tax on certain aviation fuels on a specified date; amending s. 210.13, F.S.; providing procedures to be used when a person, other than a dealer, is required but fails to remit certain taxes; amending s. 210.25, F.S.; revising definitions related to tobacco; amending s. 212.05, F.S.; clarifying the requirements for the exemption from tax on certain sales of aircraft that will be registered in a foreign jurisdiction; amending s. 212.06, F.S.; reducing by a specified percentage over time an indexed tax on manufactured asphalt used for a government public

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works project; exempting such manufactured asphalt from the indexed tax beginning on a specified date; amending s. 212.08, F.S.; exempting the sales of food or drinks by certain qualified veterans' organizations; revising definitions regarding certain industrial machinery and equipment; removing the expiration date on the exemption for purchases of certain machinery and equipment; revising the definition of the term "eligible manufacturing business" for purposes of qualification for the sales and use tax exemption; providing definitions for certain postharvest machinery and equipment, postharvest activities, and eligible postharvest activity businesses; providing an exemption for the purchase of such machinery and equipment; amending s. 220.03, F.S.; adopting the 2016 version of the Internal Revenue Code; providing retroactive applicability; amending s. 220.13, F.S.; incorporating a reference to a recent federal act into state law for the purpose of defining the term "adjusted federal income"; revising the treatment by this state of certain depreciation of assets allowed for federal income tax purposes; providing retroactive applicability; authorizing the Department of Revenue to adopt emergency rules; providing for expiration; amending s. 220.222, F.S.; revising due dates for partnership information returns and corporate tax returns; amending s. 220.241, F.S.; revising due dates to file a declaration of estimated corporate income

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tax; amending s. 220.33, F.S.; revising the due date of estimated payments of corporate income tax; amending s. 220.34, F.S.; revising the dates for purposes of calculating interest and penalties on underpayments of estimated corporate income tax; amending s. 561.121, F.S.; requiring that certain taxes related to alcoholic beverages and tobacco products sold on cruise ships be deposited into specified funds; amending s. 564.06, F.S.; specifying the excise tax that is applicable to cider made from pears; amending s. 565.02, F.S.; creating an alternative method of taxation for alcoholic beverages and tobacco products sold on certain cruise ships; requiring the reporting of certain information by each permittee for purposes of determining the base rate applicable to the taxpayers; authorizing the Division of Alcoholic Beverages and Tobacco within the Department of Business and Professional Regulation to independently verify certain reported information; amending s. 951.22, F.S.; conforming a cross-reference; providing an exemption from the sales and use tax for the retail sale of certain clothes and school supplies during a specified period; providing exceptions; authorizing certain dealers to elect not to participate in such tax exemptions; providing requirements for such dealers; authorizing the Department of Revenue to adopt emergency rules; providing appropriations; providing effective dates.

299122

LEGISLATIVE ACTION

Senate	.	House
Comm: OO	.	
03/03/2016	.	
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	.	
	.	

The Committee on Appropriations (Latvala) recommended the following:

Senate Amendment (with title amendment)

Delete lines 189 - 380.

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

And the title is amended as follows:

Delete lines 2 - 11

and insert:

An act relating to taxation;

960516

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/02/2016	.	
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	.	
	.	

The Committee on Appropriations (Negron) recommended the following:

Senate Amendment (with title amendment)

Delete lines 682 - 729
and insert:
Section 9. Effective upon this act becoming a law, subsections (5) and (11) of section 196.1995, Florida Statutes, are amended to read:
196.1995 Economic development ad valorem tax exemption.—
(5) Upon a majority vote in favor of such authority, the board of county commissioners or the governing authority of the

960516

municipality, at its discretion, by ordinance may exempt from ad valorem taxation up to 100 percent of the assessed value of all improvements to real property made by or for the use of a new business and of all tangible personal property of such new business, or up to 100 percent of the assessed value of all added improvements to real property made to facilitate the expansion of an existing business and of the net increase in all tangible personal property acquired to facilitate such expansion of an existing business. To qualify for this exemption, the improvements to real property must be made or the tangible personal property must be added or increased after approval by motion or resolution of the local governing body, subject to ordinance adoption or on or after the day the ordinance is adopted. However, if the authority to grant exemptions is approved in a referendum in which the ballot question contained in subsection (3) appears on the ballot, the authority of the board of county commissioners or the governing authority of the municipality to grant exemptions is limited solely to new businesses and expansions of existing businesses that are located in an area that was designated as an enterprise zone pursuant to chapter 290 as of December 30, 2015, or in a brownfield area. New businesses and expansions of existing businesses located in an area that was designated as an enterprise zone pursuant to chapter 290 as of December 30, 2015, but is not in a brownfield area may qualify for the ad valorem tax exemption only if approved by motion or resolution of the local governing body, subject to ordinance or resolution of the local governing body, subject to ordinance adoption, or by ordinance enacted before December 31, 2015. Property acquired to

960516

replace existing property shall not be considered to facilitate a business expansion. All data center equipment for a qualifying data center as set forth in s. 212.08(5)(s) shall be exempt from ad valorem taxation for the term of the approved exemption. The exemption applies only to taxes levied by the respective unit of government granting the exemption. The exemption does not apply, however, to taxes levied for the payment of bonds or to taxes authorized by a vote of the electors pursuant to s. 9(b) or s. 12, Art. VII of the State Constitution. Any such exemption shall remain in effect for up to 10 years with respect to any particular facility, or up to 20 years for a qualifying data center, regardless of any change in the authority of the county or municipality to grant such exemptions or the expiration of the Florida Enterprise Zone Act pursuant to chapter 290. The exemption shall not be prolonged or extended by granting exemptions from additional taxes or by virtue of any reorganization or sale of the business receiving the exemption.

(11) An ordinance granting an exemption under this section shall be adopted in the same manner as any other ordinance of the county or municipality and shall include the following:

(a) The name and address of the new business or expansion of an existing business to which the exemption is granted;

(b) The total amount of revenue available to the county or municipality from ad valorem tax sources for the current fiscal year, the total amount of revenue lost to the county or municipality for the current fiscal year by virtue of economic development ad valorem tax exemptions currently in effect, and the estimated revenue loss to the county or municipality for the current fiscal year attributable to the exemption of the

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business named in the ordinance;

(c) The period of time for which the exemption will remain in effect and the expiration date of the exemption, which may be any period of time up to 10 years, or up to 20 years for a qualifying data center; and

(d) A finding that the business named in the ordinance meets the requirements of s. 196.012(14) or (15).

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

And the title is amended as follows:

Delete line 45

and insert:

businesses; specifying applicability of the exemption as it relates to qualifying data centers; amending s. 201.15, F.S.; revising a date

624704

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/02/2016	.	
	.	
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	.	

The Committee on Appropriations (Negron) recommended the following:

Senate Amendment

In directory clause, delete line 1323
and insert:
Section 18. Except for s. 212.08(5)(s), which shall not take effect until authorized by the Legislature in an implementing bill, effective July 1, 2016, paragraphs (r) and (s) are added to subsection

524478

LEGISLATIVE ACTION

Senate	.	House
Comm: OO	.	
03/03/2016	.	
	.	
	.	
	.	

The Committee on Appropriations (Hays) recommended the following:

Senate Amendment (with title amendment)

Between lines 2304 and 2305
insert:

Section 34. Paragraph (a) of subsection (2) of section 565.03, Florida Statutes, is amended to read:

565.03 License fees; manufacturers, distributors, brokers, sales agents, and importers of alcoholic beverages; vendor licenses and fees; craft distilleries.—

(2)(a) A distillery authorized to do business under the

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Beverage Law shall pay an annual state license tax for each plant or branch operating in the state, as follows:

1. If engaged in the business of manufacturing distilled spirits, a state license tax of $4,000.

2. If engaged in the business of rectifying and blending spirituous liquors and nothing else, a state license tax of $4,000.

3. If engaged in the business of manufacturing distilled spirits as a qualified craft distillery, a state license tax of $1,000.

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

And the title is amended as follows:

Delete line 128

and insert:

applicable to the taxpayers; amending s. 565.03, F.S.; requiring a license tax for each plant or branch of certain qualified craft distilleries; amending s. 951.22, F.S.;

A bill to be entitled

An act relating to taxation; amending s. 125.0104, F.S.; revising uses of certain tourist development taxes; requiring the performance of a return-on-investment or cost-benefit analysis in specified circumstances; authorizing certain entities to file administrative challenges against counties for using tourist development taxes for unauthorized purposes; prohibiting use of those revenues for purposes which are the subject of a challenge; authorizing reasonable attorney fees and costs under specified circumstances; amending s. 159.621, F.S.; exempting from the documentary stamp tax certain notes or mortgages with respect to certain loans by or on behalf of a housing finance authority; providing criteria for such exemption; amending s. 163.387, F.S.; specifying uses of community redevelopment agency redevelopment trust fund moneys for certain community redevelopment agencies that support youth centers; amending s. 195.022, F.S.; revising the county population thresholds for purposes of identifying the governmental entity responsible for payment of aerial photographs and ownership maps; amending s. 196.011, F.S.; exempting certain veterans and surviving spouses from certain annual homestead filing requirements; amending s. 196.012, F.S.; revising definitions

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related to certain businesses; amending s. 196.081, F.S.; expanding an exemption from ad valorem taxation for certain permanently and totally disabled veterans under specified circumstances; removing the requirement that a deceased veteran have resided in this state on a specified date before the ad valorem tax exemption for homestead property may apply to the veteran's surviving spouse; exempting the unremarried surviving spouse of certain deceased veterans from payment of ad valorem taxes for certain homestead property in this state, irrespective of the state in which the veteran's homestead was located at the time of death, if certain conditions are met; amending 196.1978, F.S.; providing a property tax discount for certain properties used to provide affordable housing to specified low-income persons and families; amending s. 196.1995, F.S.; revising an economic development ad valorem tax exemption for certain enterprise zone businesses; amending s. 201.15, F.S.; revising a date relating to the payment of debt service for certain bonds; amending s. 206.9825, F.S.; revising eligibility criteria for wholesalers and terminal suppliers to receive aviation fuel tax refunds or credits of previously paid excise taxes; providing for future repeal of such refunds or credits; revising the rate of the excise tax on certain aviation fuels on a

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specified date; amending s. 210.13, F.S.; providing procedures to be used when a person, other than a dealer, is required but fails to remit certain taxes; amending s. 210.25, F.S.; revising definitions related to tobacco; amending s. 212.031, F.S.; reducing the tax levied on the renting, leasing, letting, or granting of a license for the use of real property; providing applicability; amending s. 212.04, F.S.; authorizing a refund or credit of tax for certain resales of admissions upon the demonstration of specified documentation; amending s. 212.05, F.S.; clarifying the requirements for the exemption from tax on certain sales of aircraft that will be registered in a foreign jurisdiction; amending s. 212.08, F.S.; creating an exemption for certain sales of data center equipment, certain sales of electricity, and certain sales of building materials; providing definitions; exempting the sales of food or drinks by certain qualified veterans' organizations; revising definitions regarding certain industrial machinery and equipment; removing the expiration date on the exemption for purchases of certain machinery and equipment; revising the definition of the term "eligible manufacturing business" for purposes of qualification for the sales and use tax exemption; providing definitions for certain postharvest

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HB 7099, Engrossed 2 2016

machinery and equipment, postharvest activities, and eligible postharvest activity businesses; providing an exemption for the purchase of such machinery and equipment; amending s. 220.03, F.S.; adopting the 2016 version of the Internal Revenue Code; providing retroactive applicability; amending s. 220.13, F.S.; incorporating a reference to a recent federal act into state law for the purpose of defining the term "adjusted federal income"; revising the treatment by this state of certain depreciation of assets allowed for federal income tax purposes; providing retroactive applicability; authorizing the Department of Revenue to adopt emergency rules; amending s. 220.1845, F.S.; specifying a monetary cap on the grant of contaminated site rehabilitation tax credits available for the year; amending s. 220.192, F.S.; extending by 1 year the renewable energy technology corporate income tax credit; amending s. 220.193, F.S.; authorizing certain nonpublic waste-to-energy facilities to be eligible for the renewable energy production corporate income tax credit; removing the repeal of the tax credit; extending by 1 year a specified amount of available tax credit for eligible taxpayers; amending s. 220.196, F.S.; specifying the amount of research and development tax credits that may be granted to business enterprises in a future year; amending s.

220.222, F.S.; revising due dates for partnership information returns and corporate tax returns; amending s. 220.241, F.S.; revising due dates to file a declaration of estimated corporate income tax; amending s. 220.33, F.S.; revising the due date of estimated payments of corporate income tax; amending 220.34, F.S.; revising the dates for purposes of calculating interest and penalties on underpayments of estimated corporate income tax; amending s. 376.30781, F.S.; revising the total amount of tax credits available for the rehabilitation of drycleaning-solvent-contaminated sites and brownfield sites in designated brownfield areas for a specified period; amending s. 561.121, F.S.; requiring that certain taxes related to alcoholic beverages and tobacco products sold on cruise ships be deposited into specified funds; amending s. 564.06, F.S.; specifying the excise tax that is applicable to cider made from pears; amending s. 565.02, F.S.; creating an alternative method of taxation for alcoholic beverages and tobacco products sold on certain cruise ships; requiring the reporting of certain information by each permittee for purposes of determining the base rate applicable to the taxpayers; amending s. 951.22, F.S.; conforming a cross reference; providing an exemption from the sales and use tax for the retail sale of

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certain clothes, school supplies, and personal computers and related accessories during a specified period; providing exceptions; authorizing the Department of Revenue to adopt emergency rules; providing an appropriation; providing an exemption from the sales and use tax for the retail sale of certain items and articles of tangible personal property by certain small businesses during a specified period; providing an exemption from the sales and use tax on the retail sale of certain firearms, ammunition for firearms, camping tents, and fishing supplies during a specified period; providing exceptions; authorizing the department to adopt emergency rules; providing an appropriation; providing an exemption from the sales and use tax for certain personal computers and related accessories during a specified period; providing exceptions; authorizing the department to adopt emergency rules; providing an appropriation; providing an exemption from the sales and use tax on the sale of certain books and other reading materials at book fairs; authorizing the department to adopt emergency rules; amending chapter 2015-221, Laws of Florida; extending the exemption from the sales and use tax on the retail sale of certain textbooks for 1 year; providing an appropriation to the department to implement certain

tax exemptions on rental or license fees; providing an appropriation to the department to assist certain counties in furnishing aerial photographs and maps; specifying that specified amendments related to certain businesses located in areas that were designated as enterprise zones are remedial in nature; creating s. 196.1955, F.S.; consolidating provisions relating to obtaining an ad valorem exemption for property owned by exempt organizations; requiring the owner of an exempt organization to take affirmative steps to demonstrate the property's exempt use; authorizing the property appraiser to serve a notice of tax lien on exempt property that is not in actual exempt use after a specified time; providing that the lien attaches to any property owned by the organization identified in the notice of lien; prohibiting a property appraiser from serving a notice of tax lien on certain property being prepared for use as a house of public worship; defining the terms "charitable use," "affirmative steps," and "public worship"; amending s. 196.196, F.S.; deleting provisions relating to the exemption as it applies to public worship and affordable housing and provisions that have been moved to s. 196.1955, F.S.; amending s. 196.198, F.S.; deleting provisions that have been moved to s. 196.1955, F.S., relating to property owned

by an educational institution and used for an educational purpose; providing a finding of important state interest; providing effective dates.

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

Section 1. Effective October 1, 2016, paragraph (m) of subsection (3) and subsection (5) of section 125.0104, Florida Statutes, are amended to read:

125.0104 Tourist development tax; procedure for levying; authorized uses; referendum; enforcement.—

(3) TAXABLE PRIVILEGES; EXEMPTIONS; LEVY; RATE.—

(m)1. In addition to any other tax which is imposed pursuant to this section, a high tourism impact county may impose an additional 1-percent tax on the exercise of the privilege described in paragraph (a) by extraordinary vote of the governing board of the county. The tax revenues received pursuant to this paragraph shall be used for one or more of the authorized uses pursuant to subparagraph (5)(a)3., paragraph (5)(b), or paragraph (5)(c) ~~subsection (5)~~.

2. A county is considered to be a high tourism impact county after the Department of Revenue has certified to such county that the sales subject to the tax levied pursuant to this section exceeded $600 million during the previous calendar year, or were at least 18 percent of the county's total taxable sales under chapter 212 where the sales subject to the tax levied

pursuant to this section were a minimum of $200 million, except that no county authorized to levy a convention development tax pursuant to s. 212.0305 shall be considered a high tourism impact county. Once a county qualifies as a high tourism impact county, it shall retain this designation for the period the tax is levied pursuant to this paragraph.

3. ~~The provisions of~~ Paragraphs (4)(a)-(d) do ~~shall~~ not apply to the adoption of the additional tax authorized in this paragraph. The effective date of the levy and imposition of the tax authorized under this paragraph shall be the first day of the second month following approval of the ordinance by the governing board or the first day of any subsequent month as may be specified in the ordinance. A certified copy of such ordinance shall be furnished by the county to the Department of Revenue within 10 days after approval of such ordinance.

(5) AUTHORIZED USES OF REVENUE.—

(a) Except as otherwise provided in this section, and after deducting payments required by subparagraph (c)2., all tax revenues received pursuant to this section by a county imposing the tourist development tax shall be used by that county as follows ~~for the following purposes only~~:

1. No less than 35 percent of the revenues must be used for promotion as specified under this section. For purposes of this subparagraph, the term "promotion" does not include any expenditure made pursuant to subsection (9).

2. In a coastal county, up to 10 percent of the revenues

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may be used to provide emergency medical services, as defined in s. 401.107(3), or law enforcement services that are needed for enhanced emergency medical or public safety services related to increased tourism and visitors to an area. If taxes collected pursuant to this section are used to fund emergency medical services or public safety services for tourism or special events, the governing board of a county or municipality is prohibited from using such taxes to supplant the normal operating expenses of an emergency services department, a fire department, a sheriff's office, or a police department.

3. The remaining revenues shall be used for the following purposes only:

a.~~1.~~ To acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate, or promote one or more:

(I)~~a.~~ Publicly owned and operated convention centers, sports stadiums, sports arenas, coliseums, or auditoriums within the boundaries of the county or subcounty special taxing district in which the tax is levied; or

(II)~~b.~~ Aquariums or museums that are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public, within the boundaries of the county or subcounty special taxing district in which the tax is levied;

b.~~2.~~ To promote zoological parks that are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public;

c.~~3.~~ To promote and advertise tourism in this state and

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

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nationally and internationally; however, if tax revenues are expended for an activity, service, venue, or event, the activity, service, venue, or event must have as one of its main purposes the attraction of tourists as evidenced by the promotion of the activity, service, venue, or event to tourists;

d.~~4.~~ To fund convention bureaus, tourist bureaus, tourist information centers, and news bureaus as county agencies or by contract with the chambers of commerce or similar associations in the county, which may include any indirect administrative costs for services performed by the county on behalf of the promotion agency; or

e.~~5.~~ To finance beach park facilities or beach improvement, maintenance, renourishment, restoration, and erosion control, including shoreline protection, enhancement, cleanup, or restoration of inland lakes and rivers to which there is public access as those uses relate to the physical preservation of the beach, shoreline, or inland lake or river. However, any funds identified by a county as the local matching source for beach renourishment, restoration, or erosion control projects included in the long-range budget plan of the state's Beach Management Plan, pursuant to s. 161.091, or funds contractually obligated by a county in the financial plan for a federally authorized shore protection project may not be used or loaned for any other purpose. In counties with a population of fewer than 100,000 ~~population~~, up to 10 percent of the revenues from the tourist development tax may be used for beach park

facilities.

Sub-subparagraphs a. and b. ~~Subparagraphs 1. and 2.~~ may be implemented through service contracts and leases with lessees that have sufficient expertise or financial capability to operate such facilities.

(b) Tax revenues received pursuant to this section by a county with a population of less than 750,000 ~~population~~ imposing a tourist development tax may only be used by that county for the following purposes in addition to those purposes allowed pursuant to paragraph (a): to acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate, or promote one or more zoological parks, fishing piers, or nature centers which are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public. All population figures relating to this subsection shall be based on the most recent population estimates prepared pursuant to ~~the provisions of~~ s. 186.901. These population estimates shall be those in effect on July 1 of each year.

(c)1. The revenues to be derived from the tourist development tax may be pledged to secure and liquidate revenue bonds issued by the county for the purposes set forth in sub-subparagraphs (a)3.a., b., and e. ~~subparagraphs (a)1., 2., and 5.~~ or for the purpose of refunding bonds previously issued for such purposes, or both; however, no more than 50 percent of the revenues from the tourist development tax may be pledged to

secure and liquidate revenue bonds or revenue refunding bonds issued for the purposes set forth in sub-subparagraph (a)3.e. ~~subparagraph (a)5.~~ Such revenue bonds and revenue refunding bonds may be authorized and issued in such principal amounts, with such interest rates and maturity dates, and subject to such other terms, conditions, and covenants as the governing board of the county shall provide. The Legislature intends that this paragraph be full and complete authority for accomplishing such purposes, but such authority is supplemental and additional to, and not in derogation of, any powers now existing or later conferred under law.

2. Revenues from tourist development taxes that are pledged to secure and liquidate revenue bonds or other forms of indebtedness issued pursuant to subparagraph 1. that are outstanding as of March 11, 2016, shall be made available first to make payments when due on the outstanding bonds or other forms of indebtedness before any other uses of the tax revenues.

(d) In order to recommend a proposed use of tourist development tax revenues authorized in subparagraph (a)3. or paragraph (b) to the governing board of a county, the tourist development council or a member of the public must submit a written proposal to the governing board of the county. The governing board of each county may determine the requirements for a written proposal, but, at a minimum, each proposal must include a description of the proposed use and an estimate of the cost.

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(e) Before expending any revenues from a tourist development tax on a use authorized in subparagraph (a)3. or paragraph (b) in excess of $100,000, the governing board of a county or a person authorized by the governing board must perform or provide for the performance of a return-on-investment analysis or cost-benefit analysis for the proposed use. The return-on-investment analysis or cost-benefit analysis must be performed by an individual who has prior experience with input-output modeling or the application of economic multipliers, such as the Regional Input-Output Modeling System created by the Bureau of Economic Analysis of the United States Department of Commerce. The return-on-investment analysis or cost-benefit analysis shall be paid for by revenues received pursuant to paragraphs (3)(c) and (d).

(f) ~~(d)~~ Any use of the local option tourist development tax revenues collected pursuant to this section for a purpose not expressly authorized by paragraph (3)(l) or paragraph (3)(n) or paragraph (a), paragraph (b), or paragraph (c) of this subsection is expressly prohibited.

(g) As an additional means of enforcing the prohibition in paragraph (f), a county's decision to use revenues in violation of paragraph (f) is subject to administrative review pursuant to ss. 120.569 and 120.57. A party may file a petition with the Division of Administrative Hearings within 60 days after such decision, except that a county's decision to use such revenues for a facility for which tax revenues under this section have

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already been pledged to secure and liquidate revenue bonds pursuant to paragraph (c) is not subject to administrative review. Any remitter of the tax provided for in this section, or any organization representing multiple remitters of the tax, shall be considered to be a party whose substantial interests are affected by such use and may challenge a particular use or uses alleged to be in violation of paragraph (f). During the pendency of the administrative proceeding and any resulting appeal, tax revenues collected under this section may not be used to fund the challenged use or uses. The county's interpretation of this section shall be afforded no deference in the proceedings. The decision of the administrative law judge constitutes a final order in such action, subject to judicial review as provided in s. 120.68. A prevailing remitter or remitter organization shall be awarded the reasonable costs of the action plus reasonable attorney fees, including on appeal.

Section 2. Section 159.621, Florida Statutes, is amended to read:

159.621 Housing bonds exempted from taxation.—

(1) The bonds of a housing finance authority issued under this act, together with all notes, mortgages, security agreements, letters of credit, or other instruments that ~~which~~ arise out of or are given to secure the repayment of bonds issued in connection with the financing of any housing development under this part, or a note or mortgage given with respect to a loan made by or on behalf of a housing finance

authority pursuant to s. 159.608(8), as well as the interest thereon and income therefrom, are ~~shall be~~ exempt from all taxes. The exemption granted by this subsection does not apply ~~section shall not be applicable~~ to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations or to any deed granted in connection with a property financed pursuant to this part.

(2) For a note or mortgage given with respect to a loan made by or on behalf of a housing finance authority pursuant to s. 159.608(8), to be exempt from all taxes pursuant to subsection (1), documentation from the housing finance authority affirming that the loan was made by or on behalf of the housing finance authority must be included with the mortgage at the time the mortgage is recorded.

Section 3. Paragraph (i) is added to subsection (6) of section 163.387, Florida Statutes, to read:

163.387 Redevelopment trust fund.—

(6) Moneys in the redevelopment trust fund may be expended from time to time for undertakings of a community redevelopment agency as described in the community redevelopment plan for the following purposes, including, but not limited to:

(i)1. Supporting youth centers, provided that a community redevelopment agency spends no less than 5 percent of the trust fund revenues annually to support youth centers if:

a. More than 50 percent of the persons younger than 18 years of age living in the community redevelopment area served

by the agency are in families with incomes below the federal poverty level;

b. The youth center submits a written request for support to the community redevelopment agency; and

c. The expenditures do not materially impair any bonds outstanding as of March 11, 2016.

2. For purposes of this paragraph, the term "youth center" means a facility owned and operated by a government entity or a corporation not for profit registered pursuant to chapter 617, the primary purpose of which is to provide educational programs, after-school activities, counseling, and other services to children aged 5 to 18 years and which has operated for at least 2 years before its request for support from the community redevelopment agency. The term includes indoor recreational facilities, as defined in s. 402.302, which are owned and operated by a government entity or corporation not for profit registered pursuant to chapter 617. The term does not include public or private schools, child care facilities as defined in s. 402.302, or private prekindergarten providers as defined in s. 1002.51.

Section 4. Section 195.022, Florida Statutes, is amended to read:

195.022 Forms to be prescribed by Department of Revenue.—The Department of Revenue shall prescribe all forms to be used by property appraisers, tax collectors, clerks of the circuit court, and value adjustment boards in administering and

collecting ad valorem taxes. The department shall prescribe a form for each purpose. The county officer shall reproduce forms for distribution at the expense of his or her office. A county officer may use a form other than the form prescribed by the department upon obtaining written permission from the executive director of the department; however, a county officer may not use a form if the substantive content of the form varies from the form prescribed by the department for the same or a similar purpose. If the executive director finds good cause to grant such permission he or she may do so. The county officer may continue to use the approved form until the law that specifies the form is amended or repealed or until the officer receives written disapproval from the executive director. Otherwise, all such officers and their employees shall use the forms, and follow the instructions applicable to the forms, which are prescribed by the department. Upon request of any property appraiser or, in any event, at least once every 3 years, the department shall prescribe and furnish such aerial photographs and nonproperty ownership maps to the property appraisers as necessary to ensure that all real property within the state is properly listed on the roll. All photographs and maps furnished to a county that meets the population thresholds of a rural community as set forth in s. 288.0656(2)(e) ~~counties with a population of 25,000 or fewer~~ shall be paid for by the department as provided by law. For a county that does not meet those population thresholds ~~counties with a population greater~~

~~than 25,000~~, the department shall furnish such items at the property appraiser's expense. The department may incur reasonable expenses for procuring aerial photographs and nonproperty ownership maps and may charge a fee to the respective property appraiser equal to the cost incurred. The department shall deposit such fees into the Certification Program Trust Fund created pursuant to s. 195.002. There shall be a separate account in the trust fund for the aid and assistance activity of providing aerial photographs and nonproperty ownership maps to property appraisers. The department shall use money in the fund to pay such expenses. All forms and maps and instructions relating to their use must be substantially uniform throughout the state. An officer may employ supplemental forms and maps, at the expense of his or her office, which he or she deems expedient for the purpose of administering and collecting ad valorem taxes. The forms required in ss. 193.461(3)(a) and 196.011(1) for renewal purposes must require sufficient information for the property appraiser to evaluate the changes in use since the prior year. If the property appraiser determines, in the case of a taxpayer, that he or she has insufficient current information upon which to approve the exemption, or if the information on the renewal form is inadequate for him or her to evaluate the taxable status of the property, he or she may require the resubmission of an original application.

Section 5. Effective January 1, 2017, paragraph (a) of

subsection (1) of section 196.011, Florida Statutes, is amended to read:

196.011 Annual application required for exemption.—

(1)(a) Except as provided in s. 196.081(1)(b), every person or organization who, on January 1, has the legal title to real or personal property, except inventory, which is entitled by law to exemption from taxation as a result of its ownership and use shall, on or before March 1 of each year, file an application for exemption with the county property appraiser, listing and describing the property for which exemption is claimed and certifying its ownership and use. The Department of Revenue shall prescribe the forms upon which the application is made. Failure to make application, when required, on or before March 1 of any year shall constitute a waiver of the exemption privilege for that year, except as provided in subsection (7) or subsection (8).

Section 6. Effective upon this act becoming a law, paragraph (b) of subsection (14) and paragraph (b) of subsection (15) of section 196.012, Florida Statutes, are amended to read:

196.012 Definitions.—For the purpose of this chapter, the following terms are defined as follows, except where the context clearly indicates otherwise:

(14) "New business" means:

(b) Any business or organization located in an area that was designated as an enterprise zone pursuant to chapter 290 as of December 30, 2015, or brownfield area that first begins

operation on a site clearly separate from any other commercial or industrial operation owned by the same business or organization.

(15) "Expansion of an existing business" means:

(b) Any business or organization located in an area that was designated as an enterprise zone pursuant to chapter 290 as of December 30, 2015, or brownfield area that increases operations on a site located within the same zone or area colocated with a commercial or industrial operation owned by the same business or organization under common control with the same business or organization.

Section 7. Effective January 1, 2017, subsections (1) and (4) of section 196.081, Florida Statutes, are amended, subsections (5) and (6) are renumbered as subsections (6) and (7), respectively, and a new subsection (5) is added to that section, to read:

196.081 Exemption for certain permanently and totally disabled veterans and for surviving spouses of veterans; exemption for surviving spouses of first responders who die in the line of duty.—

(1)(a) Any real estate that is owned and used as a homestead by a veteran who was honorably discharged with a service-connected total and permanent disability and for whom a letter from the United States Government or United States Department of Veterans Affairs or its predecessor has been issued certifying that the veteran is totally and permanently

disabled is exempt from taxation, if the veteran is a permanent resident of this state on January 1 of the tax year for which exemption is being claimed or was a permanent resident of this state on January 1 of the year the veteran died.

(b) Notwithstanding s. 196.011(1) and the timing of the residency requirements of s. 196.031(1)(a), a veteran may seek that an exemption under paragraph (a) be applied to a tax year for property that the veteran acquired and used as a homestead after January 1 of that tax year if the veteran received the exemption on another property in the immediately preceding tax year. To receive an exemption under this paragraph, the veteran must file an application with the property appraiser within 30 days after acquiring the new property but no later than the 25th day after the mailing by the property appraiser of the notices required under s. 194.011(1). The application must list and describe both the previous homestead and the new property, and the veteran must certify under oath that he or she:

1. Is otherwise qualified to receive an exemption under this section;

2. Holds legal title to the new property; and

3. Uses or intends to use the new property as his or her homestead.

If the exemption is granted on the new homestead, the previous homestead may not receive the exemption in that tax year unless the subsequent owner of the previous homestead is qualified to

receive the exemption pursuant to paragraph (a).

(4) Any real estate that is owned and used as a homestead by the surviving spouse of a veteran who died from service-connected causes while on active duty as a member of the United States Armed Forces and for whom a letter from the United States Government or United States Department of Veterans Affairs or its predecessor has been issued certifying that the veteran who died from service-connected causes while on active duty is exempt from taxation ~~if the veteran was a permanent resident of this state on January 1 of the year in which the veteran died~~.

(a) The production of the letter by the surviving spouse which attests to the veteran's death while on active duty is prima facie evidence that the surviving spouse is entitled to the exemption.

(b) The tax exemption carries over to the benefit of the veteran's surviving spouse as long as the spouse holds the legal or beneficial title to the homestead, permanently resides thereon as specified in s. 196.031, and does not remarry. If the surviving spouse sells the property, an exemption not to exceed the amount granted under the most recent ad valorem tax roll may be transferred to his or her new residence as long as it is used as his or her primary residence and he or she does not remarry.

(5)(a) The unremarried surviving spouse of a veteran who was honorably discharged with a service-connected total and permanent disability is entitled to the same exemption that would otherwise be granted to a surviving spouse as described in

subsections (1)-(3) if, at the time of the veteran's death, the veteran or the veteran's surviving spouse owned property in another state of the United States and used it in a manner that would have qualified for homestead exemption under s. 196.031 had the property been located in this state on January 1 of the year the veteran died. To qualify for an exemption under this subsection, the unremarried surviving spouse, after the death of the veteran, must hold the legal or beneficial title to homestead property in this state and permanently reside thereon as specified in s. 196.031 as of January 1 of the tax year for which the exemption is being claimed.

(b) The unremarried surviving spouse must provide the documentation described in subsection (2) to the property appraiser in the county in which the property is located.

(c) The tax exemption provided in this subsection:

1. Is available until the surviving spouse remarries.

2. May be transferred to a new residence, in an amount not to exceed the amount granted from the most recent ad valorem tax roll, as long as the property is used as the surviving spouse's homestead property and the surviving spouse does not remarry.

Section 8. Effective January 1, 2017, section 196.1978, Florida Statutes, is amended to read:

196.1978 Affordable housing property exemption.—

(1) Property used to provide affordable housing to eligible persons as defined by s. 159.603 and natural persons or families meeting the extremely-low-income, very-low-income, low-

income, or moderate-income limits specified in s. 420.0004, which is owned entirely by a nonprofit entity that is a corporation not for profit, qualified as charitable under s. 501(c)(3) of the Internal Revenue Code and in compliance with Rev. Proc. 96-32, 1996-1 C.B. 717, is considered property owned by an exempt entity and used for a charitable purpose, and those portions of the affordable housing property that provide housing to natural persons or families classified as extremely low income, very low income, low income, or moderate income under s. 420.0004 are exempt from ad valorem taxation to the extent authorized under s. 196.196. All property identified in this subsection ~~section~~ must comply with the criteria provided under s. 196.195 for determining exempt status and applied by property appraisers on an annual basis. The Legislature intends that any property owned by a limited liability company which is disregarded as an entity for federal income tax purposes pursuant to Treasury Regulation 301.7701-3(b)(1)(ii) be treated as owned by its sole member.

(2)(a) Notwithstanding ss. 196.195 and 196.196, property in a multifamily project that meets the requirements of subparagraphs 1. and 2. is considered property used for a charitable purpose and shall receive a 50-percent discount from the amount of ad valorem tax otherwise owed beginning in the 16th year of the term of the recorded agreement on those portions of the affordable housing property that provide housing to natural persons or families meeting the extremely-low-

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income, very-low-income, or low-income limits specified in s. 420.0004. The multifamily project must:

1. Contain more than 70 units that are used to provide affordable housing to natural persons or families meeting the extremely-low-income, very-low-income, or low-income limits specified in s. 420.0004; and

2. Be subject to an agreement with the Florida Housing Finance Corporation recorded in the official records of the county in which the property is located to provide affordable housing to extremely-low-income, very-low-income, or low-income persons.

This discount terminates if the property no longer serves extremely-low-income, very-low-income, or low-income persons pursuant to the recorded agreement.

(b) To receive the discount under paragraph (a), a qualified applicant must submit an application to the county property appraiser by March 1.

(c) The property appraiser shall apply the discount by reducing the taxable value before certifying the tax roll to the tax collector.

1. The property appraiser shall first ascertain all other applicable exemptions, including exemptions provided pursuant to local option, and deduct all other exemptions from the assessed value.

2. Fifty percent of the remaining value shall be

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subtracted to yield the discounted taxable value.

3. The resulting taxable value shall be included in the certification for use by taxing authorities in setting millage.

4. The property appraiser shall place the discounted amount on the tax roll when it is extended.

Section 9. Effective upon this act becoming a law, subsection (5) of section 196.1995, Florida Statutes, is amended to read:

196.1995 Economic development ad valorem tax exemption.—

(5) Upon a majority vote in favor of such authority, the board of county commissioners or the governing authority of the municipality, at its discretion, by ordinance may exempt from ad valorem taxation up to 100 percent of the assessed value of all improvements to real property made by or for the use of a new business and of all tangible personal property of such new business, or up to 100 percent of the assessed value of all added improvements to real property made to facilitate the expansion of an existing business and of the net increase in all tangible personal property acquired to facilitate such expansion of an existing business. To qualify for this exemption, the improvements to real property must be made or the tangible personal property must be added or increased after approval by motion or resolution of the local governing body, subject to ordinance adoption or on or after the day the ordinance is adopted. However, if the authority to grant exemptions is approved in a referendum in which the ballot question contained

in subsection (3) appears on the ballot, the authority of the board of county commissioners or the governing authority of the municipality to grant exemptions is limited solely to new businesses and expansions of existing businesses that are located in an area which was designated as an enterprise zone pursuant to chapter 290 as of December 30, 2015, or in a brownfield area. New businesses and expansions of existing businesses located in an area that was designated as an enterprise zone pursuant to chapter 290 as of December 30, 2015, but is not in a brownfield area, may qualify for the ad valorem tax exemption only if approved by motion or resolution of the local governing body, subject to ordinance adoption, or by ordinance enacted before December 31, 2015. Property acquired to replace existing property shall not be considered to facilitate a business expansion. The exemption applies only to taxes levied by the respective unit of government granting the exemption. The exemption does not apply, however, to taxes levied for the payment of bonds or to taxes authorized by a vote of the electors pursuant to s. 9(b) or s. 12, Art. VII of the State Constitution. Any such exemption shall remain in effect for up to 10 years with respect to any particular facility, regardless of any change in the authority of the county or municipality to grant such exemptions or the expiration of the Enterprise Zone Act pursuant to chapter 290. The exemption shall not be prolonged or extended by granting exemptions from additional taxes or by virtue of any reorganization or sale of the business

receiving the exemption.

Section 10. Section 201.15, Florida Statutes, is amended to read:

201.15 Distribution of taxes collected.—All taxes collected under this chapter are hereby pledged and shall be first made available to make payments when due on bonds issued pursuant to s. 215.618 or s. 215.619, or any other bonds authorized to be issued on a parity basis with such bonds. Such pledge and availability for the payment of these bonds shall have priority over any requirement for the payment of service charges or costs of collection and enforcement under this section. All taxes collected under this chapter, except taxes distributed to the Land Acquisition Trust Fund pursuant to subsections (1) and (2), are subject to the service charge imposed in s. 215.20(1). Before distribution pursuant to this section, the Department of Revenue shall deduct amounts necessary to pay the costs of the collection and enforcement of the tax levied by this chapter. The costs and service charge may not be levied against any portion of taxes pledged to debt service on bonds to the extent that the costs and service charge are required to pay any amounts relating to the bonds. All of the costs of the collection and enforcement of the tax levied by this chapter and the service charge shall be available and transferred to the extent necessary to pay debt service and any other amounts payable with respect to bonds authorized before January 1, 2017 ~~2015~~, secured by revenues distributed pursuant

to this section. All taxes remaining after deduction of costs shall be distributed as follows:

(1) Amounts necessary to make payments on bonds issued pursuant to s. 215.618 or s. 215.619, as provided under paragraphs (3)(a) and (b), or on any other bonds authorized to be issued on a parity basis with such bonds shall be deposited into the Land Acquisition Trust Fund.

(2) If the amounts deposited pursuant to subsection (1) are less than 33 percent of all taxes collected after first deducting the costs of collection, an amount equal to 33 percent of all taxes collected after first deducting the costs of collection, minus the amounts deposited pursuant to subsection (1), shall be deposited into the Land Acquisition Trust Fund.

(3) Amounts on deposit in the Land Acquisition Trust Fund shall be used in the following order:

(a) Payment of debt service or funding of debt service reserve funds, rebate obligations, or other amounts payable with respect to Florida Forever bonds issued pursuant to s. 215.618. The amount used for such purposes may not exceed $300 million in each fiscal year. It is the intent of the Legislature that all bonds issued to fund the Florida Forever Act be retired by December 31, 2040. Except for bonds issued to refund previously issued bonds, no series of bonds may be issued pursuant to this paragraph unless such bonds are approved and the debt service for the remainder of the fiscal year in which the bonds are issued is specifically appropriated in the General

Appropriations Act.

(b) Payment of debt service or funding of debt service reserve funds, rebate obligations, or other amounts due with respect to Everglades restoration bonds issued pursuant to s. 215.619. Taxes distributed under paragraph (a) and this paragraph must be collectively distributed on a pro rata basis when the available moneys under this subsection are not sufficient to cover the amounts required under paragraph (a) and this paragraph.

Bonds issued pursuant to s. 215.618 or s. 215.619 are equally and ratably secured by moneys distributable to the Land Acquisition Trust Fund.

(4) After the required distributions to the Land Acquisition Trust Fund pursuant to subsections (1) and (2) and deduction of the service charge imposed pursuant to s. 215.20(1), the remainder shall be distributed as follows:

(a) The lesser of 24.18442 percent of the remainder or $541.75 million in each fiscal year shall be paid into the State Treasury to the credit of the State Transportation Trust Fund. Of such funds, $75 million for each fiscal year shall be transferred to the State Economic Enhancement and Development Trust Fund within the Department of Economic Opportunity. Notwithstanding any other law, the remaining amount credited to the State Transportation Trust Fund shall be used for:

1. Capital funding for the New Starts Transit Program,

authorized by Title 49, U.S.C. s. 5309 and specified in s. 341.051, in the amount of 10 percent of the funds;

2. The Small County Outreach Program specified in s. 339.2818, in the amount of 10 percent of the funds;

3. The Strategic Intermodal System specified in ss. 339.61, 339.62, 339.63, and 339.64, in the amount of 75 percent of the funds after deduction of the payments required pursuant to subparagraphs 1. and 2.; and

4. The Transportation Regional Incentive Program specified in s. 339.2819, in the amount of 25 percent of the funds after deduction of the payments required pursuant to subparagraphs 1. and 2. The first $60 million of the funds allocated pursuant to this subparagraph shall be allocated annually to the Florida Rail Enterprise for the purposes established in s. 341.303(5).

(b) The lesser of 0.1456 percent of the remainder or $3.25 million in each fiscal year shall be paid into the State Treasury to the credit of the Grants and Donations Trust Fund in the Department of Economic Opportunity to fund technical assistance to local governments.

Moneys distributed pursuant to paragraphs (a) and (b) may not be pledged for debt service unless such pledge is approved by referendum of the voters.

(c) Eleven and twenty-four hundredths percent of the remainder in each fiscal year shall be paid into the State Treasury to the credit of the State Housing Trust Fund. Of such funds, the first $35 million shall be transferred annually,

subject to any distribution required under subsection (5), to the State Economic Enhancement and Development Trust Fund within the Department of Economic Opportunity. The remainder shall be used as follows:

1. Half of that amount shall be used for the purposes for which the State Housing Trust Fund was created and exists by law.

2. Half of that amount shall be paid into the State Treasury to the credit of the Local Government Housing Trust Fund and used for the purposes for which the Local Government Housing Trust Fund was created and exists by law.

(d) Twelve and ninety-three hundredths percent of the remainder in each fiscal year shall be paid into the State Treasury to the credit of the State Housing Trust Fund. Of such funds, the first $40 million shall be transferred annually, subject to any distribution required under subsection (5), to the State Economic Enhancement and Development Trust Fund within the Department of Economic Opportunity. The remainder shall be used as follows:

1. Twelve and one-half percent of that amount shall be deposited into the State Housing Trust Fund and expended by the Department of Economic Opportunity and the Florida Housing Finance Corporation for the purposes for which the State Housing Trust Fund was created and exists by law.

2. Eighty-seven and one-half percent of that amount shall be distributed to the Local Government Housing Trust Fund and

used for the purposes for which the Local Government Housing Trust Fund was created and exists by law. Funds from this category may also be used to provide for state and local services to assist the homeless.

(e) The lesser of 0.017 percent of the remainder or $300,000 in each fiscal year shall be paid into the State Treasury to the credit of the General Inspection Trust Fund to be used to fund oyster management and restoration programs as provided in s. 379.362(3).

(5) Distributions to the State Housing Trust Fund pursuant to paragraphs (4)(c) and (d) must be sufficient to cover amounts required to be transferred to the Florida Affordable Housing Guarantee Program's annual debt service reserve and guarantee fund pursuant to s. 420.5092(6)(a) and (b) up to the amount required to be transferred to such reserve and fund based on the percentage distribution of documentary stamp tax revenues to the State Housing Trust Fund which is in effect in the 2004-2005 fiscal year.

(6) After the distributions provided in the preceding subsections, any remaining taxes shall be paid into the State Treasury to the credit of the General Revenue Fund.

Section 11. Paragraph (b) of subsection (1) of section 206.9825, Florida Statutes, is amended to read:

206.9825 Aviation fuel tax.—

(1)

(b) Any licensed wholesaler or terminal supplier that

delivers aviation fuel to an air carrier offering transcontinental jet service and that, after January 1, 1996, but before July 1, 2016, increases the air carrier's Florida workforce by more than 1,000 ~~1000~~ percent and by 250 or more full-time equivalent employee positions, may receive a credit or refund as the ultimate vendor of the aviation fuel for the 6.9 cents excise tax previously paid, provided that the air carrier has no facility for fueling highway vehicles from the tank in which the aviation fuel is stored. In calculating the new or additional Florida full-time equivalent employee positions, any full-time equivalent employee positions of parent or subsidiary corporations which existed before January 1, 1996, shall not be counted toward reaching the Florida employment increase thresholds. The refund allowed under this paragraph is in furtherance of the goals and policies of the State Comprehensive Plan set forth in s. 187.201(16)(a), (b)1., 2., (17)(a), (b)1., 4., (19)(a), (b)5., (21)(a), (b)1., 2., 4., 7., 9., and 12.

Section 12. Effective July 1, 2019, section 206.9825, Florida Statutes, as amended by this act, is amended to read:

206.9825 Aviation fuel tax.—

(1)(a) Except as otherwise provided in this part, an excise tax of 4.27 ~~6.9~~ cents per gallon of aviation fuel is imposed upon every gallon of aviation fuel sold in this state, or brought into this state for use, upon which such tax has not been paid or the payment thereof has not been lawfully assumed by some person handling the same in this state. Fuel taxed

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pursuant to this part is ~~shall~~ not ~~be~~ subject to the taxes imposed by ss. 206.41(1)(d), (e), and (f) and 206.87(1)(b), (c), and (d).

~~(b) Any licensed wholesaler or terminal supplier that delivers aviation fuel to an air carrier offering transcontinental jet service and that, after January 1, 1996, but before July 1, 2016, increases the air carrier's Florida workforce by more than 1,000 percent and by 250 or more full-time equivalent employee positions, may receive a credit or refund as the ultimate vendor of the aviation fuel for the 6.9 cents excise tax previously paid, provided that the air carrier has no facility for fueling highway vehicles from the tank in which the aviation fuel is stored. In calculating the new or additional Florida full-time equivalent employee positions, any full-time equivalent employee positions of parent or subsidiary corporations which existed before January 1, 1996, shall not be counted toward reaching the Florida employment increase thresholds. The refund allowed under this paragraph is in furtherance of the goals and policies of the State Comprehensive Plan set forth in s. 187.201(16)(a), (b)1., 2., (17)(a), (b)1., 4., (19)(a), (b)5., (21)(a), (b)1., 2., 4., 7., 9., and 12.~~

~~(c) If, before July 1, 2001, the number of full-time equivalent employee positions created or added to the air carrier's Florida workforce falls below 250, the exemption granted pursuant to this section shall not apply during the period in which the air carrier has fewer than the 250~~

~~additional employees.~~

~~(d) The exemption taken by credit or refund pursuant to paragraph (b) shall apply only under the terms and conditions set forth therein. If any part of that paragraph is judicially declared to be unconstitutional or invalid, the validity of any provisions taxing aviation fuel shall not be affected and all fuel exempted pursuant to paragraph (b) shall be subject to tax as if the exemption was never enacted. Every person benefiting from such exemption shall be liable for and make payment of all taxes for which a credit or refund was granted.~~

(b) ~~(c)~~ 1. Sales of aviation fuel to, and exclusively used for flight training through a school of aeronautics or college of aviation by, a college based in this state which is a tax-exempt organization under s. 501(c)(3) of the Internal Revenue Code or a university based in this state are exempt from the tax imposed by this part if the college or university:

a. Is accredited by or has applied for accreditation by the Aviation Accreditation Board International; and

b. Offers a graduate program in aeronautical or aerospace engineering or offers flight training through a school of aeronautics or college of aviation.

2. A licensed wholesaler or terminal supplier that sells aviation fuel to a college or university qualified under this paragraph and that does not collect the aviation fuel tax from the college or university on such sale may receive an ultimate vendor credit for the 4.27-cent ~~6.9-cent~~ excise tax previously

paid on the aviation fuel delivered to such college or university.

3. A college or university qualified under this paragraph which purchases aviation fuel from a retail supplier, including a fixed-base operator, and pays the 4.27-cent ~~6.9-cent~~ excise tax on the purchase may apply for and receive a refund of the aviation fuel tax paid.

(2)(a) An excise tax of 4.27 ~~6.9~~ cents per gallon is imposed on each gallon of kerosene in the same manner as prescribed for diesel fuel under ss. 206.87(2) and 206.872.

(b) The exemptions provided by s. 206.874 shall apply to kerosene if the dyeing and marking requirements of s. 206.8741 are met.

(c) Kerosene prepackaged in containers of 5 gallons or less and labeled "Not for Use in a Motor Vehicle" is exempt from the taxes imposed by this part when sold for home heating and cooking. Packagers may qualify for a refund of taxes previously paid, as prescribed by the department.

(d) Sales of kerosene in quantities of 5 gallons or less by a person not licensed under this chapter who has no facilities for placing kerosene in the fuel supply system of a motor vehicle may qualify for a refund of taxes paid. Refunds of taxes paid shall be limited to sales for use in home heating or cooking and shall be documented as prescribed by the department.

(3) An excise tax of 4.27 ~~6.9~~ cents per gallon is imposed on each gallon of aviation gasoline in the manner prescribed by

paragraph (2)(a). However, the exemptions allowed by paragraph (2)(b) do not apply to aviation gasoline.

(4) Any licensed wholesaler or terminal supplier that delivers undyed kerosene to a residence for home heating or cooking may receive a credit or refund as the ultimate vendor of the kerosene for the 4.27-cent ~~6.9 cents~~ excise tax previously paid.

(5) Any licensed wholesaler or terminal supplier that delivers undyed kerosene to a retail dealer not licensed as a wholesaler or terminal supplier for sale as a home heating or cooking fuel may receive a credit or refund as the ultimate vendor of the kerosene for the 4.27-cent ~~6.9 cents~~ excise tax previously paid, provided the retail dealer has no facility for fueling highway vehicles from the tank in which the kerosene is stored.

(6) Any person who fails to meet the requirements of this section is subject to a backup tax as provided by s. 206.873.

Section 13. Section 210.13, Florida Statutes, is amended to read:

210.13 Determination of tax on failure to file a return.—If a dealer or other person required to remit the tax under this part fails to file any return required under this part~~,~~ or, having filed an incorrect or insufficient return, fails to file a correct or sufficient return, as the case may require, within 10 days after the giving of notice to the dealer or other person by the Division of Alcoholic Beverages and Tobacco that such

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return or corrected or sufficient return is required, the division shall determine the amount of tax due by such dealer or other person any time within 3 years after the making of the earliest sale included in such determination and give written notice of such determination to such dealer or other person. Such a determination shall finally and irrevocably fix the tax unless the dealer or other person against whom it is assessed ~~shall~~, within 30 days after the giving of notice of such determination, applies ~~apply~~ to the division for a hearing. Judicial review shall not be granted unless the amount of tax stated in the decision, with penalties thereon, if any, is ~~shall have been~~ first deposited with the division, and an undertaking or bond filed in the court in which such cause may be pending in such amount and with such sureties as the court shall approve, conditioned that if such proceeding be dismissed or the decision of the division confirmed, the applicant for review will pay all costs and charges which may accrue against the applicant in the prosecution of the proceeding. At the option of the applicant, such undertaking or bond may be in an additional sum sufficient to cover the tax, penalties, costs, and charges aforesaid, in which event the applicant shall not be required to pay such tax and penalties precedent to the granting of such review by such court.

Section 14. Subsections (1) through (13) of section 210.25, Florida Statutes, are renumbered as subsections (2) through (14), respectively, a new subsection (1) is added to

that section, and present subsections (11) and (13) of that section are amended, to read:

210.25 Definitions.—As used in this part:

(1) "Affiliate" means a manufacturer or other person that directly or indirectly, through one or more intermediaries, controls or is controlled by a distributor or that is under common control with a distributor.

(12)~~(11)~~ "Tobacco products" means ~~loose tobacco suitable for smoking;~~ snuff; snuff flour; loose tobacco; cavendish; plug and twist tobacco; fine cuts ~~and other chewing tobaccos~~; shorts; refuse scraps; clippings, cuttings, and sweepings of tobacco;~~,~~ and all other kinds and forms of products, including wraps, made in whole or in part from tobacco leaves for use ~~prepared~~ in ~~such manner as to be suitable for~~ chewing, smoking, or sniffing. The term~~; but "tobacco products"~~ does not include cigarettes, as defined in ~~by~~ s. 210.01(1), or cigars.

(14)~~(13)~~ "Wholesale sales price" means the sum of:

(a) The full price paid by the distributor to acquire the tobacco products, including charges by the seller for the cost of materials, the cost of labor and service, charges for transportation and delivery, the federal excise tax, and any other charge, even if the charge is listed as a separate item on the invoice paid by the ~~established price for which a manufacturer sells a tobacco product to a~~ distributor, exclusive of any diminution by volume or other discounts, including a discount provided to a distributor by an affiliate; and

(b) The federal excise tax paid by the distributor on the tobacco products if the tax is not included in the full price under paragraph (a).

Section 15. Effective January 1, 2017, paragraphs (c) and (d) of subsection (1) of section 212.031, Florida Statutes, are amended, and paragraph (e) is added to that subsection, to read:

212.031 Tax on rental or license fee for use of real property.—

(1)

(c) For the exercise of such privilege, a tax is levied in an amount equal to 5 ~~6~~ percent, except for the period beginning January 1, 2018, and ending December 31, 2018, during which period the tax shall be levied in an amount equal to 4 percent, of and on the total rent or license fee charged for such real property by the person charging or collecting the rental or license fee. The total rent or license fee charged for such real property shall include payments for the granting of a privilege to use or occupy real property for any purpose and shall include base rent, percentage rents, or similar charges. Such charges shall be included in the total rent or license fee subject to tax under this section whether or not they can be attributed to the ability of the lessor's or licensor's property as used or operated to attract customers. Payments for intrinsically valuable personal property such as franchises, trademarks, service marks, logos, or patents are not subject to tax under this section. In the case of a contractual arrangement that

provides for both payments taxable as total rent or license fee and payments not subject to tax, the tax shall be based on a reasonable allocation of such payments and shall not apply to that portion which is for the nontaxable payments.

(d) When the rental or license fee of any such real property is paid by way of property, goods, wares, merchandise, services, or other thing of value, the tax shall be at the rate of 5 ~~6~~ percent, except for the period beginning January 1, 2018, and ending December 31, 2018, during which period the tax shall be levied in an amount equal to 4 percent, of the value of the property, goods, wares, merchandise, services, or other thing of value.

(e) The tax rate in effect at the time that the tenant or person occupies, uses, or is entitled to the occupancy or use of the real property is the tax rate applicable to a transaction taxable pursuant to this section, regardless of when a rent or license fee payment is due or paid. The applicable tax rate may not be avoided by delaying or accelerating rent or license fee payments.

Section 16. Paragraph (c) of subsection (1) of section 212.04, Florida Statutes, is amended to read:

212.04 Admissions tax; rate, procedure, enforcement.—

(1)

(c)1. The provisions of this chapter that authorize a tax-exempt sale for resale do not apply to sales of admissions. However, if a purchaser of an admission subsequently resells the

admission for more than the amount paid, the purchaser shall collect tax on the full sales price and may take credit for the amount of tax previously paid. If the purchaser of the admission subsequently resells it for an amount equal to or less than the amount paid, the purchaser may ~~shall~~ not collect any additional tax or~~, nor shall the purchaser~~ be allowed to take credit for the amount of tax previously paid.

2. If a purchaser subsequently resells an admission to an entity that has a valid sales tax exemption certificate from the department, excluding an annual resale certificate, the purchaser may seek a refund or credit from the vendor. Upon an adequate showing of the ultimate exempt nature of the transaction, the vendor shall refund or credit the tax paid by the purchaser and may then seek a refund or credit of the tax from the department based on the ultimate exempt nature of the transaction. The refund or credit is allowable only if the vendor can show that the tax on the exempt transaction has been remitted to the department. If the tax has not yet been remitted to the department, the vendor may retain the exemption documentation in lieu of remitting tax to the department. This subparagraph is repealed July 1, 2019.

Section 17. Paragraph (a) of subsection (1) of section 212.05, Florida Statutes, is amended to read:

212.05 Sales, storage, use tax.—It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of selling

tangible personal property at retail in this state, including the business of making mail order sales, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this state any item or article of tangible personal property as defined herein and who leases or rents such property within the state.

(1) For the exercise of such privilege, a tax is levied on each taxable transaction or incident, which tax is due and payable as follows:

(a)1.a. At the rate of 6 percent of the sales price of each item or article of tangible personal property when sold at retail in this state, computed on each taxable sale for the purpose of remitting the amount of tax due the state, and including each and every retail sale.

b. Each occasional or isolated sale of an aircraft, boat, mobile home, or motor vehicle of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Government shall be subject to tax at the rate provided in this paragraph. The department shall by rule adopt any nationally recognized publication for valuation of used motor vehicles as the reference price list for any used motor vehicle which is required to be licensed pursuant to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any party to an occasional or isolated sale of such a vehicle reports to the tax collector a sales price which is less than 80 percent of the average loan price for the specified model and

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year of such vehicle as listed in the most recent reference price list, the tax levied under this paragraph shall be computed by the department on such average loan price unless the parties to the sale have provided to the tax collector an affidavit signed by each party, or other substantial proof, stating the actual sales price. Any party to such sale who reports a sales price less than the actual sales price is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. The department shall collect or attempt to collect from such party any delinquent sales taxes. In addition, such party shall pay any tax due and any penalty and interest assessed plus a penalty equal to twice the amount of the additional tax owed. Notwithstanding any other provision of law, the Department of Revenue may waive or compromise any penalty imposed pursuant to this subparagraph.

2. This paragraph does not apply to the sale of a boat or aircraft by or through a registered dealer under this chapter to a purchaser who, at the time of taking delivery, is a nonresident of this state, does not make his or her permanent place of abode in this state, and is not engaged in carrying on in this state any employment, trade, business, or profession in which the boat or aircraft will be used in this state, or is a corporation none of the officers or directors of which is a resident of, or makes his or her permanent place of abode in, this state, or is a noncorporate entity that has no individual vested with authority to participate in the management,

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direction, or control of the entity's affairs who is a resident of, or makes his or her permanent abode in, this state. For purposes of this exemption, either a registered dealer acting on his or her own behalf as seller, a registered dealer acting as broker on behalf of a seller, or a registered dealer acting as broker on behalf of the purchaser may be deemed to be the selling dealer. This exemption shall not be allowed unless:

a. The purchaser removes a qualifying boat, as described in sub-subparagraph f., from the state within 90 days after the date of purchase or extension, or the purchaser removes a nonqualifying boat or an aircraft from this state within 10 days after the date of purchase or, when the boat or aircraft is repaired or altered, within 20 days after completion of the repairs or alterations; or if the aircraft will be registered in a foreign jurisdiction and:

(I) Application for the aircraft's registration is properly filed with a civil airworthiness authority of a foreign jurisdiction within 10 days after the date of purchase;

(II) The purchaser removes the aircraft from the state to a foreign jurisdiction within 10 days after the date the aircraft is registered by the applicable foreign airworthiness authority; and

(III) The aircraft is operated in the state solely to remove it from the state to a foreign jurisdiction.

For purposes of this sub-subparagraph, the term "foreign

jurisdiction" means any jurisdiction outside of the United States or any of its territories;

b. The purchaser, within 30 days from the date of departure, provides ~~shall provide~~ the department with written proof that the purchaser licensed, registered, titled, or documented the boat or aircraft outside the state. If such written proof is unavailable, within 30 days the purchaser shall provide proof that the purchaser applied for such license, title, registration, or documentation. The purchaser shall forward to the department proof of title, license, registration, or documentation upon receipt;

c. The purchaser, within 10 days of removing the boat or aircraft from Florida, furnishes ~~shall furnish~~ the department with proof of removal in the form of receipts for fuel, dockage, slippage, tie-down, or hangaring from outside of Florida. The information so provided must clearly and specifically identify the boat or aircraft;

d. The selling dealer, within 5 days of the date of sale, provides ~~shall provide~~ to the department a copy of the sales invoice, closing statement, bills of sale, and the original affidavit signed by the purchaser attesting that he or she has read the provisions of this section;

e. The seller makes a copy of the affidavit a part of his or her record for as long as required by s. 213.35; and

f. Unless the nonresident purchaser of a boat of 5 net tons of admeasurement or larger intends to remove the boat from

this state within 10 days after the date of purchase or when the boat is repaired or altered, within 20 days after completion of the repairs or alterations, the nonresident purchaser applies ~~shall apply~~ to the selling dealer for a decal which authorizes 90 days after the date of purchase for removal of the boat. The nonresident purchaser of a qualifying boat may apply to the selling dealer within 60 days after the date of purchase for an extension decal that authorizes the boat to remain in this state for an additional 90 days, but not more than a total of 180 days, before the nonresident purchaser is required to pay the tax imposed by this chapter. The department is authorized to issue decals in advance to dealers. The number of decals issued in advance to a dealer shall be consistent with the volume of the dealer's past sales of boats which qualify under this sub-subparagraph. The selling dealer or his or her agent shall mark and affix the decals to qualifying boats in the manner prescribed by the department, before ~~prior to~~ delivery of the boat.

(I) The department is hereby authorized to charge dealers a fee sufficient to recover the costs of decals issued, except the extension decal shall cost $425.

(II) The proceeds from the sale of decals will be deposited into the administrative trust fund.

(III) Decals shall display information to identify the boat as a qualifying boat under this sub-subparagraph, including, but not limited to, the decal's date of expiration.

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(IV) The department is authorized to require dealers who purchase decals to file reports with the department and may prescribe all necessary records by rule. All such records are subject to inspection by the department.

(V) Any dealer or his or her agent who issues a decal falsely, fails to affix a decal, mismarks the expiration date of a decal, or fails to properly account for decals will be considered prima facie to have committed a fraudulent act to evade the tax and will be liable for payment of the tax plus a mandatory penalty of 200 percent of the tax, and shall be liable for fine and punishment as provided by law for a conviction of a misdemeanor of the first degree, as provided in s. 775.082 or s. 775.083.

(VI) Any nonresident purchaser of a boat who removes a decal before ~~prior to~~ permanently removing the boat from the state, or defaces, changes, modifies, or alters a decal in a manner affecting its expiration date before ~~prior to~~ its expiration, or who causes or allows the same to be done by another, will be considered prima facie to have committed a fraudulent act to evade the tax and will be liable for payment of the tax plus a mandatory penalty of 200 percent of the tax, and shall be liable for fine and punishment as provided by law for a conviction of a misdemeanor of the first degree, as provided in s. 775.082 or s. 775.083.

(VII) The department is authorized to adopt rules necessary to administer and enforce this subparagraph and to

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publish the necessary forms and instructions.

(VIII) The department is hereby authorized to adopt emergency rules pursuant to s. 120.54(4) to administer and enforce the provisions of this subparagraph.

If the purchaser fails to remove the qualifying boat from this state within the maximum 180 days after purchase or a nonqualifying boat or an aircraft from this state within 10 days after purchase or, when the boat or aircraft is repaired or altered, within 20 days after completion of such repairs or alterations, or permits the boat or aircraft to return to this state within 6 months from the date of departure, except as provided in s. 212.08(7)(fff), or if the purchaser fails to furnish the department with any of the documentation required by this subparagraph within the prescribed time period, the purchaser shall be liable for use tax on the cost price of the boat or aircraft and, in addition thereto, payment of a penalty to the Department of Revenue equal to the tax payable. This penalty shall be in lieu of the penalty imposed by s. 212.12(2). The maximum 180-day period following the sale of a qualifying boat tax-exempt to a nonresident may not be tolled for any reason.

Section 18. Paragraphs (r) and (s) are added to subsection (5) of section 212.08, Florida Statutes, and paragraphs (n) and (kkk) of subsection (7) of that section are amended, to read:

212.08 Sales, rental, use, consumption, distribution, and

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

(5) EXEMPTIONS; ACCOUNT OF USE.—

(r) Building materials, rental of tangible personal property, and pest control services used to build new construction located in a rural area of opportunity.—

1. Building materials, rental of tangible personal property, and pest control services used to build new construction located in a rural area of opportunity as designated by the Governor pursuant to s. 288.0656 are exempt from the tax imposed by this chapter if an owner, lessee, or lessor can demonstrate to the satisfaction of the department that the items and services have been used for new construction located in a rural area of opportunity. Except as provided in subparagraph 2., this exemption inures to the owner, lessee, or lessor at the time the new construction occurs, but only through a refund of previously paid taxes. To receive a refund pursuant to this paragraph, the owner, lessee, or lessor of the new construction must file an application under oath with the Rural Economic Development Initiative created pursuant to s. 288.0656. The application must include:

a. The name and address of the person claiming the refund.

b. An address and assessment roll parcel number of the

real property that was improved by the new construction for which a refund of previously paid taxes is being sought.

c. A description of the new construction.

d. A copy of a valid building permit issued by the county or municipal building department for the new construction.

e. A sworn statement, under penalty of perjury, from the general contractor licensed in this state with whom the applicant contracted to build the new construction, which lists the exempt goods and services, the actual cost of the exempt goods and services, and the amount of sales tax paid in this state on the exempt goods and services and which states that the improvement to the real property was new construction. If a general contractor was not used, the applicant, not a general contractor, shall make the sworn statement required by this sub-subparagraph. Copies of the invoices that evidence the purchase of the exempt goods and services and the payment of sales tax thereon must be attached to the sworn statement provided by the general contractor or by the applicant. Unless the actual cost of exempt goods and services and the payment of sales taxes are documented by a general contractor or by the applicant in this manner, the cost of the exempt goods and services is deemed to be an amount equal to 40 percent of the increase in assessed value of the property for ad valorem tax purposes.

f. A certification by the local building code inspector that the new construction is substantially completed and is new construction.

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2. This exemption inures to a municipality, county, other governmental unit or agency, or nonprofit community-based organization through a refund of previously paid taxes if the exempt goods and services are paid for from the funds of a community development block grant, State Housing Initiatives Partnership Program, or similar grant or loan program. To receive a refund, a municipality, county, other governmental unit or agency, or nonprofit community-based organization must file an application that includes the same information required under subparagraph 1. In addition, the application must include a sworn statement signed by the chief executive officer of the municipality, county, other governmental unit or agency, or nonprofit community-based organization seeking a refund which states that the exempt goods and services for which a refund is sought were funded by a community development block grant, State Housing Initiatives Partnership Program, or similar grant or loan program.

3. Within 10 working days after receiving an application, the Rural Economic Development Initiative shall review the application to determine whether it contains all of the information required by subparagraph 1. or subparagraph 2. and meets the criteria set out in this paragraph. The Rural Economic Development Initiative shall certify all applications that contain the required information and are eligible to receive a refund. The certification must be in writing, and a copy shall be transmitted to the executive director of the department. The

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applicant is responsible for forwarding a certified application to the department within the time specified in subparagraph 4.

4. An application for a refund must be submitted to the department within 6 months after the new construction is deemed to be substantially completed by the local building code inspector or by November 1 after the improved property is first subject to assessment.

5. Only one exemption through a refund of previously paid taxes for the new construction is permitted for any single parcel of property unless there is a change in ownership, a new lessor, or a new lessee of the real property. A refund may not be granted unless the amount to be refunded exceeds $500. A refund may not exceed the lesser of 97.5 percent of the Florida sales or use tax paid on the cost of the exempt goods and services as determined pursuant to sub-subparagraph 1.e. or $10,000. A refund shall be made within 30 days after formal approval by the department of the application for the refund.

6. The department may adopt rules governing the manner and format of refund applications and may establish guidelines as to the requisites for an affirmative showing of qualification for exemption under this paragraph.

7. The department shall deduct 10 percent of each refund amount granted under this paragraph from the amount transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund pursuant to s. 212.20 for the county area in which the new construction is located and shall transfer that amount to the

General Revenue Fund.

8. For purposes of the exemption provided in this paragraph, the term:

a. "Building materials" means tangible personal property that becomes a component part of improvements to real property.

b. "Exempt goods and services" means building materials, rental of tangible personal property, and pest control services used to build new construction.

c. "New construction" means improvements to real property which did not previously exist but does not include reconstruction, renovation, restoration, rehabilitation, modification, alteration, or expansion of buildings already located on the parcel on which the new construction is built.

d. "Pest control" has the same meaning as provided in s. 482.021.

e. "Real property" has the same meaning as provided in s. 192.001(12), except that the term does not include a condominium parcel or condominium property as defined in s. 718.103.

f. "Substantially completed" has the same meaning as provided in s. 192.042(1).

(s) Data center equipment and electricity.—

1. The sale of data center equipment to a business certified pursuant to this paragraph is exempt from the tax imposed by this chapter.

2. The sale of electricity for a qualifying data center to a business certified pursuant to this paragraph is exempt from

the tax imposed by this chapter.

3. Building materials purchased for use in constructing or expanding a qualifying data center are exempt from the tax imposed by this chapter.

4. For sales of items that are tax exempt pursuant to this paragraph, possession of a written certification from the purchaser, certifying the purchaser's entitlement to the exemption, relieves the seller of the responsibility of collecting the tax on the sale of such items, and the department shall look solely to the purchaser for recovery of the tax if it determines that the purchaser was not entitled to the exemption.

5.a. To be eligible to receive the exemption provided by subparagraphs 1.-3., the Department of Economic Opportunity must grant an initial certification that a business has made or will make a cumulative capital investment of at least $75 million. To become certified initially, a business shall submit an application to Enterprise Florida, Inc. Enterprise Florida, Inc., must review the application and forward with it to the Department of Economic Opportunity a recommendation whether to approve or disapprove the application. If the Department of Economic Opportunity approves the application, the initial certification is valid for 2 years after the date of approval. Until a business entity has reached the required cumulative capital investment or has applied for a final certification under sub-subparagraph d., in lieu of submitting a new application every 2 years, the Department of Economic

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Opportunity may renew the initial certification biennially if the business entity submits a statement, certified under oath, that there has not been a material change in the conditions or circumstances entitling the business entity to the initial certification. The initial application and the certification renewal statement shall be developed by the Department of Economic Opportunity.

b. The Division of Strategic Business Development of the Department of Economic Opportunity shall review each submitted initial application within 5 working days and determine whether the application is complete. Once complete, the division shall, within 10 working days, evaluate the application and recommend approval or disapproval to the Department of Economic Opportunity.

c. Upon receipt of the initial application and recommendation from the division, or upon receipt of a certification renewal statement, the Department of Economic Opportunity shall certify within 5 working days those applications that meet the requirements of this paragraph and shall notify both the applicant of the original certification or certification renewal and the department. The department shall issue an exemption certificate to the applicant within 5 working days after such notification. If the Department of Economic Opportunity finds that the applicant does not meet the requirements, it shall notify the applicant and Enterprise Florida, Inc., within 10 working days that the application for

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certification has been denied and the reasons for denial. The Department of Economic Opportunity has final approval authority for certification under this section.

d. Within 5 years after the date that a business certified pursuant to this paragraph makes its first qualifying real or tangible property investment in the construction or expansion of a data center, the business shall apply to the Department of Economic opportunity for final certification. The application must contain information sufficient for the Department of Economic Opportunity to verify that the business made the cumulative capital investment required by the threshold in sub-subparagraph a. associated with its initial certification. The Department of Economic Opportunity shall notify the applicant for final certification and the department of its determination. The limitations set forth in s. 95.091(3) shall be tolled from the time the department issues an exemption certificate pursuant to sub-subparagraph c. until the Department of Economic Opportunity makes a final certification determination pursuant to this sub-subparagraph.

e. The initial application and certification renewal statement must indicate, for program evaluation purposes only, the average number of full-time equivalent employees at the facility over the preceding calendar year, the average wage and benefits paid to those employees over the preceding calendar year, the total investment made in real and tangible personal property over the preceding calendar year, and the total value

of tax-exempt purchases and taxes exempted during the previous calendar year. The department shall assist the Department of Economic Opportunity in evaluating and verifying information provided in the application for exemption.

f. The Department of Economic Opportunity may use the information reported on the initial application and certification renewal statement for program evaluation purposes only. The average number of full-time equivalent employees, a specific level of employment creation or maintenance, or the like, is not a prerequisite or requirement to qualify for this exemption.

6. A business is eligible to receive the exemption provided by subparagraph 3. if it has written certification from a business certified pursuant to this paragraph that the building materials purchased tax-exempt will be used in constructing or expanding a qualifying data center. The written certification must include a copy of the eligible business's exemption certificate.

7. The Department of Economic Opportunity and the department may adopt rules to implement this exemption. Purchasers and lessees of data center equipment and purchasers of electricity that qualify for the exemption provided in this paragraph shall furnish the vendor with a copy of the exemption certificate for the item or items eligible for exemption. A person furnishing a false exemption certificate to the vendor for the purpose of evading payment of any tax imposed under this

chapter is subject to the penalties set forth in s. 212.085 and as otherwise provided by law. Purchasers with self-accrual authority shall maintain all documentation necessary to prove the exempt status of purchases.

8. As used in this paragraph, the term:

a. "Cumulative capital investment" means the total capital investment in land, buildings, equipment, including data center equipment, and all other eligible capital costs made in connection with the construction or expansion of a data center in this state. The term does not include expenditures to replace tangible personal property that has reached the end of its useful life or expenditures made to acquire an existing data center. To qualify, such investment must be made on or after January 1, 2016, and within 5 years after the date an owner, operator, user, or tenant of a data center makes its first real or tangible property investment in the construction or expansion of a data center.

b. "Data center" means a facility that:

(I) Is comprised of one or more land parcels in the state, along with the buildings, substations and other infrastructure, fixtures, and personal property located on those parcels;

(II) Is or will be occupied by one or more operators, owners, users, or tenants; and

(III) Is primarily used to house and operate equipment that receives, stores, aggregates, manages, processes, transforms, retrieves, researches, or transmits data and

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services and functions related thereto.

c. "Data center equipment" means equipment used wholly within, wholly at, or wholly in conjunction with a data center to outfit, operate, support, power, secure, or protect a data center, along with component parts, installations, refreshments, replacements, redundancies, operating or enabling software, including any updates and new versions, and upgrades to or for this equipment, regardless of whether any of the equipment is affixed to or incorporated into real property, including:

(I) Equipment necessary to transform, generate, distribute, store, back up, or manage electricity that is required to operate computer server equipment, including generators, transformers, substations, whether located at the facility or off site, uninterruptible power supply systems, power distribution units, power panel conduits, gaseous fuel piping, cabling, wiring, busses, duct banks, switches, switchboards and other switch gear, batteries, and testing equipment.

(II) Equipment necessary to cool and maintain a controlled environment for the operation of computers, servers, and other components of the data center, including mechanical equipment, refrigerant piping, gaseous fuel piping, adiabatic and free cooling systems, cooling towers, chillers, condensers, pumps, fans, water softeners, air handling units, indoor direct exchange units, fans, ducting and filters, and related HVAC equipment.

(III) Water conservation systems, including facilities or mechanisms that are designed to collect, conserve, and reuse water.

(IV) Computers, servers, and related equipment, chassis, networking and telecommunications equipment, switches, racks, cabling, trays, conduits, fiber optics, and routers.

(V) Monitoring equipment and security systems.

(VI) Modular data centers and preassembled components of any item described in this paragraph, including components used in the manufacturing of modular data centers.

(VII) Other tangible personal property, fixtures, and infrastructure that are essential to the operation of a data center.

d. "Eligible capital costs" means all expenses incurred by an owner, operator, user, or tenant of a data center connected with acquiring, constructing, installing, equipping, or expanding a data center, including, but not limited to:

(I) The costs of acquiring, constructing, installing, equipping, and financing a data center, including all obligations incurred for labor and obligations to contractors, subcontractors, builders, and materialmen.

(II) The costs of acquiring land or rights to land and any costs incidental thereto, including recording fees.

(III) The costs of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, environmental

mitigation, and supervision of construction, as well as the performance of all duties required by or consequent to the acquisition, construction, installation, and equipping of a data center.

(IV) The costs associated with installing fixtures and equipment; surveys, including archaeological and environmental surveys; site tests and inspections; subsurface site work and excavation; removal of structures, roadways, and other surface obstructions; filling, grading, paving, and provision for drainage, storm water retention, and installation of utilities, including water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; and offsite construction of utility extensions to the boundaries of the property.

e. "Qualifying data center" means a data center for which the Department of Economic Opportunity has certified that one or more of the data center's owners, operators, users, or tenants, individually, have made or will make a cumulative capital investment of at least $75 million.

9.a. In addition to its existing audit and investigation authority, the department may perform any additional financial and technical audits and investigations, including examining the accounts, books, and records of the applicant, which are necessary to verify eligibility for the exemptions authorized by this paragraph and to ensure compliance with this paragraph. The Department of Economic Opportunity shall provide technical assistance when requested by the department on any technical

audits or examinations performed pursuant to this subparagraph.

b. If the department determines, as a result of an audit or examination or from information received from the Department of Economic Opportunity, that a certified entity received a tax exemption pursuant to this paragraph to which it was not entitled, the department may, in addition to the remedies provided by this subsection, pursue recovery of such funds pursuant to the laws and rules governing the assessment of taxes.

c. The Department of Economic Opportunity may revoke or modify any written decision certifying eligibility for a tax exemption authorized under this paragraph if it discovers that the tax exemption applicant submitted a false statement, representation, or certification in any application, record, report, plan, or other document filed in an attempt to receive tax exemptions authorized under this paragraph. The Department of Economic Opportunity shall immediately notify the department of any revoked or modified orders affecting previously certified tax exemptions.

(7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any entity by this chapter do not inure to any transaction that is otherwise taxable under this chapter when payment is made by a representative or employee of the entity by any means, including, but not limited to, cash, check, or credit card, even when that representative or employee is subsequently reimbursed by the entity. In addition, exemptions provided to any entity by

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this subsection do not inure to any transaction that is otherwise taxable under this chapter unless the entity has obtained a sales tax exemption certificate from the department or the entity obtains or provides other documentation as required by the department. Eligible purchases or leases made with such a certificate must be in strict compliance with this subsection and departmental rules, and any person who makes an exempt purchase with a certificate that is not in strict compliance with this subsection and the rules is liable for and shall pay the tax. The department may adopt rules to administer this subsection.

(n) Veterans' organizations.—

1. There are exempt from the tax imposed by this chapter transactions involving sales or leases to qualified veterans' organizations and their auxiliaries when used in carrying on their customary veterans' organization activities or sales of food or drink by qualified veterans' organizations in connection with customary veterans' organization activities to members of qualified veterans' organizations.

2. As used in this paragraph, the term "veterans' organizations" means nationally chartered or recognized veterans' organizations, including, but not limited to, the American Legion, Veterans of Foreign Wars of the United States, Florida chapters of the Paralyzed Veterans of America, Catholic War Veterans of the U.S.A., Jewish War Veterans of the U.S.A., and the Disabled American Veterans, Department of Florida, Inc.,

which hold current exemptions from federal income tax under s. 501(c)(4) or (19) of the Internal Revenue Code of 1986, as amended.

(kkk) Certain machinery and equipment.—

1. Industrial machinery and equipment purchased by eligible manufacturing businesses which is used at a fixed location in ~~within~~ this state~~, or a mixer drum affixed to a mixer truck which is used at any location within this state to mix, agitate, and transport freshly mixed concrete in a plastic state,~~ for the manufacture, processing, compounding, or production of items of tangible personal property for sale is ~~shall be~~ exempt from the tax imposed by this chapter. ~~Parts and labor required to affix a mixer drum exempt under this paragraph to a mixer truck are also exempt.~~ If, at the time of purchase, the purchaser furnishes the seller with a signed certificate certifying the purchaser's entitlement to exemption pursuant to this paragraph, the seller is not required to collect ~~is relieved of the responsibility for collecting~~ the tax on the sale of such items, and the department shall look solely to the purchaser for recovery of the tax if it determines that the purchaser was not entitled to the exemption.

2. For purposes of this paragraph, the term:

a. "Eligible manufacturing business" means any business whose primary business activity at the location where the industrial machinery and equipment is located is within the industries classified under NAICS codes 31, 32, ~~and~~ 33, and

423930.

b. "Eligible postharvest activity business" means a business whose primary business activity, at the location where the postharvest machinery and equipment is located, is within the industries classified under NAICS code 115114.

c. ~~As used in this subparagraph,~~ "NAICS" means those classifications contained in the North American Industry Classification System, as published in 2007 by the Office of Management and Budget, Executive Office of the President.

d.~~b.~~ "Primary business activity" means an activity representing more than 50 percent of the activities conducted at the location where the industrial machinery and equipment or postharvest machinery and equipment is located.

e.~~c.~~ "Industrial machinery and equipment" means tangible personal property or other property that has a depreciable life of 3 years or more and that is used as an integral part in the manufacturing, processing, compounding, or production of tangible personal property for sale. The term includes tangible personal property or other property that has a depreciable life of 3 years or more which is used as an integral part in the recycling of metals for sale. A building and its structural components are not industrial machinery and equipment unless the building or structural component is so closely related to the industrial machinery and equipment that it houses or supports that the building or structural component can be expected to be replaced when the machinery and equipment are replaced. Heating

and air conditioning systems are not industrial machinery and equipment unless the sole justification for their installation is to meet the requirements of the production process, even though the system may provide incidental comfort to employees or serve, to an insubstantial degree, nonproduction activities. The term includes parts and accessories for industrial machinery and equipment only to the extent that the parts and accessories are purchased before ~~prior to~~ the date the machinery and equipment are placed in service.

f. "Postharvest activities" means services performed on crops, after their harvest, with the intent of preparing them for market or further processing. Postharvest activities include, but are not limited to, crop cleaning, sun drying, shelling, fumigating, curing, sorting, grading, packing, and cooling.

g. "Postharvest machinery and equipment" means tangible personal property or other property with a depreciable life of 3 years or more which is used primarily for postharvest activities. A building and its structural components are not postharvest industrial machinery and equipment unless the building or structural component is so closely related to the postharvest machinery and equipment that it houses or supports that the building or structural component can be expected to be replaced when the postharvest machinery and equipment is replaced. Heating and air conditioning systems are not postharvest machinery and equipment unless the sole

justification for their installation is to meet the requirements of the postharvest activities process, even though the system may provide incidental comfort to employees or serve, to an insubstantial degree, nonpostharvest activities.

3. Postharvest machinery and equipment purchased by an eligible postharvest activity business which is used at a fixed location in this state is exempt from the tax imposed by this chapter. All labor charges for the repair of, and parts and materials used in the repair of and incorporated into, such postharvest machinery and equipment are also exempt. If, at the time of purchase, the purchaser furnishes the seller with a signed certificate certifying the purchaser's entitlement to exemption pursuant to this subparagraph, the seller is not required to collect the tax on the sale of such items, and the department shall look solely to the purchaser for recovery of the tax if it determines that the purchaser was not entitled to the exemption.

4.~~3.~~ A mixer drum affixed to a mixer truck which is used at any location in this state to mix, agitate, and transport freshly mixed concrete in a plastic state for sale is exempt from the tax imposed by this chapter. Parts and labor required to affix a mixer drum exempt under this subparagraph to a mixer truck are also exempt. If, at the time of purchase, the purchaser furnishes the seller with a signed certificate certifying the purchaser's entitlement to exemption pursuant to this subparagraph, the seller is not required to collect the tax

on the sale of such items, and the department shall look solely to the purchaser for recovery of the tax if it determines that the purchaser was not entitled to the exemption. This subparagraph ~~paragraph~~ is repealed April 30, 2017.

Section 19. Effective upon this act becoming a law and operating retroactively to January 1, 2016, paragraph (n) of subsection (1) and paragraph (c) of subsection (2) of section 220.03, Florida Statutes, are amended to read:

220.03 Definitions.—

(1) SPECIFIC TERMS.—When used in this code, and when not otherwise distinctly expressed or manifestly incompatible with the intent thereof, the following terms shall have the following meanings:

(n) "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended and in effect on January 1, 2016 ~~2015~~, except as provided in subsection (3).

(2) DEFINITIONAL RULES.—When used in this code and neither otherwise distinctly expressed nor manifestly incompatible with the intent thereof:

(c) Any term used in this code has the same meaning as when used in a comparable context in the Internal Revenue Code and other statutes of the United States relating to federal income taxes, as such code and statutes are in effect on January 1, 2016 ~~2015~~. However, if subsection (3) is implemented, the meaning of a term shall be taken at the time the term is applied under this code.

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Section 20. Effective upon this act becoming a law and operating retroactively to January 1, 2016, paragraph (e) of subsection (1) of section 220.13, Florida Statutes, is amended to read:

220.13 "Adjusted federal income" defined.—

(1) The term "adjusted federal income" means an amount equal to the taxpayer's taxable income as defined in subsection (2), or such taxable income of more than one taxpayer as provided in s. 220.131, for the taxable year, adjusted as follows:

(e) Adjustments related to federal acts.—Taxpayers shall be required to make the adjustments prescribed in this paragraph for Florida tax purposes with respect to certain tax benefits received pursuant to the Economic Stimulus Act of 2008, the American Recovery and Reinvestment Act of 2009, the Small Business Jobs Act of 2010, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, the American Taxpayer Relief Act of 2012, ~~and~~ the Tax Increase Prevention Act of 2014, and the Consolidated Appropriations Act of 2016.

1. There shall be added to such taxable income an amount equal to 100 percent of any amount deducted for federal income tax purposes as bonus depreciation for the taxable year pursuant to ss. 167 and 168(k) of the Internal Revenue Code of 1986, as amended by s. 103 of Pub. L. No. 110-185, s. 1201 of Pub. L. No. 111-5, s. 2022 of Pub. L. No. 111-240, s. 401 of Pub. L. No.

111-312, s. 331 of Pub. L. No. 112-240, ~~and~~ s. 125 of Pub. L. No. 113-295, and s. 143 of Division Q of Pub. L. No. 114-113, for property placed in service after December 31, 2007, and before January 1, 2021 ~~2015~~. For the taxable year and for each of the 6 subsequent taxable years, there shall be subtracted from such taxable income an amount equal to one-seventh of the amount by which taxable income was increased pursuant to this subparagraph, notwithstanding any sale or other disposition of the property that is the subject of the adjustments and regardless of whether such property remains in service in the hands of the taxpayer.

2. There shall be added to such taxable income an amount equal to 100 percent of any amount in excess of $128,000 deducted for federal income tax purposes for the taxable year pursuant to s. 179 of the Internal Revenue Code of 1986, as amended by s. 102 of Pub. L. No. 110-185, s. 1202 of Pub. L. No. 111-5, s. 2021 of Pub. L. No. 111-240, s. 402 of Pub. L. No. 111-312, s. 315 of Pub. L. No. 112-240, and s. 127 of Pub. L. No. 113-295, for taxable years beginning after December 31, 2007, and before January 1, 2015. For the taxable year and for each of the 6 subsequent taxable years, there shall be subtracted from such taxable income one-seventh of the amount by which taxable income was increased pursuant to this subparagraph, notwithstanding any sale or other disposition of the property that is the subject of the adjustments and regardless of whether such property remains in service in the

hands of the taxpayer.

3. There shall be added to such taxable income an amount equal to the amount of deferred income not included in such taxable income pursuant to s. 108(i)(1) of the Internal Revenue Code of 1986, as amended by s. 1231 of Pub. L. No. 111-5. There shall be subtracted from such taxable income an amount equal to the amount of deferred income included in such taxable income pursuant to s. 108(i)(1) of the Internal Revenue Code of 1986, as amended by s. 1231 of Pub. L. No. 111-5.

4. Subtractions available under this paragraph may be transferred to the surviving or acquiring entity following a merger or acquisition and used in the same manner and with the same limitations as specified by this paragraph.

5. The additions and subtractions specified in this paragraph are intended to adjust taxable income for Florida tax purposes, and, notwithstanding any other provision of this code, such additions and subtractions shall be permitted to change a taxpayer's net operating loss for Florida tax purposes.

Section 21. (1) The Department of Revenue is authorized, and all conditions are deemed to be met, to adopt emergency rules pursuant to s. 120.54(4), Florida Statutes, for the purpose of implementing the amendments made by this act to s. 220.03(1)(n) and (2)(c), Florida Statutes, and s. 220.13(1)(e), Florida Statutes.

(2) Notwithstanding any other provision of law, emergency rules adopted pursuant to subsection (1) are effective for 6

months after adoption and may be renewed during the pendency of procedures to adopt permanent rules addressing the subject of the emergency rules.

(3) This section expires January 1, 2020.

Section 22. Paragraph (f) of subsection (2) of section 220.1845, Florida Statutes, is amended to read:

220.1845 Contaminated site rehabilitation tax credit.—

(2) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.—

(f) The total amount of the tax credits which may be granted under this section is $21.6 million in the 2015-2016 fiscal year, $10 million in the 2016-2017 fiscal year, and $5 million annually thereafter.

Section 23. Paragraph (c) of subsection (1) and subsection (2) of section 220.192, Florida Statutes, are amended to read:

220.192 Renewable energy technologies investment tax credit.—

(1) DEFINITIONS.—For purposes of this section, the term:

(c) "Eligible costs" means 75 percent of all capital costs, operation and maintenance costs, and research and development costs incurred between July 1, 2012, and June 30, 2017 ~~2016~~, not to exceed $1 million per state fiscal year for each taxpayer and up to a limit of $10 million per state fiscal year for all taxpayers, in connection with an investment in the production, storage, and distribution of biodiesel (B10-B100), ethanol (E10-E100), and other renewable fuel in the state, including the costs of constructing, installing, and equipping

such technologies in the state. Gasoline fueling station pump retrofits for biodiesel (B10-B100), ethanol (E10-E100), and other renewable fuel distribution qualify as an eligible cost under this section.

(2) TAX CREDIT.—For tax years beginning on or after January 1, 2013, a credit against the tax imposed by this chapter shall be granted in an amount equal to the eligible costs. Credits may be used in tax years beginning January 1, 2013, and ending December 31, 2017 ~~2016~~, after which the credit shall expire. If the credit is not fully used in any one tax year because of insufficient tax liability on the part of the corporation, the unused amount may be carried forward and used in tax years beginning January 1, 2013, and ending December 31, 2019 ~~2018~~, after which the credit carryover expires and may not be used. A taxpayer that files a consolidated return in this state as a member of an affiliated group under s. 220.131(1) may be allowed the credit on a consolidated return basis up to the amount of tax imposed upon the consolidated group. Any eligible cost for which a credit is claimed and which is deducted or otherwise reduces federal taxable income shall be added back in computing adjusted federal income under s. 220.13.

Section 24. Paragraph (e) of subsection (2), paragraphs (b) and (g) of subsection (3), and subsection (8) of section 220.193, Florida Statutes, are amended to read:

220.193 Florida renewable energy production credit.—

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

(e) "New facility" means a Florida renewable energy facility that is operationally placed in service after May 1, 2006. The term includes a Florida renewable energy facility that has had an expansion operationally placed in service after May 1, 2006, and whose cost exceeded 50 percent of the assessed value of the facility immediately before the expansion, and includes any nonpublic waste-to-energy facility certified pursuant to ss. 403.501-403.518.

(3) An annual credit against the tax imposed by this section shall be allowed to a taxpayer, based on the taxpayer's production and sale of electricity from a new or expanded Florida renewable energy facility. For a new facility, the credit shall be based on the taxpayer's sale of the facility's entire electrical production. For an expanded facility, the credit shall be based on the increases in the facility's electrical production that are achieved after May 1, 2012.

(b) The credit may be claimed for electricity produced and sold on or after January 1, 2013. ~~Beginning in 2014 and continuing until 2017,~~ Each taxpayer claiming a credit under this section must apply to the Department of Agriculture and Consumer Services by the date established by the Department of Agriculture and Consumer Services for an allocation of available credits for that year. The application form shall be adopted by rule of the Department of Agriculture and Consumer Services in consultation with the commission. The application form shall, at a minimum, require a sworn affidavit from each taxpayer

certifying the increase in production and sales that form the basis of the application and certifying that all information contained in the application is true and correct.

(g) ~~Notwithstanding any other provision of this section, credits for the production and sale of electricity from a new or expanded Florida renewable energy facility may be earned between January 1, 2013, and June 30, 2016.~~ The combined total amount of tax credits which may be granted for all taxpayers under this section is limited to ~~$5 million in state fiscal year 2012-2013 and~~ $10 million per state fiscal year in state fiscal years ~~2013-2014 through~~ 2016-2017 and 2017-2018. If the annual tax credit authorization amount is not exhausted by allocations of credits within that particular state fiscal year, any authorized but unallocated credit amounts may be used to grant credits that were earned pursuant to s. 220.192 but unallocated due to a lack of authorized funds.

~~(8) This section shall take effect upon becoming law and shall apply to tax years beginning on and after January 1, 2013.~~

Section 25. Paragraph (e) of subsection (2) of section 220.196, Florida Statutes, is amended to read:

220.196 Research and development tax credit.—

(2) TAX CREDIT.—

(e) The combined total amount of tax credits which may be granted to all business enterprises under this section during any calendar year is $9 million, except that the total amount that may be granted ~~awarded~~ in the 2016 calendar year is $23

million and the total amount that may be granted in the 2017 calendar year is $18 million. Applications may be filed with the department on or after March 20 and before March 27 for qualified research expenses incurred within the preceding calendar year. If the total credits for all applicants exceed the maximum amount allowed under this paragraph, the credits shall be allocated on a prorated basis.

Section 26. Effective upon this act becoming a law and applicable to taxable years beginning on or after January 1, 2016, section 220.222, Florida Statutes, is amended to read:

220.222 Returns; time and place for filing.—

(1)(a) Returns required by this code shall be filed with the office of the department in Leon County or at such other place as the department may by regulation prescribe. All returns required for a DISC (Domestic International Sales Corporation) under paragraph 6011(c)(2) of the Internal Revenue Code shall be filed on or before the 1st day of the 10th month after ~~following~~ the close of the taxable year; all partnership information returns shall be filed on or before the 1st day of the 4th ~~5th~~ month after ~~following~~ the close of the taxable year; and all other returns shall be filed on or before the 1st day of the 5th ~~4th~~ month after ~~following~~ the close of the taxable year or the 15th day after ~~following~~ the due date, without extension, for the filing of the related federal return for the taxable year, unless under subsection (2) one or more extensions of time, not to exceed 6 months in the aggregate, for any such filing is

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granted.

(b) Notwithstanding paragraph (a), for taxable years beginning before January 1, 2026, returns of taxpayers with a taxable year ending on June 30 shall be filed on or before the 1st day of the 4th month after the close of the taxable year or the 15th day after the due date, without extension, for the filing of the related federal return for the taxable year, unless under subsection (2) one or more extensions of time for any such filing is granted.

(2)(a) When a taxpayer has been granted an extension or extensions of time within which to file its federal income tax return for any taxable year, and if the requirements of s. 220.32 are met, the filing of a request for such extension or extensions with the department shall automatically extend the due date of the return required under this code until ~~15 days after the expiration of the federal extension or until~~ the expiration of 6 months from the original due date~~, whichever first occurs~~.

(b) The department may grant an extension or extensions of time for the filing of any return required under this code upon receiving a prior request therefor if good cause for an extension is shown. However, the aggregate extensions of time under paragraph ~~paragraphs~~ (a) and this paragraph must ~~(b) shall~~ not exceed 6 months. An ~~No~~ extension granted under this paragraph is not ~~shall be~~ valid unless the taxpayer complies with ~~the requirements of~~ s. 220.32.

(c) For purposes of this subsection, a taxpayer is not in compliance with ~~the requirements of~~ s. 220.32 if the taxpayer underpays the required payment by more than the greater of $2,000 or 30 percent of the tax shown on the return when filed.

(d) For taxable years beginning before January 1, 2026, the 6-month time period in paragraphs (a) and (b) shall be 7 months for taxpayers with a taxable year ending June 30 and shall be 5 months for taxpayers with a taxable year ending December 31.

Section 27. Effective upon this act becoming a law and applicable to taxable years beginning on or after January 1, 2017, section 220.241, Florida Statutes, is amended to read:

220.241 Declaration; time for filing.—

(1) A declaration of estimated tax under this code shall be filed before the 1st day of the 6th ~~5th~~ month of each taxable year, except that if the minimum tax requirement of s. 220.24(1) is first met:

(a) ~~(1)~~ After the 3rd month and before the 6th month of the taxable year, the declaration shall be filed before the 1st day of the 7th month;

(b) ~~(2)~~ After the 5th month and before the 9th month of the taxable year, the declaration shall be filed before the 1st day of the 10th month; or

(c) ~~(3)~~ After the 8th month and before the 12th month of the taxable year, the declaration shall be filed for the taxable year before the 1st day of the succeeding taxable year.

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(2) Notwithstanding subsection (1), for taxable years beginning before January 1, 2026, taxpayers with a taxable year ending on June 30 shall file declarations before the 1st day of the 5th month of each taxable year, unless paragraph (1)(a), paragraph (1)(b), or paragraph (1)(c) applies.

Section 28. Effective upon this act becoming a law and applicable to taxable years beginning on or after January 1, 2017, subsection (1) of section 220.33, Florida Statutes, is amended to read:

220.33 Payments of estimated tax.—A taxpayer required to file a declaration of estimated tax pursuant to s. 220.24 shall pay such estimated tax as follows:

(1) If the declaration is required to be filed before the 1st day of the 6th ~~5th~~ month of the taxable year, the estimated tax shall be paid in four equal installments. The first installment shall be paid at the time of the required filing of the declaration; the second and third installments shall be paid before the 1st day of the 7th month and before the 1st day of the 10th month of the taxable year, respectively; and the fourth installment shall be paid before the 1st day of the next taxable year.

Section 29. Effective upon this act becoming a law and applicable to taxable years beginning on or after January 1, 2017, paragraph (c) of subsection (2) of section 220.34, Florida Statutes, is amended to read:

220.34 Special rules relating to estimated tax.—

(2) No interest or penalty shall be due or paid with respect to a failure to pay estimated taxes except the following:

(c) The period of the underpayment for which interest and penalties apply shall commence on the date the installment was required to be paid, determined without regard to any extensions of time, and shall terminate on the earlier of the following dates:

1. The 1st ~~first~~ day of the 5th ~~fourth~~ month after ~~following~~ the close of the taxable year;

2. For taxable years beginning before January 1, 2026, for taxpayers with a taxable year ending June 30, the 1st day of the 4th month after the close of the taxable year; or

3.~~2.~~ With respect to any portion of the underpayment, the date on which such portion is paid.

For purposes of this paragraph, a payment of estimated tax on any installment date shall be considered a payment of any previous underpayment only to the extent such payment exceeds the amount of the installment determined under subparagraph (b)1. for such installment date.

Section 30. Subsection (4) of section 376.30781, Florida Statutes, is amended to read:

376.30781 Tax credits for rehabilitation of drycleaning-solvent-contaminated sites and brownfield sites in designated brownfield areas; application process; rulemaking authority;

revocation authority.—

(4) The Department of Environmental Protection is responsible for allocating the tax credits provided for in s. 220.1845, which may not exceed a total of $21.6 million in tax credits in the 2015-2016 fiscal year, $10 million in tax credits in the 2016-2017 fiscal year, and $5 million in tax credits annually thereafter.

Section 31. Subsections (1) and (2) of section 561.121, Florida Statutes, are amended to read:

561.121 Deposit of revenue.—

(1) All state funds collected pursuant to ss. 563.05, 564.06, 565.02(9), and 565.12 shall be paid into the State Treasury and disbursed in the following manner:

(a) Two percent of monthly collections of the excise taxes on alcoholic beverages established in ss. 563.05, 564.06, and 565.12 and the tax on alcoholic beverages, cigarettes, and other tobacco products established in s. 565.02(9) shall be deposited into the Alcoholic Beverage and Tobacco Trust Fund to meet the division's appropriation for the state fiscal year.

(b) The remainder of the funds collected pursuant to ss. 563.05, 564.06, and 565.12 and the tax on alcoholic beverages, cigarettes, and other tobacco products established in s. 565.02(9) shall be credited to the General Revenue Fund.

(2) The unencumbered balance in the Alcoholic Beverage and Tobacco Trust Fund at the close of each fiscal year may not exceed $2 million. These funds shall be held in reserve for use

in the event that trust fund revenues are unable to meet the division's appropriation for the next fiscal year. In the event of a revenue shortfall, these funds shall be spent pursuant to subsection (3). Notwithstanding subsection (1), if the unencumbered balance on June 30 in any fiscal year is less than $2 million, the department is authorized to retain the difference between the June 30 unencumbered balance in the trust fund and $2 million from the July collections of state funds collected pursuant to ss. 563.05, 564.06, and 565.12 and the tax on alcoholic beverages, cigarettes, and other tobacco products established in s. 565.02(9). Any unencumbered funds in excess of reserve funds shall be transferred unallocated to the General Revenue Fund by August 31 of the next fiscal year.

Section 32. Subsection (4) of section 564.06, Florida Statutes, is amended to read:

564.06 Excise taxes on wines and beverages.—

(4) As to cider, which is made from the normal alcoholic fermentation of the juice of sound, ripe apples or pears, including but not limited to flavored, sparkling, or carbonated cider and cider made from condensed apple or pear must, that contain not less than one-half of 1 percent of alcohol by volume and not more than 7 percent of alcohol by volume, there shall be paid by all manufacturers and distributors a tax at the rate of $.89 per gallon. With the sole exception of the excise tax rate, cider shall be considered wine and shall be subject to the provisions of this chapter.

Section 33. Subsection (9) of section 565.02, Florida Statutes, is amended to read:

565.02 License fees; vendors; clubs; caterers; and others.—

(9)(a) As used in this subsection, the term:

1. "Annual capacity" means an amount equal to the number of lower berths on a vessel multiplied by the number of embarkations of that vessel during a calendar year.

2. "Base rate" means an amount equal to the total taxes and surcharges paid by all permittees pursuant to the Beverage Law and chapter 210 for sales of alcoholic beverages, cigarettes, and other tobacco products taking place between January 1, 2015, and December 31, 2015, inclusive, divided by the sum of the annual capacities of all vessels permitted pursuant to former s. 565.02(9), Florida Statutes 2015, for calendar year 2015.

3. "Embarkation" means an instance in which a vessel departs from a port in this state.

4. "Lower berth" means a bed that is:

a. Affixed to a vessel;

b. Not located above another bed in the same cabin; and

c. Located in a cabin not in use by employees of the operator of the vessel or its contractors.

5. "Quarterly capacity" means an amount equal to the number of lower berths on a vessel multiplied by the number of embarkations of that vessel during a calendar quarter.

(b) It is the finding of the Legislature that passenger vessels engaged exclusively in foreign commerce are susceptible to a distinct and separate classification for purposes of the sale of alcoholic beverages, cigarettes, and other tobacco products under the Beverage Law and chapter 210.

(c) Upon the filing of an application and payment of an annual fee of $1,100, the director is authorized to issue a permit authorizing the operator, or, if applicable, his or her concessionaire, of a passenger vessel which has cabin-berth capacity for at least 75 passengers, and which is engaged exclusively in foreign commerce, to sell alcoholic beverages, cigarettes, and other tobacco products on the vessel for consumption on board only:

1.~~(a)~~ For no more than ~~During a period not in excess of~~ 24 hours before ~~prior to~~ departure while the vessel is moored at a dock or wharf in a port of this state; or

2.~~(b)~~ At any time while the vessel is located in Florida territorial waters and is in transit to or from international waters.

One such permit shall be required for each such vessel and shall name the vessel for which it is issued. No license shall be required or tax levied by any municipality or county for the privilege of selling beverages, cigarettes, or other tobacco products for consumption on board such vessels. The beverages, cigarettes, or other tobacco products so sold may be purchased

outside the state by the permittee, and the same shall not be considered as imported for the purposes of s. 561.14(3) solely because of such sale. The permittee is not required to obtain its beverages, cigarettes, or other tobacco products from licensees under the Beverage Law or chapter 210. Each permittee~~,~~ ~~but it~~ shall keep a strict account of the quarterly capacity of each of its vessels ~~all such beverages sold within this state~~ and shall make quarterly ~~monthly~~ reports to the division on forms prepared and furnished by the division. ~~A permittee who sells on board the vessel beverages withdrawn from United States Bureau of Customs and Border Protection bonded storage on board the vessel may satisfy such accounting requirement by supplying the division with copies of the appropriate United States Bureau of Customs and Border Protection forms evidencing such withdrawals as importations under United States customs laws.~~

(d) Each ~~Such~~ permittee shall pay to the state a ~~an excise~~ tax for beverages, cigarettes, and other tobacco products sold pursuant to this subsection in an amount equal to the base rate multiplied by the permittee's quarterly capacity during the calendar quarter, less any tax or surcharge already paid by a licensed manufacturer or distributor pursuant to the Beverage Law or chapter 210 on beverages, cigarettes, and other tobacco products sold by the permittee pursuant to this subsection during the quarter for which tax is due ~~section, if such excise tax has not previously been paid, in an amount equal to the tax which would be required to be paid on such sales by a licensed~~

~~manufacturer or distributor~~.

(e) A vendor holding such permit shall pay the tax quarterly ~~monthly~~ to the division at the same time he or she furnishes the required report. Such report shall be filed on or before the 15th day of each calendar quarter ~~month~~ for the quarterly capacity ~~sales occurring~~ during the previous calendar quarter ~~month~~.

(f) No later than August 1, 2016, each permittee shall report the annual capacity for each of its vessels for calendar year 2015 to the division on forms prepared and furnished by the division. No later than September 1, 2016, the division shall calculate the base rate and report it to each permittee. The base rate shall also be published in the Florida Administrative Register and on the department's website.

(g) Revenues collected pursuant to this subsection shall be distributed pursuant to s. 561.121(1).

Section 34. Subsection (1) of section 951.22, Florida Statutes, is amended to read:

951.22 County detention facilities; contraband articles.—

(1) It is unlawful, except through regular channels as duly authorized by the sheriff or officer in charge, to introduce into or possess upon the grounds of any county detention facility as defined in s. 951.23 or to give to or receive from any inmate of any such facility wherever said inmate is located at the time or to take or to attempt to take or send therefrom any of the following articles which are hereby

declared to be contraband for the purposes of this act, to wit: Any written or recorded communication; any currency or coin; any article of food or clothing; any tobacco products as defined in s. 210.25(12) ~~210.25(11)~~; any cigarette as defined in s. 210.01(1); any cigar; any intoxicating beverage or beverage which causes or may cause an intoxicating effect; any narcotic, hypnotic, or excitative drug or drug of any kind or nature, including nasal inhalators, sleeping pills, barbiturates, and controlled substances as defined in s. 893.02(4); any firearm or any instrumentality customarily used or which is intended to be used as a dangerous weapon; and any instrumentality of any nature that may be or is intended to be used as an aid in effecting or attempting to effect an escape from a county facility.

Section 35. Clothing, school supplies, personal computers, and personal computer-related accessories; sales tax holiday.—

(1) The tax levied under chapter 212, Florida Statutes, may not be collected during the period from 12:01 a.m. on August 5, 2016, through 11:59 p.m. on August 14, 2016, on the retail sale of:

(a) Clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags, having a sales price of $100 or less per item. As used in this paragraph, the term "clothing" means:

1. Any article of wearing apparel intended to be worn on

or about the human body, excluding watches, watchbands, jewelry, umbrellas, and handkerchiefs; and

2. All footwear, excluding skis, swim fins, roller blades, and skates.

(b) School supplies having a sales price of $15 or less per item. As used in this paragraph, the term "school supplies" means pens, pencils, erasers, crayons, notebooks, notebook filler paper, legal pads, binders, lunch boxes, construction paper, markers, folders, poster board, composition books, poster paper, scissors, cellophane tape, glue or paste, rulers, computer disks, protractors, compasses, and calculators.

(2) The tax levied under chapter 212, Florida Statutes, may not be collected during the period from 12:01 a.m. on August 5, 2016, through 11:59 p.m. on August 14, 2016, on the first $750 of the sales price of personal computers or personal computer-related accessories purchased for noncommercial home or personal use. For purposes of this subsection, the term:

(a) "Personal computers" includes electronic book readers, laptops, desktops, handhelds, tablets, and tower computers. The term does not include cellular telephones, video game consoles, digital media receivers, or devices that are not primarily designed to process data.

(b) "Personal computer-related accessories" includes keyboards, mice, personal digital assistants, monitors, other peripheral devices, modems, routers, and nonrecreational software, regardless of whether the accessories are used in

association with a personal computer base unit. The term does not include furniture or systems, devices, software, or peripherals that are designed or intended primarily for recreational use.

(c) "Monitors" does not include devices that include a television tuner.

(3) The tax exemptions provided in this section do not apply to sales within a theme park or entertainment complex as defined in s. 509.013(9), Florida Statutes, within a public lodging establishment as defined in s. 509.013(4), Florida Statutes, or within an airport as defined in s. 330.27(2), Florida Statutes.

(4) The Department of Revenue may, and all conditions are deemed met to, adopt emergency rules pursuant to s. 120.54(4), Florida Statutes, to administer this section.

(5) For the 2016-2017 fiscal year, the sum of $229,982 in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Revenue for the purpose of implementing this section.

Section 36. Small business Saturday sales tax holiday.—

(1) As used in this section, the term "small business" means a dealer, as defined in s. 212.06, Florida Statutes, that registered with the Department of Revenue and began operation no later than January 11, 2016, and that owed and remitted to the Department of Revenue less than $200,000 in total tax under chapter 212, Florida Statutes, for the 1-year period ending

September 30, 2016. If the dealer has not been in operation for a 1-year period as of September 30, 2016, the dealer must have owed and remitted less than $200,000 in total tax under chapter 212, Florida Statutes, for the period beginning on the day that the dealer began operation and ending September 30, 2016, in order to qualify as a small business under this section. If the dealer is eligible to file a consolidated return pursuant to s. 212.11(1)(e), Florida Statutes, the total tax under chapter 212, Florida Statutes, owed and remitted from all of the dealer's places of business must be less than $200,000 for the applicable period ending September 30, 2016.

(2) The tax levied under chapter 212, Florida Statutes, may not be collected by a small business during the period from 12:01 a.m. on November 26, 2016, through 11:59 p.m. on November 26, 2016, on the retail sale, as defined in s. 212.02(14), Florida Statutes, of any item or article of tangible personal property, as defined in s. 212.02(19), Florida Statutes, having a sales price of $1,000 or less per item.

(3) The Department of Revenue may, and all conditions are deemed to be met to, adopt emergency rules pursuant to ss. 120.536(1) and 120.54, Florida Statutes, to administer this section.

Section 37. Hunting and fishing sales tax holiday.—

(1) The tax levied under chapter 212, Florida Statutes, may not be collected during the period from 12:01 a.m. on August 20, 2016, through 11:59 p.m. on August 20, 2016, on the retail

sale, as defined in s. 212.02(14), Florida Statutes, of:

(a) Firearms. For purposes of this section, the term "firearms" means rifles, shotguns, spearguns, crossbows, and bows. The term does not include destructive devices as defined in s. 790.001(4), Florida Statutes.

(b) Ammunition for firearms.

(c) Camping tents.

(d) Fishing supplies. For purposes of this section, the term "fishing supplies" means rods, reels, bait, and fishing tackle. The term does not include supplies used for commercial fishing purposes.

(2) The tax exemptions provided in this section do not apply to sales within a theme park or entertainment complex as defined in s. 509.013(9), Florida Statutes, within a public lodging establishment as defined in s. 509.013(4), Florida Statutes, or within an airport as defined in s. 330.27(2), Florida Statutes.

(3) The Department of Revenue may, and all conditions are deemed to be met to, adopt emergency rules pursuant to ss. 120.536(1) and 120.54, Florida Statutes, to administer this section.

(4) For the 2016-2017 fiscal year, the sum of $91,470 in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Revenue for the purpose of implementing this section.

Section 38. Technology sales tax holiday.—

(1) The tax levied under chapter 212, Florida Statutes, may not be collected during the period from 12:01 a.m. on April 22, 2017, through 11:59 p.m. on April 22, 2017, on the first $1,000 of the sales price of personal computers or personal computer-related accessories. For purposes of this subsection, the term:

(a) "Personal computers" includes electronic book readers, laptops, desktops, handhelds, tablets, cellular telephones, and tower computers. The term does not include video game consoles, digital media receivers, or devices that are not primarily designed to process data.

(b) "Personal computer-related accessories" includes keyboards, mice, personal digital assistants, monitors, other peripheral devices, modems, routers, and nonrecreational software, regardless of whether the accessories are used in association with a personal computer base unit. The term does not include furniture or systems, devices, software, or peripherals that are designed or intended primarily for recreational use.

(c) "Monitors" does not include devices that include a television tuner.

(2) The tax exemptions provided in this section do not apply to sales within a theme park or entertainment complex as defined in s. 509.013(9), Florida Statutes, within a public lodging establishment as defined in s. 509.013(4), Florida Statutes, or within an airport as defined in s. 330.27(2),

Florida Statutes.

(3) The Department of Revenue may, and all conditions are deemed met to, adopt emergency rules pursuant to ss. 120.536(1) and 120.54, Florida Statutes, to administer this section.

(4) For the 2016-2017 fiscal year, the sum of $104,937 in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Revenue for the purpose of implementing this section.

Section 39. Book fairs.—

(1) The tax levied under chapter 212, Florida Statutes, may not be collected on the retail sale of books and other reading materials when sold:

(a) On the premises of a public, parochial, or nonprofit school operated for and attended by students in grades K through 12; and

(b) On the premises of a nonpermanent retail establishment that operates for less than 10 days per location each calendar year.

If such sales are made by a third-party vendor, the vendor must commit some or all of the profits from the sales to the public, parochial, or nonprofit school where the sales were made. The profits may be distributed to the school in the form of cash, in-store credits, in-kind contributions, or similar methods.

(2) The Department of Revenue may, and all conditions are deemed met to, adopt emergency rules pursuant to ss. 120.536(1)

and 120.54, Florida Statutes, to administer this section.

(3) This section is repealed July 1, 2017.

Section 40. Section 29 of chapter 2015-221, Laws of Florida, is amended to read:

Section 29. (1) The tax levied under chapter 212, Florida Statutes, may not be collected on the retail sale of textbooks that are required or recommended for use in a course offered by a public postsecondary educational institution as described in s. 1000.04, Florida Statutes, or a nonpublic postsecondary educational institution that is eligible to participate in a tuition assistance program authorized by s. 1009.89 or s. 1009.891, Florida Statutes. As used in this section, the term "textbook" means any required or recommended manual of instruction or any instructional materials for any field of study. As used in this section, the term "instructional materials" means any educational materials, in printed or digital format, that are required or recommended for use in a course in any field of study. To demonstrate that a sale is not subject to tax, the student must provide a physical or an electronic copy of the following to the vendor:

(a) The student's identification number; and

(b) An applicable course syllabus or list of required and recommended textbooks and instructional materials that meet the criteria in s. 1004.085(3), Florida Statutes.

The vendor must maintain proper documentation, as prescribed by

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department rule, to identify the complete transaction or portion of the transaction that involves the sale of textbooks that are not subject to tax.

(2) The tax exemptions provided in this section do not apply to sales within a theme park or entertainment complex as defined in s. 509.013(9), Florida Statutes, within a public lodging establishment as defined in s. 509.013(4), Florida Statutes, or within an airport as defined in s. 330.27(2), Florida Statutes.

(3) The Department of Revenue may, and all conditions are deemed met to, adopt emergency rules pursuant to ss. 120.536(1) and 120.54, Florida Statutes, to administer this section.

(4) This section is repealed June 30, 2017 ~~2016~~.

Section 41. For the 2016-2017 fiscal year, the sum of $55,908 in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Revenue for the purpose of implementing s. 212.031, as amended by this act.

Section 42. For the 2016-2017 fiscal year, the sum of $279,857 in nonrecurring funds is appropriated from the General Revenue Fund to the Property Tax Oversight Program within the Department of Revenue for the purpose of providing aerial photographs and maps to counties that meet the increased population thresholds as required by s. 195.022, Florida Statutes, as amended by this act. These funds are in addition to any funds that may be provided in the 2016-2017 General Appropriations Act for providing aerial photographs and maps to

counties with a population of 50,000 or fewer.

Section 43. The amendments made by this act to ss. 196.012 and 196.1995, Florida Statutes, are remedial in nature and apply retroactively to December 31, 2015.

Section 44. Section 196.1955, Florida Statutes, is created to read:

196.1955 Preparing property for educational, literary, scientific, religious, or charitable use.—

(1) Property owned by an exempt entity is used for an exempt purpose if the owner has taken affirmative steps to prepare the property for an exempt educational, literary, scientific, religious, or charitable use and no portion of the property is being used for a nonexempt purpose. The term "charitable use" means, but is not limited to, providing affordable housing to extremely-low-income, very-low-income, low-income, or moderate-income persons and families as defined in s. 420.0004. The term "affirmative steps" means environmental or land use permitting activities, creation of architectural plans or schematic drawings, land clearing or site preparation, construction or renovation activities, or other similar activities that demonstrate a commitment to preparing the property for an exempt use.

(2)(a) If property owned by an organization that has been granted an exemption under this section is transferred for a purpose other than an exempt use or is not in actual exempt use within 5 years after the date the organization is granted an

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exemption, the property appraiser making such determination may serve upon the organization that received the exemption a notice of intent to record in the public records of the county a notice of tax lien against any property owned by that organization in that county, and such property must be identified in the notice of tax lien. The organization owning such property is subject to the taxes otherwise due as a result of the failure to use the property in an exempt manner plus 15 percent interest per annum.

1. The lien, when filed, attaches to any property identified in the notice of tax lien owned by the organization that received the exemption. If the organization no longer owns property in the county but owns property in any other county in the state, the property appraiser shall record in each such county a notice of tax lien identifying the property owned by the organization in each respective county, which shall become a lien against the identified property.

2. Before such lien may be filed, the organization so notified must be given 30 days to pay the taxes and interest.

3. If an exemption is improperly granted as a result of a clerical mistake or an omission by the property appraiser, the organization improperly receiving the exemption may not be assessed interest.

4. The 5-year limitation specified in this subsection may be extended by the property appraiser if the organization holding the exemption continues to take affirmative steps to develop the property for the purposes specified in this section.

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(b) This subsection does not apply to property being prepared for use as a house of public worship. The term "public worship" means religious worship services and activities that are incidental to religious worship services, such as educational activities, parking, recreation, partaking of meals, and fellowship.

Section 45. Subsections (3), (4), and (5) of section 196.196, Florida Statutes, are amended to read:

196.196 Determining whether property is entitled to charitable, religious, scientific, or literary exemption.—

~~(3) Property owned by an exempt organization is used for a religious purpose if the institution has taken affirmative steps to prepare the property for use as a house of public worship. The term "affirmative steps" means environmental or land use permitting activities, creation of architectural plans or schematic drawings, land clearing or site preparation, construction or renovation activities, or other similar activities that demonstrate a commitment of the property to a religious use as a house of public worship. For purposes of this subsection, the term "public worship" means religious worship services and those other activities that are incidental to religious worship services, such as educational activities, parking, recreation, partaking of meals, and fellowship.~~

(3)~~(4)~~ Except as otherwise provided in this section ~~herein~~, property claimed as exempt for literary, scientific, religious, or charitable purposes which is used for profitmaking

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purposes is ~~shall be~~ subject to ad valorem taxation. Use of property for functions not requiring a business or occupational license conducted by the organization at its primary residence, the revenue of which is used wholly for exempt purposes, is ~~shall~~ not ~~be~~ considered profitmaking ~~profit making~~. In this connection, the playing of bingo on such property is ~~shall~~ not ~~be~~ considered as using such property in such a manner as would impair its exempt status.

~~(5)(a) Property owned by an exempt organization qualified as charitable under s. 501(c)(3) of the Internal Revenue Code is used for a charitable purpose if the organization has taken affirmative steps to prepare the property to provide affordable housing to persons or families that meet the extremely-low-income, very-low-income, low-income, or moderate-income limits, as specified in s. 420.0004. The term "affirmative steps" means environmental or land use permitting activities, creation of architectural plans or schematic drawings, land clearing or site preparation, construction or renovation activities, or other similar activities that demonstrate a commitment of the property to providing affordable housing.~~

~~(b)1. If property owned by an organization granted an exemption under this subsection is transferred for a purpose other than directly providing affordable homeownership or rental housing to persons or families who meet the extremely-low-income, very-low-income, low-income, or moderate-income limits, as specified in s. 420.0004, or is not in actual use to provide~~

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~~such affordable housing within 5 years after the date the organization is granted the exemption, the property appraiser making such determination shall serve upon the organization that illegally or improperly received the exemption a notice of intent to record in the public records of the county a notice of tax lien against any property owned by that organization in the county, and such property shall be identified in the notice of tax lien. The organization owning such property is subject to the taxes otherwise due and owing as a result of the failure to use the property to provide affordable housing plus 15 percent interest per annum and a penalty of 50 percent of the taxes owed.~~

~~2. Such lien, when filed, attaches to any property identified in the notice of tax lien owned by the organization that illegally or improperly received the exemption. If such organization no longer owns property in the county but owns property in any other county in the state, the property appraiser shall record in each such other county a notice of tax lien identifying the property owned by such organization in such county which shall become a lien against the identified property. Before any such lien may be filed, the organization so notified must be given 30 days to pay the taxes, penalties, and interest.~~

~~3. If an exemption is improperly granted as a result of a clerical mistake or an omission by the property appraiser, the organization improperly receiving the exemption shall not be~~

~~assessed a penalty or interest.~~

~~4. The 5-year limitation specified in this subsection may be extended if the holder of the exemption continues to take affirmative steps to develop the property for the purposes specified in this subsection.~~

Section 46. Section 196.198, Florida Statutes, is amended to read:

196.198 Educational property exemption.—

(1) Educational institutions within this state and their property used by them or by any other exempt entity or educational institution exclusively for educational purposes are exempt from taxation.

(a) Sheltered workshops providing rehabilitation and retraining of individuals who have disabilities and exempted by a certificate under s. (d) of the federal Fair Labor Standards Act of 1938, as amended, are declared wholly educational in purpose and are exempt from certification, accreditation, and membership requirements set forth in s. 196.012.

(b) Those portions of property of college fraternities and sororities certified by the president of the college or university to the appropriate property appraiser as being essential to the educational process are exempt from ad valorem taxation.

(c) The use of property by public fairs and expositions chartered by chapter 616 is presumed to be an educational use of such property and is exempt from ad valorem taxation to the

extent of such use.

(2) Property used exclusively for educational purposes shall be deemed owned by an educational institution if the entity owning 100 percent of the educational institution is owned by the identical persons who own the property, or if the entity owning 100 percent of the educational institution and the entity owning the property are owned by the identical natural persons.

(a) Land, buildings, and other improvements to real property used exclusively for educational purposes shall be deemed owned by an educational institution if the entity owning 100 percent of the land is a nonprofit entity and the land is used, under a ground lease or other contractual arrangement, by an educational institution that owns the buildings and other improvements to the real property, is a nonprofit entity under s. 501(c)(3) of the Internal Revenue Code, and provides education limited to students in prekindergarten through grade 8.

(b) If legal title to property is held by a governmental agency that leases the property to a lessee, the property shall be deemed to be owned by the governmental agency and used exclusively for educational purposes if the governmental agency continues to use such property exclusively for educational purposes pursuant to a sublease or other contractual agreement with that lessee.

(c) If the title to land is held by the trustee of an

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irrevocable inter vivos trust and if the trust grantor owns 100 percent of the entity that owns an educational institution that is using the land exclusively for educational purposes, the land is deemed to be property owned by the educational institution for purposes of this exemption. ~~Property owned by an educational institution shall be deemed to be used for an educational purpose if the institution has taken affirmative steps to prepare the property for educational use. The term "affirmative steps" means environmental or land use permitting activities, creation of architectural plans or schematic drawings, land clearing or site preparation, construction or renovation activities, or other similar activities that demonstrate commitment of the property to an educational use.~~

Section 47. The Legislature finds that this act fulfills an important state interest.

Section 48. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect July 1, 2016.

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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/04/2016	.	
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The Committee on Appropriations (Hukill and Lee) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraph (c) of subsection (5) of section 125.0104, Florida Statutes, is redesignated as paragraph (d), present paragraph (d) of that subsection is amended, and a new paragraph (c) is added to that subsection, to read:

125.0104 Tourist development tax; procedure for levying; authorized uses; referendum; enforcement.—

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(5) AUTHORIZED USES OF REVENUE.—

(c) A county located adjacent to the Gulf of Mexico or the Atlantic Ocean, except a county that receives revenue from taxes levied pursuant to s. 125.0108, which meets the following criteria may use up to 10 percent of the tax revenue received pursuant to this section to reimburse expenses incurred in providing public safety services, including emergency medical services as defined in s. 401.107(3), and law enforcement services, which are needed to address impacts related to increased tourism and visitors to an area. However, if taxes collected pursuant to this section are used to reimburse emergency medical services or public safety services for tourism or special events, the governing board of a county or municipality may not use such taxes to supplant the normal operating expenses of an emergency medical services department, a fire department, a sheriff's office, or a police department. To receive reimbursement, the county must:

1. Generate a minimum of $10 million in annual proceeds from any tax, or any combination of taxes, authorized to be levied pursuant to this section;

2. Have at least three municipalities; and

3. Have an estimated population of less than 225,000, according to the most recent population estimate prepared pursuant to s. 186.901, excluding the inmate population.

The board of county commissioners must by majority vote approve reimbursement made pursuant to this paragraph upon receipt of a recommendation from the tourist development council.

(e) ~~(d)~~ Any use of the local option tourist development tax

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revenues collected pursuant to this section for a purpose not expressly authorized by paragraph (3)(l) or paragraph (3)(n) or paragraphs (a)-(d) ~~paragraph (a), paragraph (b), or paragraph (c)~~ of this subsection is expressly prohibited.

Section 2. Effective upon this act becoming a law, paragraph (b) of subsection (14) and paragraph (b) of subsection (15) of section 196.012, Florida Statutes, are amended to read:

196.012 Definitions.—For the purpose of this chapter, the following terms are defined as follows, except where the context clearly indicates otherwise:

(14) "New business" means:

(b) Any business or organization located in an area that was designated as an enterprise zone pursuant to chapter 290 as of December 30, 2015, or brownfield area that first begins operation on a site clearly separate from any other commercial or industrial operation owned by the same business or organization.

(15) "Expansion of an existing business" means:

(b) Any business or organization located in an area that was designated as an enterprise zone pursuant to chapter 290 as of December 30, 2015, or brownfield area that increases operations on a site located within the same zone or area colocated with a commercial or industrial operation owned by the same business or organization under common control with the same business or organization.

Section 3. Effective upon this act becoming a law, subsections (5) and (11) of section 196.1995, Florida Statutes, are amended to read:

196.1995 Economic development ad valorem tax exemption.—

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(5) Upon a majority vote in favor of such authority, the board of county commissioners or the governing authority of the municipality, at its discretion, by ordinance may exempt from ad valorem taxation up to 100 percent of the assessed value of all improvements to real property made by or for the use of a new business and of all tangible personal property of such new business, or up to 100 percent of the assessed value of all added improvements to real property made to facilitate the expansion of an existing business and of the net increase in all tangible personal property acquired to facilitate such expansion of an existing business. To qualify for this exemption, the improvements to real property must be made or the tangible personal property must be added or increased after approval by motion or resolution of the local governing body, subject to ordinance adoption or on or after the day the ordinance is adopted. However, if the authority to grant exemptions is approved in a referendum in which the ballot question contained in subsection (3) appears on the ballot, the authority of the board of county commissioners or the governing authority of the municipality to grant exemptions is limited solely to new businesses and expansions of existing businesses that are located in an area which was designated as an enterprise zone pursuant to chapter 290 as of December 30, 2015, or in a brownfield area. New businesses and expansions of existing businesses located in an area that was designated as an enterprise zone pursuant to chapter 290 as of December 30, 2015, but is not in a brownfield area, may qualify for the ad valorem tax exemption only if approved by motion or resolution of the local governing body, subject to ordinance adoption, or by


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ordinance, enacted before December 31, 2015. Property acquired to replace existing property shall not be considered to facilitate a business expansion. All data center equipment for a data center shall be exempt from ad valorem taxation for the term of the approved exemption. The exemption applies only to taxes levied by the respective unit of government granting the exemption. The exemption does not apply, however, to taxes levied for the payment of bonds or to taxes authorized by a vote of the electors pursuant to s. 9(b) or s. 12, Art. VII of the State Constitution. Any such exemption shall remain in effect for up to 10 years with respect to any particular facility, or up to 20 years for a data center, regardless of any change in the authority of the county or municipality to grant such exemptions or the expiration of the Enterprise Zone Act pursuant to chapter 290. The exemption shall not be prolonged or extended by granting exemptions from additional taxes or by virtue of any reorganization or sale of the business receiving the exemption.

(11) An ordinance granting an exemption under this section shall be adopted in the same manner as any other ordinance of the county or municipality and shall include the following:

(a) The name and address of the new business or expansion of an existing business to which the exemption is granted;

(b) The total amount of revenue available to the county or municipality from ad valorem tax sources for the current fiscal year, the total amount of revenue lost to the county or municipality for the current fiscal year by virtue of economic development ad valorem tax exemptions currently in effect, and the estimated revenue loss to the county or municipality for the current fiscal year attributable to the exemption of the

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business named in the ordinance;

(c) The period of time for which the exemption will remain in effect and the expiration date of the exemption, which may be any period of time up to 10 years, or up to 20 years for a data center; and

(d) A finding that the business named in the ordinance meets the requirements of s. 196.012(14) or (15).

Section 4. The amendments made by this act to ss. 196.012 and 196.1995, Florida Statutes, which relate to the ad valorem tax exemption for certain enterprise zone businesses are remedial in nature and apply retroactively to December 31, 2015, and the amendments to s. 196.1995, Florida Statutes, made by this act which relate to the ad valorem tax exemption for data center equipment apply upon this act becoming a law.

Section 5. Section 201.15, Florida Statutes, is amended to read:

201.15 Distribution of taxes collected.—All taxes collected under this chapter are hereby pledged and shall be first made available to make payments when due on bonds issued pursuant to s. 215.618 or s. 215.619, or any other bonds authorized to be issued on a parity basis with such bonds. Such pledge and availability for the payment of these bonds shall have priority over any requirement for the payment of service charges or costs of collection and enforcement under this section. All taxes collected under this chapter, except taxes distributed to the Land Acquisition Trust Fund pursuant to subsections (1) and (2), are subject to the service charge imposed in s. 215.20(1). Before distribution pursuant to this section, the Department of Revenue shall deduct amounts necessary to pay the costs of the

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collection and enforcement of the tax levied by this chapter. The costs and service charge may not be levied against any portion of taxes pledged to debt service on bonds to the extent that the costs and service charge are required to pay any amounts relating to the bonds. All of the costs of the collection and enforcement of the tax levied by this chapter and the service charge shall be available and transferred to the extent necessary to pay debt service and any other amounts payable with respect to bonds authorized before January 1, 2017 ~~2015~~, secured by revenues distributed pursuant to this section. All taxes remaining after deduction of costs shall be distributed as follows:

(1) Amounts necessary to make payments on bonds issued pursuant to s. 215.618 or s. 215.619, as provided under paragraphs (3)(a) and (b), or on any other bonds authorized to be issued on a parity basis with such bonds shall be deposited into the Land Acquisition Trust Fund.

(2) If the amounts deposited pursuant to subsection (1) are less than 33 percent of all taxes collected after first deducting the costs of collection, an amount equal to 33 percent of all taxes collected after first deducting the costs of collection, minus the amounts deposited pursuant to subsection (1), shall be deposited into the Land Acquisition Trust Fund.

(3) Amounts on deposit in the Land Acquisition Trust Fund shall be used in the following order:

(a) Payment of debt service or funding of debt service reserve funds, rebate obligations, or other amounts payable with respect to Florida Forever bonds issued pursuant to s. 215.618. The amount used for such purposes may not exceed $300 million in

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each fiscal year. It is the intent of the Legislature that all bonds issued to fund the Florida Forever Act be retired by December 31, 2040. Except for bonds issued to refund previously issued bonds, no series of bonds may be issued pursuant to this paragraph unless such bonds are approved and the debt service for the remainder of the fiscal year in which the bonds are issued is specifically appropriated in the General Appropriations Act.

(b) Payment of debt service or funding of debt service reserve funds, rebate obligations, or other amounts due with respect to Everglades restoration bonds issued pursuant to s. 215.619. Taxes distributed under paragraph (a) and this paragraph must be collectively distributed on a pro rata basis when the available moneys under this subsection are not sufficient to cover the amounts required under paragraph (a) and this paragraph.

Bonds issued pursuant to s. 215.618 or s. 215.619 are equally and ratably secured by moneys distributable to the Land Acquisition Trust Fund.

(4) After the required distributions to the Land Acquisition Trust Fund pursuant to subsections (1) and (2) and deduction of the service charge imposed pursuant to s. 215.20(1), the remainder shall be distributed as follows:

(a) The lesser of 24.18442 percent of the remainder or $541.75 million in each fiscal year shall be paid into the State Treasury to the credit of the State Transportation Trust Fund. Of such funds, $75 million for each fiscal year shall be transferred to the State Economic Enhancement and Development

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Trust Fund within the Department of Economic Opportunity. Notwithstanding any other law, the remaining amount credited to the State Transportation Trust Fund shall be used for:

1. Capital funding for the New Starts Transit Program, authorized by Title 49, U.S.C. s. 5309 and specified in s. 341.051, in the amount of 10 percent of the funds;

2. The Small County Outreach Program specified in s. 339.2818, in the amount of 10 percent of the funds;

3. The Strategic Intermodal System specified in ss. 339.61, 339.62, 339.63, and 339.64, in the amount of 75 percent of the funds after deduction of the payments required pursuant to subparagraphs 1. and 2.; and

4. The Transportation Regional Incentive Program specified in s. 339.2819, in the amount of 25 percent of the funds after deduction of the payments required pursuant to subparagraphs 1. and 2. The first $60 million of the funds allocated pursuant to this subparagraph shall be allocated annually to the Florida Rail Enterprise for the purposes established in s. 341.303(5).

(b) The lesser of 0.1456 percent of the remainder or $3.25 million in each fiscal year shall be paid into the State Treasury to the credit of the Grants and Donations Trust Fund in the Department of Economic Opportunity to fund technical assistance to local governments.

Moneys distributed pursuant to paragraphs (a) and (b) may not be pledged for debt service unless such pledge is approved by referendum of the voters.

(c) Eleven and twenty-four hundredths percent of the remainder in each fiscal year shall be paid into the State Treasury to the credit of the State Housing Trust Fund. Of such

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funds, the first $35 million shall be transferred annually, subject to any distribution required under subsection (5), to the State Economic Enhancement and Development Trust Fund within the Department of Economic Opportunity. The remainder shall be used as follows:

1. Half of that amount shall be used for the purposes for which the State Housing Trust Fund was created and exists by law.

2. Half of that amount shall be paid into the State Treasury to the credit of the Local Government Housing Trust Fund and used for the purposes for which the Local Government Housing Trust Fund was created and exists by law.

(d) Twelve and ninety-three hundredths percent of the remainder in each fiscal year shall be paid into the State Treasury to the credit of the State Housing Trust Fund. Of such funds, the first $40 million shall be transferred annually, subject to any distribution required under subsection (5), to the State Economic Enhancement and Development Trust Fund within the Department of Economic Opportunity. The remainder shall be used as follows:

1. Twelve and one-half percent of that amount shall be deposited into the State Housing Trust Fund and expended by the Department of Economic Opportunity and the Florida Housing Finance Corporation for the purposes for which the State Housing Trust Fund was created and exists by law.

2. Eighty-seven and one-half percent of that amount shall be distributed to the Local Government Housing Trust Fund and used for the purposes for which the Local Government Housing Trust Fund was created and exists by law. Funds from this

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category may also be used to provide for state and local services to assist the homeless.

(e) The lesser of 0.017 percent of the remainder or $300,000 in each fiscal year shall be paid into the State Treasury to the credit of the General Inspection Trust Fund to be used to fund oyster management and restoration programs as provided in s. 379.362(3).

(5) Distributions to the State Housing Trust Fund pursuant to paragraphs (4)(c) and (d) must be sufficient to cover amounts required to be transferred to the Florida Affordable Housing Guarantee Program's annual debt service reserve and guarantee fund pursuant to s. 420.5092(6)(a) and (b) up to the amount required to be transferred to such reserve and fund based on the percentage distribution of documentary stamp tax revenues to the State Housing Trust Fund which is in effect in the 2004-2005 fiscal year.

(6) After the distributions provided in the preceding subsections, any remaining taxes shall be paid into the State Treasury to the credit of the General Revenue Fund.

Section 6. Paragraph (b) of subsection (1) of section 206.9825, Florida Statutes, is amended to read:

206.9825 Aviation fuel tax.—

(1)

(b) Any licensed wholesaler or terminal supplier that delivers aviation fuel to an air carrier offering transcontinental jet service and that, after January 1, 1996, but before July 1, 2016, increases the air carrier's Florida workforce by more than 1,000 ~~1000~~ percent and by 250 or more full-time equivalent employee positions, may receive a credit or

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refund as the ultimate vendor of the aviation fuel for the 6.9 cents excise tax previously paid, provided that the air carrier has no facility for fueling highway vehicles from the tank in which the aviation fuel is stored. In calculating the new or additional Florida full-time equivalent employee positions, any full-time equivalent employee positions of parent or subsidiary corporations which existed before January 1, 1996, shall not be counted toward reaching the Florida employment increase thresholds. The refund allowed under this paragraph is in furtherance of the goals and policies of the State Comprehensive Plan set forth in s. 187.201(16)(a), (b)1., 2., (17)(a), (b)1., 4., (19)(a), (b)5., (21)(a), (b)1., 2., 4., 7., 9., and 12.

Section 7. Effective July 1, 2019, section 206.9825, Florida Statutes, as amended by this act, is amended to read:

206.9825 Aviation fuel tax.—

(1)(a) Except as otherwise provided in this part, an excise tax of 4.27 ~~6.9~~ cents per gallon of aviation fuel is imposed upon every gallon of aviation fuel sold in this state, or brought into this state for use, upon which such tax has not been paid or the payment thereof has not been lawfully assumed by some person handling the same in this state. Fuel taxed pursuant to this part is ~~shall~~ not ~~be~~ subject to the taxes imposed by ss. 206.41(1)(d), (e), and (f) and 206.87(1)(b), (c), and (d).

~~(b) Any licensed wholesaler or terminal supplier that delivers aviation fuel to an air carrier offering transcontinental jet service and that, after January 1, 1996, but before July 1, 2016, increases the air carrier's Florida workforce by more than 1,000 percent and by 250 or more full-~~

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~~time equivalent employee positions, may receive a credit or refund as the ultimate vendor of the aviation fuel for the 6.9 cents excise tax previously paid, provided that the air carrier has no facility for fueling highway vehicles from the tank in which the aviation fuel is stored. In calculating the new or additional Florida full-time equivalent employee positions, any full-time equivalent employee positions of parent or subsidiary corporations which existed before January 1, 1996, shall not be counted toward reaching the Florida employment increase thresholds. The refund allowed under this paragraph is in furtherance of the goals and policies of the State Comprehensive Plan set forth in s. 187.201(16)(a), (b)1., 2., (17)(a), (b)1., 4., (19)(a), (b)5., (21)(a), (b)1., 2., 4., 7., 9., and 12.~~

~~(c) If, before July 1, 2001, the number of full-time equivalent employee positions created or added to the air carrier's Florida workforce falls below 250, the exemption granted pursuant to this section shall not apply during the period in which the air carrier has fewer than the 250 additional employees.~~

~~(d) The exemption taken by credit or refund pursuant to paragraph (b) shall apply only under the terms and conditions set forth therein. If any part of that paragraph is judicially declared to be unconstitutional or invalid, the validity of any provisions taxing aviation fuel shall not be affected and all fuel exempted pursuant to paragraph (b) shall be subject to tax as if the exemption was never enacted. Every person benefiting from such exemption shall be liable for and make payment of all taxes for which a credit or refund was granted.~~

(b) ~~(e)~~ 1. Sales of aviation fuel to, and exclusively used

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for flight training through a school of aeronautics or college of aviation by, a college based in this state which is a tax-exempt organization under s. 501(c)(3) of the Internal Revenue Code or a university based in this state are exempt from the tax imposed by this part if the college or university:

a. Is accredited by or has applied for accreditation by the Aviation Accreditation Board International; and

b. Offers a graduate program in aeronautical or aerospace engineering or offers flight training through a school of aeronautics or college of aviation.

2. A licensed wholesaler or terminal supplier that sells aviation fuel to a college or university qualified under this paragraph and that does not collect the aviation fuel tax from the college or university on such sale may receive an ultimate vendor credit for the 4.27-cent ~~6.9-cent~~ excise tax previously paid on the aviation fuel delivered to such college or university.

3. A college or university qualified under this paragraph which purchases aviation fuel from a retail supplier, including a fixed-base operator, and pays the 4.27-cent ~~6.9-cent~~ excise tax on the purchase may apply for and receive a refund of the aviation fuel tax paid.

(2)(a) An excise tax of 4.27 ~~6.9~~ cents per gallon is imposed on each gallon of kerosene in the same manner as prescribed for diesel fuel under ss. 206.87(2) and 206.872.

(b) The exemptions provided by s. 206.874 shall apply to kerosene if the dyeing and marking requirements of s. 206.8741 are met.

(c) Kerosene prepackaged in containers of 5 gallons or less

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and labeled "Not for Use in a Motor Vehicle" is exempt from the taxes imposed by this part when sold for home heating and cooking. Packagers may qualify for a refund of taxes previously paid, as prescribed by the department.

(d) Sales of kerosene in quantities of 5 gallons or less by a person not licensed under this chapter who has no facilities for placing kerosene in the fuel supply system of a motor vehicle may qualify for a refund of taxes paid. Refunds of taxes paid shall be limited to sales for use in home heating or cooking and shall be documented as prescribed by the department.

(3) An excise tax of 4.27 ~~6.9~~ cents per gallon is imposed on each gallon of aviation gasoline in the manner prescribed by paragraph (2)(a). However, the exemptions allowed by paragraph (2)(b) do not apply to aviation gasoline.

(4) Any licensed wholesaler or terminal supplier that delivers undyed kerosene to a residence for home heating or cooking may receive a credit or refund as the ultimate vendor of the kerosene for the 4.27-cent ~~6.9 cents~~ excise tax previously paid.

(5) Any licensed wholesaler or terminal supplier that delivers undyed kerosene to a retail dealer not licensed as a wholesaler or terminal supplier for sale as a home heating or cooking fuel may receive a credit or refund as the ultimate vendor of the kerosene for the 4.27-cent ~~6.9 cents~~ excise tax previously paid, provided the retail dealer has no facility for fueling highway vehicles from the tank in which the kerosene is stored.

(6) Any person who fails to meet the requirements of this section is subject to a backup tax as provided by s. 206.873.

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Section 8. Section 210.13, Florida Statutes, is amended to read:

210.13 Determination of tax on failure to file a return.—If a dealer or other person required to remit the tax under this part fails to file any return required under this part~~,~~ or, having filed an incorrect or insufficient return, fails to file a correct or sufficient return, as the case may require, within 10 days after the giving of notice to the dealer or other person by the Division of Alcoholic Beverages and Tobacco that such return or corrected or sufficient return is required, the division shall determine the amount of tax due by such dealer or other person any time within 3 years after the making of the earliest sale included in such determination and give written notice of such determination to such dealer or other person. Such a determination shall finally and irrevocably fix the tax unless the dealer or other person against whom it is assessed ~~shall~~, within 30 days after the giving of notice of such determination, applies ~~apply~~ to the division for a hearing. Judicial review shall not be granted unless the amount of tax stated in the decision, with penalties thereon, if any, is ~~shall have been~~ first deposited with the division, and an undertaking or bond filed in the court in which such cause may be pending in such amount and with such sureties as the court shall approve, conditioned that if such proceeding be dismissed or the decision of the division confirmed, the applicant for review will pay all costs and charges which may accrue against the applicant in the prosecution of the proceeding. At the option of the applicant, such undertaking or bond may be in an additional sum sufficient to cover the tax, penalties, costs, and charges aforesaid, in

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which event the applicant shall not be required to pay such tax and penalties precedent to the granting of such review by such court.

Section 9. Subsections (1) through (13) of section 210.25, Florida Statutes, are renumbered as subsections (2) through (14), respectively, a new subsection (1) is added to that section, and present subsection (13) of that section is amended, to read:

210.25 Definitions.—As used in this part:

(1) "Affiliate" means a manufacturer or other person that directly or indirectly, through one or more intermediaries, controls or is controlled by a distributor or that is under common control with a distributor.

(14) ~~(13)~~ "Wholesale sales price" means the sum of:

(a) The full price paid by the distributor to acquire the tobacco products, including charges by the seller for the cost of materials, the cost of labor and service, charges for transportation and delivery, the federal excise tax, and any other charge, even if the charge is listed as a separate item on the invoice paid by the ~~established price for which a manufacturer sells a tobacco product to a~~ distributor, exclusive of any diminution by volume or other discounts, including a discount provided to a distributor by an affiliate; and

(b) The federal excise tax paid by the distributor on the tobacco products if the tax is not included in the full price under paragraph (a).

Section 10. Paragraph (a) of subsection (1) of section 212.05, Florida Statutes, is amended to read:

212.05 Sales, storage, use tax.—It is hereby declared to be

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the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible personal property at retail in this state, including the business of making mail order sales, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this state any item or article of tangible personal property as defined herein and who leases or rents such property within the state.

(1) For the exercise of such privilege, a tax is levied on each taxable transaction or incident, which tax is due and payable as follows:

(a)1.a. At the rate of 6 percent of the sales price of each item or article of tangible personal property when sold at retail in this state, computed on each taxable sale for the purpose of remitting the amount of tax due the state, and including each and every retail sale.

b. Each occasional or isolated sale of an aircraft, boat, mobile home, or motor vehicle of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Government shall be subject to tax at the rate provided in this paragraph. The department shall by rule adopt any nationally recognized publication for valuation of used motor vehicles as the reference price list for any used motor vehicle which is required to be licensed pursuant to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any party to an occasional or isolated sale of such a vehicle reports to the tax collector a sales price which is less than 80 percent of the average loan price for the specified model and year of such vehicle as listed in the most recent reference

price list, the tax levied under this paragraph shall be computed by the department on such average loan price unless the parties to the sale have provided to the tax collector an affidavit signed by each party, or other substantial proof, stating the actual sales price. Any party to such sale who reports a sales price less than the actual sales price is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. The department shall collect or attempt to collect from such party any delinquent sales taxes. In addition, such party shall pay any tax due and any penalty and interest assessed plus a penalty equal to twice the amount of the additional tax owed. Notwithstanding any other provision of law, the Department of Revenue may waive or compromise any penalty imposed pursuant to this subparagraph.

2. This paragraph does not apply to the sale of a boat or aircraft by or through a registered dealer under this chapter to a purchaser who, at the time of taking delivery, is a nonresident of this state, does not make his or her permanent place of abode in this state, and is not engaged in carrying on in this state any employment, trade, business, or profession in which the boat or aircraft will be used in this state, or is a corporation none of the officers or directors of which is a resident of, or makes his or her permanent place of abode in, this state, or is a noncorporate entity that has no individual vested with authority to participate in the management, direction, or control of the entity's affairs who is a resident of, or makes his or her permanent abode in, this state. For purposes of this exemption, either a registered dealer acting on his or her own behalf as seller, a registered dealer acting as

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broker on behalf of a seller, or a registered dealer acting as broker on behalf of the purchaser may be deemed to be the selling dealer. This exemption shall not be allowed unless:

a. The purchaser removes a qualifying boat, as described in sub-subparagraph f., from the state within 90 days after the date of purchase or extension, or the purchaser removes a nonqualifying boat or an aircraft from this state within 10 days after the date of purchase or, when the boat or aircraft is repaired or altered, within 20 days after completion of the repairs or alterations; or if the aircraft will be registered in a foreign jurisdiction and:

(I) Application for the aircraft's registration is properly filed with a civil airworthiness authority of a foreign jurisdiction within 10 days after the date of purchase;

(II) The purchaser removes the aircraft from the state to a foreign jurisdiction within 10 days after the date the aircraft is registered by the applicable foreign airworthiness authority; and

(III) The aircraft is operated in the state solely to remove it from the state to a foreign jurisdiction.

For purposes of this sub-subparagraph, the term "foreign jurisdiction" means any jurisdiction outside of the United States or any of its territories;

b. The purchaser, within 30 days from the date of departure, provides ~~shall provide~~ the department with written proof that the purchaser licensed, registered, titled, or documented the boat or aircraft outside the state. If such written proof is unavailable, within 30 days the purchaser shall

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provide proof that the purchaser applied for such license, title, registration, or documentation. The purchaser shall forward to the department proof of title, license, registration, or documentation upon receipt;

c. The purchaser, within 10 days of removing the boat or aircraft from Florida, furnishes ~~shall furnish~~ the department with proof of removal in the form of receipts for fuel, dockage, slippage, tie-down, or hangaring from outside of Florida. The information so provided must clearly and specifically identify the boat or aircraft;

d. The selling dealer, within 5 days of the date of sale, provides ~~shall provide~~ to the department a copy of the sales invoice, closing statement, bills of sale, and the original affidavit signed by the purchaser attesting that he or she has read the provisions of this section;

e. The seller makes a copy of the affidavit a part of his or her record for as long as required by s. 213.35; and

f. Unless the nonresident purchaser of a boat of 5 net tons of admeasurement or larger intends to remove the boat from this state within 10 days after the date of purchase or when the boat is repaired or altered, within 20 days after completion of the repairs or alterations, the nonresident purchaser applies ~~shall apply~~ to the selling dealer for a decal which authorizes 90 days after the date of purchase for removal of the boat. The nonresident purchaser of a qualifying boat may apply to the selling dealer within 60 days after the date of purchase for an extension decal that authorizes the boat to remain in this state for an additional 90 days, but not more than a total of 180 days, before the nonresident purchaser is required to pay the

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tax imposed by this chapter. The department is authorized to issue decals in advance to dealers. The number of decals issued in advance to a dealer shall be consistent with the volume of the dealer's past sales of boats which qualify under this sub-subparagraph. The selling dealer or his or her agent shall mark and affix the decals to qualifying boats in the manner prescribed by the department, before ~~prior to~~ delivery of the boat.

(I) The department is hereby authorized to charge dealers a fee sufficient to recover the costs of decals issued, except the extension decal shall cost $425.

(II) The proceeds from the sale of decals will be deposited into the administrative trust fund.

(III) Decals shall display information to identify the boat as a qualifying boat under this sub-subparagraph, including, but not limited to, the decal's date of expiration.

(IV) The department is authorized to require dealers who purchase decals to file reports with the department and may prescribe all necessary records by rule. All such records are subject to inspection by the department.

(V) Any dealer or his or her agent who issues a decal falsely, fails to affix a decal, mismarks the expiration date of a decal, or fails to properly account for decals will be considered prima facie to have committed a fraudulent act to evade the tax and will be liable for payment of the tax plus a mandatory penalty of 200 percent of the tax, and shall be liable for fine and punishment as provided by law for a conviction of a misdemeanor of the first degree, as provided in s. 775.082 or s. 775.083.

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(VI) Any nonresident purchaser of a boat who removes a decal before ~~prior to~~ permanently removing the boat from the state, or defaces, changes, modifies, or alters a decal in a manner affecting its expiration date before ~~prior to~~ its expiration, or who causes or allows the same to be done by another, will be considered prima facie to have committed a fraudulent act to evade the tax and will be liable for payment of the tax plus a mandatory penalty of 200 percent of the tax, and shall be liable for fine and punishment as provided by law for a conviction of a misdemeanor of the first degree, as provided in s. 775.082 or s. 775.083.

(VII) The department is authorized to adopt rules necessary to administer and enforce this subparagraph and to publish the necessary forms and instructions.

(VIII) The department is hereby authorized to adopt emergency rules pursuant to s. 120.54(4) to administer and enforce the provisions of this subparagraph.

If the purchaser fails to remove the qualifying boat from this state within the maximum 180 days after purchase or a nonqualifying boat or an aircraft from this state within 10 days after purchase or, when the boat or aircraft is repaired or altered, within 20 days after completion of such repairs or alterations, or permits the boat or aircraft to return to this state within 6 months from the date of departure, except as provided in s. 212.08(7)(fff), or if the purchaser fails to furnish the department with any of the documentation required by this subparagraph within the prescribed time period, the purchaser shall be liable for use tax on the cost price of the

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boat or aircraft and, in addition thereto, payment of a penalty to the Department of Revenue equal to the tax payable. This penalty shall be in lieu of the penalty imposed by s. 212.12(2). The maximum 180-day period following the sale of a qualifying boat tax-exempt to a nonresident may not be tolled for any reason.

Section 11. Paragraph (c) of subsection (1) of section 212.06, Florida Statutes, is amended to read:

212.06 Sales, storage, use tax; collectible from dealers; "dealer" defined; dealers to collect from purchasers; legislative intent as to scope of tax.—

(1)

(c)1. Notwithstanding the provisions of paragraph (b), the use tax on asphalt manufactured for one's own use shall be calculated with respect to paragraph (b) only upon the cost of materials which become a component part or which are an ingredient of the finished asphalt and upon the cost of the transportation of such components and ingredients. In addition, an indexed tax of 38 cents per ton of such manufactured asphalt shall be due at the same time and in the same manner as taxes due pursuant to paragraph (b). Beginning July 1, 1989, the indexed tax shall be adjusted each July 1 to an amount, rounded to the nearest cent, equal to the product of 38 cents multiplied by a fraction, the numerator of which is the annual average of the "materials and components for construction" series of the producer price index, as calculated and published by the United States Department of Labor, Bureau of Statistics, for the previous calendar year, and the denominator of which is the annual average of said series for calendar year 1988.

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2.a. Beginning July 1, 1999, the indexed tax imposed by this paragraph on manufactured asphalt which is used for any federal, state, or local government public works project shall be reduced by 20 percent.

b. Beginning July 1, 2000, the indexed tax imposed by this paragraph on manufactured asphalt which is used for any federal, state, or local government public works project shall be reduced by 40 percent.

c. Beginning July 1, 2016, the indexed tax imposed by this paragraph on manufactured asphalt which is used for any federal, state, or local government public works project shall be reduced by 60 percent.

d. Beginning July 1, 2017, the indexed tax imposed by this paragraph on manufactured asphalt which is used for any federal, state, or local government public works project shall be reduced by 80 percent.

e. Beginning July 1, 2018, manufactured asphalt used for any federal, state, or local government public works project shall be exempt from the indexed tax imposed by this paragraph.

Section 12. Paragraphs (n) and (kkk) of subsection (7) of section 212.08, Florida Statutes, are amended to read:

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

(7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any entity by this chapter do not inure to any transaction that is

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

(n) *Veterans' organizations.*—

1. There are exempt from the tax imposed by this chapter transactions involving sales or leases to qualified veterans' organizations and their auxiliaries when used in carrying on their customary veterans' organization activities or sales of food or drink by qualified veterans' organizations in connection with customary veterans' organization activities to members of qualified veterans' organizations.

2. As used in this paragraph, the term "veterans' organizations" means nationally chartered or recognized veterans' organizations, including, but not limited to, the American Legion, Veterans of Foreign Wars of the United States, Florida chapters of the Paralyzed Veterans of America, Catholic

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War Veterans of the U.S.A., Jewish War Veterans of the U.S.A., and the Disabled American Veterans, Department of Florida, Inc., which hold current exemptions from federal income tax under s. 501(c)(4) or (19) of the Internal Revenue Code of 1986, as amended.

(kkk) *Certain machinery and equipment.*—

1. Industrial machinery and equipment purchased by eligible manufacturing businesses which is used at a fixed location in ~~within~~ this state~~, or a mixer drum affixed to a mixer truck which is used at any location within this state to mix, agitate, and transport freshly mixed concrete in a plastic state,~~ for the manufacture, processing, compounding, or production of items of tangible personal property for sale is ~~shall be~~ exempt from the tax imposed by this chapter. ~~Parts and labor required to affix a mixer drum exempt under this paragraph to a mixer truck are also exempt.~~ If, at the time of purchase, the purchaser furnishes the seller with a signed certificate certifying the purchaser's entitlement to exemption pursuant to this paragraph, the seller is not required to collect ~~is relieved of the responsibility for collecting~~ the tax on the sale of such items, and the department shall look solely to the purchaser for recovery of the tax if it determines that the purchaser was not entitled to the exemption.

2. For purposes of this paragraph, the term:

a. "Eligible manufacturing business" means any business whose primary business activity at the location where the industrial machinery and equipment is located is within the industries classified under NAICS codes 31, 32, ~~and~~ 33, and 423930.

b. "Eligible postharvest activity business" means a

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business whose primary business activity, at the location where the postharvest machinery and equipment is located, is within the industries classified under NAICS code 115114.

c. ~~As used in this subparagraph,~~ "NAICS" means those classifications contained in the North American Industry Classification System, as published in 2007 by the Office of Management and Budget, Executive Office of the President.

d.~~b.~~ "Primary business activity" means an activity representing more than 50 percent of the activities conducted at the location where the industrial machinery and equipment or postharvest machinery and equipment is located.

e.~~c.~~ "Industrial machinery and equipment" means tangible personal property or other property that has a depreciable life of 3 years or more and that is used as an integral part in the manufacturing, processing, compounding, or production of tangible personal property for sale. The term includes tangible personal property or other property that has a depreciable life of 3 years or more which is used as an integral part in the recycling of metals for sale. A building and its structural components are not industrial machinery and equipment unless the building or structural component is so closely related to the industrial machinery and equipment that it houses or supports that the building or structural component can be expected to be replaced when the machinery and equipment are replaced. Heating and air conditioning systems are not industrial machinery and equipment unless the sole justification for their installation is to meet the requirements of the production process, even though the system may provide incidental comfort to employees or serve, to an insubstantial degree, nonproduction activities. The

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term includes parts and accessories for industrial machinery and equipment only to the extent that the parts and accessories are purchased before ~~prior to~~ the date the machinery and equipment are placed in service.

f. "Postharvest activities" means services performed on crops, after their harvest, with the intent of preparing them for market or further processing. Postharvest activities include, but are not limited to, crop cleaning, sun drying, shelling, fumigating, curing, sorting, grading, packing, and cooling.

g. "Postharvest machinery and equipment" means tangible personal property or other property with a depreciable life of 3 years or more which is used primarily for postharvest activities. A building and its structural components are not postharvest industrial machinery and equipment unless the building or structural component is so closely related to the postharvest machinery and equipment that it houses or supports that the building or structural component can be expected to be replaced when the postharvest machinery and equipment is replaced. Heating and air conditioning systems are not postharvest machinery and equipment unless the sole justification for their installation is to meet the requirements of the postharvest activities process, even though the system may provide incidental comfort to employees or serve, to an insubstantial degree, nonpostharvest activities.

3. Postharvest machinery and equipment purchased by an eligible postharvest activity business which is used at a fixed location in this state is exempt from the tax imposed by this chapter. All labor charges for the repair of, and parts and

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materials used in the repair of and incorporated into, such postharvest machinery and equipment are also exempt. If, at the time of purchase, the purchaser furnishes the seller with a signed certificate certifying the purchaser's entitlement to exemption pursuant to this subparagraph, the seller is not required to collect the tax on the sale of such items, and the department shall look solely to the purchaser for recovery of the tax if it determines that the purchaser was not entitled to the exemption.

4.~~3.~~ A mixer drum affixed to a mixer truck which is used at any location in this state to mix, agitate, and transport freshly mixed concrete in a plastic state for sale is exempt from the tax imposed by this chapter. Parts and labor required to affix a mixer drum exempt under this subparagraph to a mixer truck are also exempt. If, at the time of purchase, the purchaser furnishes the seller with a signed certificate certifying the purchaser's entitlement to exemption pursuant to this subparagraph, the seller is not required to collect the tax on the sale of such items, and the department shall look solely to the purchaser for recovery of the tax if it determines that the purchaser was not entitled to the exemption. This subparagraph ~~paragraph~~ is repealed April 30, 2017.

Section 13. Effective upon this act becoming a law and operating retroactively to January 1, 2016, paragraph (n) of subsection (1) and paragraph (c) of subsection (2) of section 220.03, Florida Statutes, are amended to read:

220.03 Definitions.—

(1) SPECIFIC TERMS.—When used in this code, and when not otherwise distinctly expressed or manifestly incompatible with

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the intent thereof, the following terms shall have the following meanings:

(n) "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended and in effect on January 1, 2016 ~~2015~~, except as provided in subsection (3).

(2) DEFINITIONAL RULES.—When used in this code and neither otherwise distinctly expressed nor manifestly incompatible with the intent thereof:

(c) Any term used in this code has the same meaning as when used in a comparable context in the Internal Revenue Code and other statutes of the United States relating to federal income taxes, as such code and statutes are in effect on January 1, 2016 ~~2015~~. However, if subsection (3) is implemented, the meaning of a term shall be taken at the time the term is applied under this code.

Section 14. Effective upon this act becoming a law and operating retroactively to January 1, 2016, paragraph (e) of subsection (1) of section 220.13, Florida Statutes, is amended to read:

220.13 "Adjusted federal income" defined.—

(1) The term "adjusted federal income" means an amount equal to the taxpayer's taxable income as defined in subsection (2), or such taxable income of more than one taxpayer as provided in s. 220.131, for the taxable year, adjusted as follows:

(e) *Adjustments related to federal acts.*—Taxpayers shall be required to make the adjustments prescribed in this paragraph for Florida tax purposes with respect to certain tax benefits received pursuant to the Economic Stimulus Act of 2008, the

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American Recovery and Reinvestment Act of 2009, the Small Business Jobs Act of 2010, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, the American Taxpayer Relief Act of 2012, ~~and~~ the Tax Increase Prevention Act of 2014, and the Consolidated Appropriations Act, 2016.

1. There shall be added to such taxable income an amount equal to 100 percent of any amount deducted for federal income tax purposes as bonus depreciation for the taxable year pursuant to ss. 167 and 168(k) of the Internal Revenue Code of 1986, as amended by s. 103 of Pub. L. No. 110-185, s. 1201 of Pub. L. No. 111-5, s. 2022 of Pub. L. No. 111-240, s. 401 of Pub. L. No. 111-312, s. 331 of Pub. L. No. 112-240, ~~and~~ s. 125 of Pub. L. No. 113-295, and s. 143 of Division Q of Pub. L. No. 114-113, for property placed in service after December 31, 2007, and before January 1, 2021 ~~2015~~. For the taxable year and for each of the 6 subsequent taxable years, there shall be subtracted from such taxable income an amount equal to one-seventh of the amount by which taxable income was increased pursuant to this subparagraph, notwithstanding any sale or other disposition of the property that is the subject of the adjustments and regardless of whether such property remains in service in the hands of the taxpayer.

2. There shall be added to such taxable income an amount equal to 100 percent of any amount in excess of $128,000 deducted for federal income tax purposes for the taxable year pursuant to s. 179 of the Internal Revenue Code of 1986, as amended by s. 102 of Pub. L. No. 110-185, s. 1202 of Pub. L. No. 111-5, s. 2021 of Pub. L. No. 111-240, s. 402 of Pub. L. No.

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111-312, s. 315 of Pub. L. No. 112-240, and s. 127 of Pub. L. No. 113-295, for taxable years beginning after December 31, 2007, and before January 1, 2015. For the taxable year and for each of the 6 subsequent taxable years, there shall be subtracted from such taxable income one-seventh of the amount by which taxable income was increased pursuant to this subparagraph, notwithstanding any sale or other disposition of the property that is the subject of the adjustments and regardless of whether such property remains in service in the hands of the taxpayer.

3. There shall be added to such taxable income an amount equal to the amount of deferred income not included in such taxable income pursuant to s. 108(i)(1) of the Internal Revenue Code of 1986, as amended by s. 1231 of Pub. L. No. 111-5. There shall be subtracted from such taxable income an amount equal to the amount of deferred income included in such taxable income pursuant to s. 108(i)(1) of the Internal Revenue Code of 1986, as amended by s. 1231 of Pub. L. No. 111-5.

4. Subtractions available under this paragraph may be transferred to the surviving or acquiring entity following a merger or acquisition and used in the same manner and with the same limitations as specified by this paragraph.

5. The additions and subtractions specified in this paragraph are intended to adjust taxable income for Florida tax purposes, and, notwithstanding any other provision of this code, such additions and subtractions shall be permitted to change a taxpayer’s net operating loss for Florida tax purposes.

Section 15. (1) The Department of Revenue is authorized, and all conditions are deemed to be met, to adopt emergency

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rules pursuant to s. 120.54(4), Florida Statutes, for the purpose of implementing the amendments made by this act to s. 220.03(1)(n) and (2)(c), Florida Statutes, and s. 220.13(1)(e), Florida Statutes.

(2) Notwithstanding any other provision of law, emergency rules adopted pursuant to subsection (1) are effective for 6 months after adoption and may be renewed during the pendency of procedures to adopt permanent rules addressing the subject of the emergency rules.

(3) This section expires January 1, 2020.

Section 16. Effective upon this act becoming a law and applicable to taxable years beginning on or after January 1, 2016, section 220.222, Florida Statutes, is amended to read:

220.222 Returns; time and place for filing.—

(1)(a) Returns required by this code shall be filed with the office of the department in Leon County or at such other place as the department may by regulation prescribe. All returns required for a DISC (Domestic International Sales Corporation) under paragraph 6011(c)(2) of the Internal Revenue Code shall be filed on or before the 1st day of the 10th month after ~~following~~ the close of the taxable year; all partnership information returns shall be filed on or before the 1st day of the 4th ~~5th~~ month after ~~following~~ the close of the taxable year; and all other returns shall be filed on or before the 1st day of the 5th ~~4th~~ month after ~~following~~ the close of the taxable year or the 15th day after ~~following~~ the due date, without extension, for the filing of the related federal return for the taxable year, unless under subsection (2) one or more extensions of time, not to exceed 6 months in the aggregate, for any such filing is

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granted.

(b) Notwithstanding paragraph (a), for taxable years beginning before January 1, 2026, returns of taxpayers with a taxable year ending on June 30 shall be filed on or before the 1st day of the 4th month after the close of the taxable year or the 15th day after the due date, without extension, for the filing of the related federal return for the taxable year, unless under subsection (2) one or more extensions of time for any such filing is granted.

(2)(a) When a taxpayer has been granted an extension or extensions of time within which to file its federal income tax return for any taxable year, and if the requirements of s. 220.32 are met, the filing of a request for such extension or extensions with the department shall automatically extend the due date of the return required under this code until ~~15 days after the expiration of the federal extension or until~~ the expiration of 6 months from the original due date~~, whichever first occurs~~.

(b) The department may grant an extension or extensions of time for the filing of any return required under this code upon receiving a prior request therefor if good cause for an extension is shown. However, the aggregate extensions of time under paragraph ~~paragraphs~~ (a) and this paragraph must ~~(b) shall~~ not exceed 6 months. An ~~No~~ extension granted under this paragraph is not ~~shall be~~ valid unless the taxpayer complies with ~~the requirements of~~ s. 220.32.

(c) For purposes of this subsection, a taxpayer is not in compliance with ~~the requirements of~~ s. 220.32 if the taxpayer underpays the required payment by more than the greater of

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$2,000 or 30 percent of the tax shown on the return when filed.

(d) For taxable years beginning before January 1, 2026, the 6-month time period in paragraphs (a) and (b) shall be 7 months for taxpayers with a taxable year ending June 30 and shall be 5 months for taxpayers with a taxable year ending December 31.

Section 17. Effective upon this act becoming a law and applicable to taxable years beginning on or after January 1, 2017, section 220.241, Florida Statutes, is amended to read:

220.241 Declaration; time for filing.—

(1) A declaration of estimated tax under this code shall be filed before the 1st day of the 6th ~~5th~~ month of each taxable year, except that if the minimum tax requirement of s. 220.24(1) is first met:

(a) ~~(1)~~ After the 3rd month and before the 6th month of the taxable year, the declaration shall be filed before the 1st day of the 7th month;

(b) ~~(2)~~ After the 5th month and before the 9th month of the taxable year, the declaration shall be filed before the 1st day of the 10th month; or

(c) ~~(3)~~ After the 8th month and before the 12th month of the taxable year, the declaration shall be filed for the taxable year before the 1st day of the succeeding taxable year.

(2) Notwithstanding subsection (1), for taxable years beginning before January 1, 2026, taxpayers with a taxable year ending on June 30 shall file declarations before the 1st day of the 5th month of each taxable year, unless paragraph (1)(a), paragraph (1)(b), or paragraph (1)(c) applies.

Section 18. Effective upon this act becoming a law and applicable to taxable years beginning on or after January 1,

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2017, subsection (1) of section 220.33, Florida Statutes, is amended to read:

220.33 Payments of estimated tax.—A taxpayer required to file a declaration of estimated tax pursuant to s. 220.24 shall pay such estimated tax as follows:

(1) If the declaration is required to be filed before the 1st day of the 6th ~~5th~~ month of the taxable year, the estimated tax shall be paid in four equal installments. The first installment shall be paid at the time of the required filing of the declaration; the second and third installments shall be paid before the 1st day of the 7th month and before the 1st day of the 10th month of the taxable year, respectively; and the fourth installment shall be paid before the 1st day of the next taxable year.

Section 19. Effective upon this act becoming a law and applicable to taxable years beginning on or after January 1, 2017, paragraph (c) of subsection (2) of section 220.34, Florida Statutes, is amended to read:

220.34 Special rules relating to estimated tax.—

(2) No interest or penalty shall be due or paid with respect to a failure to pay estimated taxes except the following:

(c) The period of the underpayment for which interest and penalties apply shall commence on the date the installment was required to be paid, determined without regard to any extensions of time, and shall terminate on the earlier of the following dates:

1. The 1st ~~first~~ day of the 5th ~~fourth~~ month after ~~following~~ the close of the taxable year;

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2. For taxable years beginning before January 1, 2026, for taxpayers with a taxable year ending June 30, the 1st day of the 4th month after the close of the taxable year; or

3.~~2.~~ With respect to any portion of the underpayment, the date on which such portion is paid.

For purposes of this paragraph, a payment of estimated tax on any installment date shall be considered a payment of any previous underpayment only to the extent such payment exceeds the amount of the installment determined under subparagraph (b)1. for such installment date.

Section 20. Subsections (1) and (2) of section 561.121, Florida Statutes, are amended to read:

561.121 Deposit of revenue.—

(1) All state funds collected pursuant to ss. 563.05, 564.06, 565.02(9), and 565.12 shall be paid into the State Treasury and disbursed in the following manner:

(a) Two percent of monthly collections of the excise taxes on alcoholic beverages established in ss. 563.05, 564.06, and 565.12 and the tax on alcoholic beverages, cigarettes, and other tobacco products established in s. 565.02(9) shall be deposited into the Alcoholic Beverage and Tobacco Trust Fund to meet the division's appropriation for the state fiscal year.

(b) The remainder of the funds collected pursuant to ss. 563.05, 564.06, and 565.12 and the tax on alcoholic beverages, cigarettes, and other tobacco products established in s. 565.02(9) shall be credited to the General Revenue Fund.

(2) The unencumbered balance in the Alcoholic Beverage and Tobacco Trust Fund at the close of each fiscal year may not

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exceed $2 million. These funds shall be held in reserve for use in the event that trust fund revenues are unable to meet the division's appropriation for the next fiscal year. In the event of a revenue shortfall, these funds shall be spent pursuant to subsection (3). Notwithstanding subsection (1), if the unencumbered balance on June 30 in any fiscal year is less than $2 million, the department is authorized to retain the difference between the June 30 unencumbered balance in the trust fund and $2 million from the July collections of state funds collected pursuant to ss. 563.05, 564.06, and 565.12 and the tax on alcoholic beverages, cigarettes, and other tobacco products established in s. 565.02(9). Any unencumbered funds in excess of reserve funds shall be transferred unallocated to the General Revenue Fund by August 31 of the next fiscal year.

Section 21. Subsection (4) of section 564.06, Florida Statutes, is amended to read:

564.06 Excise taxes on wines and beverages.—

(4) As to cider, which is made from the normal alcoholic fermentation of the juice of sound, ripe apples or pears, including but not limited to flavored, sparkling, or carbonated cider and cider made from condensed apple or pear must, that contain not less than one-half of 1 percent of alcohol by volume and not more than 7 percent of alcohol by volume, there shall be paid by all manufacturers and distributors a tax at the rate of $.89 per gallon. With the sole exception of the excise tax rate, cider shall be considered wine and shall be subject to the provisions of this chapter.

Section 22. Subsection (9) of section 565.02, Florida Statutes, is amended to read:

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565.02 License fees; vendors; clubs; caterers; and others.—

(9)(a) As used in this subsection, the term:

1. "Annual capacity" means an amount equal to the number of lower berths on a vessel multiplied by the number of embarkations of that vessel during a calendar year.

2. "Base rate" means an amount equal to the total taxes and surcharges paid by all permittees pursuant to the Beverage Law and chapter 210 for sales of alcoholic beverages, cigarettes, and other tobacco products taking place between January 1, 2015, and December 31, 2015, inclusive, divided by the sum of the annual capacities of all vessels permitted pursuant to former s. 565.02(9), Florida Statutes 2015, for calendar year 2015.

3. "Embarkation" means an instance in which a vessel departs from a port in this state.

4. "Lower berth" means a bed that is:

a. Affixed to a vessel;

b. Not located above another bed in the same cabin; and

c. Located in a cabin not in use by employees of the operator of the vessel or its contractors.

5. "Quarterly capacity" means an amount equal to the number of lower berths on a vessel multiplied by the number of embarkations of that vessel during a calendar quarter.

(b) It is the finding of the Legislature that passenger vessels engaged exclusively in foreign commerce are susceptible to a distinct and separate classification for purposes of the sale of alcoholic beverages, cigarettes, and other tobacco products under the Beverage Law and chapter 210.

(c) Upon the filing of an application and payment of an annual fee of $1,100, the director is authorized to issue a

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permit authorizing the operator, or, if applicable, his or her concessionaire, of a passenger vessel which has cabin-berth capacity for at least 75 passengers, and which is engaged exclusively in foreign commerce, to sell alcoholic beverages, cigarettes, and other tobacco products on the vessel for consumption on board only:

1. ~~(a)~~ For no more than ~~During a period not in excess of~~ 24 hours before ~~prior to~~ departure while the vessel is moored at a dock or wharf in a port of this state; or

2. ~~(b)~~ At any time while the vessel is located in Florida territorial waters and is in transit to or from international waters.

One such permit shall be required for each such vessel and shall name the vessel for which it is issued. No license shall be required or tax levied by any municipality or county for the privilege of selling beverages, cigarettes, or other tobacco products for consumption on board such vessels. The beverages, cigarettes, or other tobacco products so sold may be purchased outside the state by the permittee, and the same shall not be considered as imported for the purposes of s. 561.14(3) solely because of such sale. The permittee is not required to obtain its beverages, cigarettes, or other tobacco products from licensees under the Beverage Law or chapter 210. Each permittee~~,~~ ~~but it~~ shall keep a strict account of the quarterly capacity of each of its vessels ~~all such beverages sold within this state~~ and shall make quarterly ~~monthly~~ reports to the division on forms prepared and furnished by the division. ~~A permittee who sells on board the vessel beverages withdrawn from United States~~

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~~Bureau of Customs and Border Protection bonded storage on board the vessel may satisfy such accounting requirement by supplying the division with copies of the appropriate United States Bureau of Customs and Border Protection forms evidencing such withdrawals as importations under United States customs laws.~~

(d) Each ~~Such~~ permittee shall pay to the state a ~~an excise~~ tax for beverages, cigarettes, and other tobacco products sold pursuant to this subsection in an amount equal to the base rate multiplied by the permittee's quarterly capacity during the calendar quarter, less any tax or surcharge already paid by a licensed manufacturer or distributor pursuant to the Beverage Law or chapter 210 on beverages, cigarettes, and other tobacco products sold by the permittee pursuant to this subsection during the quarter for which tax is due ~~section, if such excise tax has not previously been paid, in an amount equal to the tax which would be required to be paid on such sales by a licensed manufacturer or distributor~~.

(e) A vendor holding such permit shall pay the tax quarterly ~~monthly~~ to the division at the same time he or she furnishes the required report. Such report shall be filed on or before the 15th day of each calendar quarter ~~month~~ for the quarterly capacity ~~sales occurring~~ during the previous calendar quarter ~~month~~.

(f) No later than August 1, 2016, each permittee shall report the annual capacity for each of its vessels for calendar year 2015 to the division on forms prepared and furnished by the division. No later than September 1, 2016, the division shall calculate the base rate and report it to each permittee. The base rate shall also be published in the Florida Administrative

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Register and on the department's website. The division may verify independently the information provided under this paragraph.

(g) Revenues collected pursuant to this subsection shall be distributed pursuant to s. 561.121(1).

Section 23. Subsection (1) of section 951.22, Florida Statutes, is amended to read:

951.22 County detention facilities; contraband articles.—

(1) It is unlawful, except through regular channels as duly authorized by the sheriff or officer in charge, to introduce into or possess upon the grounds of any county detention facility as defined in s. 951.23 or to give to or receive from any inmate of any such facility wherever said inmate is located at the time or to take or to attempt to take or send therefrom any of the following articles which are hereby declared to be contraband for the purposes of this act, to wit: Any written or recorded communication; any currency or coin; any article of food or clothing; any tobacco products as defined in s. 210.25(12) ~~210.25(11)~~; any cigarette as defined in s. 210.01(1); any cigar; any intoxicating beverage or beverage which causes or may cause an intoxicating effect; any narcotic, hypnotic, or excitative drug or drug of any kind or nature, including nasal inhalators, sleeping pills, barbiturates, and controlled substances as defined in s. 893.02(4); any firearm or any instrumentality customarily used or which is intended to be used as a dangerous weapon; and any instrumentality of any nature that may be or is intended to be used as an aid in effecting or attempting to effect an escape from a county facility.

Section 24. Clothing and school supplies; sales tax

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holiday.—

(1) The tax levied under chapter 212, Florida Statutes, may not be collected during the period from 12:01 a.m. on August 5, 2016, through 11:59 p.m. on August 7, 2016, on the retail sale of:

(a) Clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags, having a sales price of $60 or less per item. As used in this paragraph, the term "clothing" means:

1. Any article of wearing apparel intended to be worn on or about the human body, excluding watches, watchbands, jewelry, umbrellas, and handkerchiefs; and

2. All footwear, excluding skis, swim fins, roller blades, and skates.

(b) School supplies having a sales price of $15 or less per item. As used in this paragraph, the term "school supplies" means pens, pencils, erasers, crayons, notebooks, notebook filler paper, legal pads, binders, lunch boxes, construction paper, markers, folders, poster board, composition books, poster paper, scissors, cellophane tape, glue or paste, rulers, computer disks, protractors, compasses, and calculators.

(2) The tax exemptions provided in this section do not apply to sales within a theme park or entertainment complex as defined in s. 509.013(9), Florida Statutes, within a public lodging establishment as defined in s. 509.013(4), Florida Statutes, or within an airport as defined in s. 330.27(2), Florida Statutes.

(3) The tax exemptions provided in this section apply at

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the option of a dealer if less than 5 percent of the dealer's gross sales of tangible personal property in the prior calendar year are comprised of items that would be exempt under this section. If a qualifying dealer chooses not to participate in the tax holiday, by August 1, 2016, the dealer must notify the Department of Revenue in writing of its election to collect sales tax during the holiday and must post a copy of that notice in a conspicuous location at its place of business.

(4) The Department of Revenue may, and all conditions are deemed met to, adopt emergency rules pursuant to s. 120.54(4), Florida Statutes, to administer this section.

(5) For the 2016-2017 fiscal year, the sum of $229,982 in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Revenue for the purpose of implementing this section.

Section 25. For the 2016-2017 fiscal year, the sum of $100,374 in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Revenue for the purpose of implementing ss. 220.03, 220.13, 220.222, 220.241, 220.33, and 220.34, as amended by this act.

Section 26. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect July 1, 2016.

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

And the title is amended as follows:

Delete everything before the enacting clause

and insert:

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A bill to be entitled

An act relating to taxation; amending s. 125.0104, F.S.; specifying additional uses for revenues received from tourist development taxes for certain coastal counties; conforming a cross-reference; amending s. 196.012, F.S.; revising definitions related to certain businesses; amending s. 196.1995, F.S.; revising an economic development ad valorem tax exemption for certain enterprise zone businesses; providing applicability of the exemption to data centers; providing retroactive applicability for certain provisions; amending s. 201.15, F.S.; revising a date relating to the payment of debt service for certain bonds; amending s. 206.9825, F.S.; revising eligibility criteria for wholesalers and terminal suppliers to receive aviation fuel tax refunds or credits of previously paid excise taxes; providing for future repeal of such refunds or credits; revising the rate of the excise tax on certain aviation fuels on a specified date; amending s. 210.13, F.S.; providing procedures to be used when a person, other than a dealer, is required but fails to remit certain taxes; amending s. 210.25, F.S.; revising definitions related to tobacco; amending s. 212.05, F.S.; clarifying the requirements for the exemption from tax on certain sales of aircraft that will be registered in a foreign jurisdiction; amending s. 212.06, F.S.; reducing by a specified percentage over time an indexed tax on manufactured asphalt used for a government public

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works project; exempting such manufactured asphalt from the indexed tax beginning on a specified date; amending s. 212.08, F.S.; exempting the sales of food or drinks by certain qualified veterans' organizations; revising definitions regarding certain industrial machinery and equipment; removing the expiration date on the exemption for purchases of certain machinery and equipment; revising the definition of the term "eligible manufacturing business" for purposes of qualification for the sales and use tax exemption; providing definitions for certain postharvest machinery and equipment, postharvest activities, and eligible postharvest activity businesses; providing an exemption for the purchase of such machinery and equipment; amending s. 220.03, F.S.; adopting the 2016 version of the Internal Revenue Code; providing retroactive applicability; amending s. 220.13, F.S.; incorporating a reference to a recent federal act into state law for the purpose of defining the term "adjusted federal income"; revising the treatment by this state of certain depreciation of assets allowed for federal income tax purposes; providing retroactive applicability; authorizing the Department of Revenue to adopt emergency rules; providing for expiration; amending s. 220.222, F.S.; revising due dates for partnership information returns and corporate tax returns; amending s. 220.241, F.S.; revising due dates to file a declaration of estimated corporate income

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tax; amending s. 220.33, F.S.; revising the due date of estimated payments of corporate income tax; amending s. 220.34, F.S.; revising the dates for purposes of calculating interest and penalties on underpayments of estimated corporate income tax; amending s. 561.121, F.S.; requiring that certain taxes related to alcoholic beverages and tobacco products sold on cruise ships be deposited into specified funds; amending s. 564.06, F.S.; specifying the excise tax that is applicable to cider made from pears; amending s. 565.02, F.S.; creating an alternative method of taxation for alcoholic beverages and tobacco products sold on certain cruise ships; requiring the reporting of certain information by each permittee for purposes of determining the base rate applicable to the taxpayers; authorizing the Division of Alcoholic Beverages and Tobacco within the Department of Business and Professional Regulation to independently verify certain reported information; amending s. 951.22, F.S.; conforming a cross-reference; providing an exemption from the sales and use tax for the retail sale of certain clothes and school supplies during a specified period; providing exceptions; authorizing certain dealers to elect not to participate in such tax exemptions; providing requirements for such dealers; authorizing the Department of Revenue to adopt emergency rules; providing appropriations; providing effective dates.

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-3-16
Meeting Date

HB 7099
Bill Number (if applicable)

299122
Amendment Barcode (if applicable)

Topic TAXATION

Name CAROL DOVER

Job Title PRESIDENT & CEO

Address 230 S. ADAMS
Street

TALLAHASSEE FL 32301
City *State* *Zip*

Phone 850 224-2250

Email CDOVER@FRLA.ORG

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FLORIDA RESTAURANT & LODGING ASSN.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/16
Meeting Date

7099
Bill Number (if applicable)

299123
Amendment Barcode (if applicable)

Topic Tourist Development Tax

Name Robert Skok

Job Title Executive Director

Address 560 Deer Lake Dr
Street

Tallahassee FL 32312
City *State* *Zip*

Phone 850-222-1002

Email Robert@FAMA.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Association of [illegible] Destination Marketing Organizations

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/2/16
Meeting Date

HB7099
Bill Number (if applicable)

941552 DE
Amendment Barcode (if applicable)

Topic TAX BILL

Name NANCY STEPHENS

SUPPORT BOTH

Job Title EXEC DIR

Address _____ Phone _____
Street

_____ Email _____
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information

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

Representing MANUFACTURERS ASSOCIATION OF FL

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/16
Meeting Date

HB 7099
Bill Number (if applicable)

~~342894~~ or 961560
Amendment Barcode (if applicable)

Topic Tourist Development Tax

Name Robert Skrob

Job Title Executive Director

Address 3510 Dear Lane Dr
Street

Phone 856-222-6000

Tallahassee FL
City *State* *Zip*

Email Robert@FADMO.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Association of Destination Marketing Organizations

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-3-16
Meeting Date

HB 7099
Bill Number (if applicable)

961560
Amendment Barcode (if applicable)

Topic TAXATION

Name Carol Dover

Job Title President & CEO

Address 230 S. Adams
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 850 224-2250

Email Cdover@FRLA.ORG

Speaking: ☐ For ☑ Against ☐ Information

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

Representing Florida Restaurant & Lodging Assn.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-3-16
Meeting Date

HB 7099
Bill Number (if applicable)

961560
Amendment Barcode (if applicable)

Topic Opposed to TDT changes

Name Armando Ibarra

Job Title Lobbyist

Address 951 Brickell Ave #701
Street

Phone 786-514-2965

Miami FL 33131
City *State* *Zip*

Email armando@aiadvisory.co

Speaking: ☐ For ☑ Against ☐ Information

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

Representing Greater Miami and the Beaches Hotel Association

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/16
Meeting Date

7099
Bill Number (if applicable)

AA 576912
Amendment Barcode (if applicable)

Topic Taxation

Name [redacted] Jason Unger

Job Title

Address 301 E. Pine St Suite 1400
Street

Phone 407 843 8880

ORL FL 32801
City *State* *Zip*

Email robert.stuart@gray-robinson.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Craft Distillers Guild

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date

7099
Bill Number (if applicable)

Topic ~~Carolyn Johnson~~ Taxation

576912
Amendment Barcode (if applicable)

Name Carolyn Johnson

Job Title

Address 136 S Bronough St
Street

Tallahassee
City State Zip

Phone

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FL Chamber of Commerce

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/16
Meeting Date

7099
Bill Number (if applicable)

179492
Amendment Barcode (if applicable)

Topic Taxation

Name Robert Stuart

Job Title

Address 301 E. Pine St Ste. 1400
Street

Phone 407 843 8880

Orl
City

FL
State

32801
Zip

Email robert.stuart@gray-robinson.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing CENTRAL FL HOTEL & LODGING ASSOC.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-3-16
Meeting Date

HB 7099
Bill Number (if applicable)

279492
Amendment Barcode (if applicable)

Topic TAXATION

Name Carol Dover

Job Title President & CEO

Address 230 S. Adams
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 850 224-2250

Email RTurner@FRLA.ORG

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Restaurant & Lodging Assn

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/2/16
Meeting Date

HB 7099
Bill Number (if applicable)

279491
Amendment Barcode (if applicable)

Topic Tourist Development Tax

Name Robert Skaha

Job Title Executive Director

Address 3570 Deer Lake Dr.
Street

Phone 850-222-6002

Tallahassee FL 32312
City *State* *Zip*

Email Robert@FADMO.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Assoc of Destination Marketing Organizations

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/16
Meeting Date

7099
Bill Number (if applicable)

Topic #403268

403268
Amendment Barcode (if applicable)

Name Mark Anderson

Job Title

Address 106 S. Monroe St
Street

Phone 913-205-0655

Tallahassee FL 32301
City *State* *Zip*

Email Mark@Consultanderson.com

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

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

Representing Nassau County Board of County Commissioners

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/03/16
Meeting Date

7099
Bill Number (if applicable)

403268 ~~7099E2403268~~
Amendment Barcode (if applicable)

Topic Tax

Name Jim Cordero

Job Title Dir Gov't Affairs

Address 1007 E. DeSoto Park Dr 201
Street

Tallahassee FL 32301
City *State* *Zip*

Phone

Email

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

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

Representing Asphalt Contractors Association of Florida

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3 / 3 /2016
Meeting Date

Topic _____ Bill Number 7099 *(if applicable)*

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

Job Title TRUSTEE

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

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

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/16
Meeting Date

HB 7099
Bill Number (if applicable)

Topic Taxation

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior Vice President

Address 516 N Adams St
Street

Phone 224-7173

TLH FL 32301
City *State* *Zip*

Email bbevis@aif.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Associated Industries of Florida

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/14
Meeting Date

7099
Bill Number (if applicable)

Topic Taxation

Amendment Barcode (if applicable)

Name Carolyn Johnson

Job Title Policy Director

Address 136 S Bronough St
Street
Tallahassee
City *State* *Zip*

Phone

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Fl Chamber of Commerce

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3.3.16
Meeting Date

7099
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Tax Package

Name Melissa Ramba

Job Title V.P. Gov't Affairs

Address 227 Adams
Street

TLH FL 32301
City *State* *Zip*

Phone 570.0269

Email Melissa@FRF.org

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Florida Retail Federation

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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S-001 (10/14/14)

CourtSmart Tag Report

Room: KN 412 **Case No.:** **Type:**
Caption: Senate Appropriations Committee **Judge:**

Started: 3/3/2016 8:02:29 AM
Ends: 3/3/2016 9:59:48 AM Length: 01:57:20

8:02:47 AM Sen. Lee (Chair)
8:03:48 AM HB 7099
8:03:59 AM Sen. Hukill
8:04:07 AM Am. 403268
8:04:23 AM Sen. Hukill
8:07:33 AM Sen. Latvala
8:08:07 AM Sen. Hukill
8:08:31 AM Sen. Latvala
8:08:48 AM Sen. Hukill
8:08:53 AM Sen. Latvala
8:08:56 AM Sen. Hukill
8:09:55 AM Sen. Hays
8:10:07 AM Sen. Hukill
8:10:17 AM Sen. Joyner
8:10:41 AM Sen. Hukill
8:12:54 AM Sen. Lee
8:14:08 AM Sen. Hukill
8:14:39 AM Am. 961560
8:15:03 AM Sen. Gaetz
8:15:35 AM Sen. Lee
8:16:46 AM Am. 279492
8:16:48 AM Sen. Gaetz
8:17:26 AM Sen. Hays
8:18:16 AM Sen. Gaetz
8:19:13 AM Sen. Montford
8:20:21 AM Sen. Gaetz
8:20:41 AM Sen. Montford
8:21:06 AM Sen. Gaetz
8:21:40 AM Sen. Latvala
8:22:18 AM Sen. Gaetz
8:23:17 AM Sen. Latvala
8:23:37 AM Sen. Gaetz
8:24:19 AM Sen. Latvala
8:24:47 AM Sen. Gaetz
8:25:48 AM Sen. Simmons
8:27:03 AM Sen. Gaetz
8:27:38 AM Sen. Hukill
8:27:49 AM Sen. Gaetz
8:28:26 AM Sen. Joyner
8:28:54 AM Sen. Gaetz
8:29:54 AM Sen. Joyner
8:30:12 AM Sen. Gaetz
8:30:54 AM Sen. Joyner
8:31:24 AM Sen. Gaetz
8:31:43 AM Sen. Joyner
8:31:52 AM Sen. Gaetz
8:31:59 AM Sen. Joyner
8:32:06 AM Sen. Gaetz
8:32:20 AM Sen. Joyner
8:32:38 AM Sen. Gaetz
8:33:31 AM Sen. Joyner
8:34:11 AM Sen. Gaetz

8:35:52 AM Sen. Galvano
8:36:14 AM Sen. Latvala
8:36:46 AM Sen. Hays
8:37:38 AM Sen. Hays
8:37:58 AM Sen. Gaetz
8:38:41 AM Robert Skrob, Executive Director, Florida Association of Destination Marketing Organizations
8:40:01 AM Sen. Negron
8:40:42 AM R. Skrob
8:40:55 AM Sen. Negron
8:41:29 AM R. Skrob
8:41:32 AM Sen. Negron
8:41:36 AM R. Skrob
8:42:46 AM Carol Dover, President & CEO, Florida Restaurant & Lodging Association
8:43:54 AM Armando Ibarra, Lobbyist, Greater Miami and The Beaches Hotel Association
8:47:17 AM Sen. Latvala
8:54:06 AM Sen. Joyner
8:55:59 AM Sen. Altman
8:56:43 AM Sen. Smith
8:57:55 AM Sen. Negron
8:58:39 AM Sen. Hukill
8:59:56 AM Sen. Lee
9:00:20 AM Sen. Gaetz
9:02:48 AM Am. 403268 (cont.)
9:03:02 AM Mark Anderson, Nassau County Board of County Commissioners (waives in support)
9:03:07 AM Jim Cordero, Director of Government Affairs, Asphalt Contractors Association of Florida (waives in support)
9:03:56 AM HB 7099 (cont.)
9:04:48 AM Brian Pitts, Trustee, Justice-2-Jesus
9:07:37 AM Brewster Bevis, Senior Vice President, Associated Industries of Florida (waives in support)
9:07:48 AM Carolyn Johnson, Policy Director, Florida Chamber of Commerce (waives in support)
9:07:52 AM Melissa Ramba, VP Government Affairs, Florida Retail Federation (waives in support)
9:07:56 AM Nancy Stephens, Executive Director, Manufacturers Associated of Florida (waives in support)
9:09:22 AM S 7056
9:09:24 AM PCS 939436
9:09:28 AM Sen. Bean
9:11:18 AM S 604
9:11:26 AM PCS 907278
9:11:31 AM Sen. Diaz de la Portilla
9:12:44 AM Dan Hendrickson, Chair Advocacy Committee, Big Bend Mental Health Coalition, NAMI Tallahassee (waives in support)
9:12:47 AM Colonel Mike Prendergrast, Executive Director, Florida Department of Veterans Affairs (waives in support)
9:12:59 AM Brian Pitts, Trustee, Justice-2-Jesus
9:14:15 AM Greg Pound, citizen
9:15:31 AM Sarah Naf, Director of Office of Community and Intergovernmental Relations, Office of the State Courts Administrator, Supreme court Task Force on Substance Abuse and Mental Health Issues in the Courts (waives in support)
9:15:42 AM Daphnee Sainvil, State Legislative Coordinator, Broward County (waives in support)
9:16:36 AM S 314
9:16:42 AM Sen. Diaz de la Portilla
9:18:51 AM Sal Nuzzo, VP Policy, The James Madison Institute (waives in support)
9:18:57 AM Sheldon Gusky, Executive Director, Florida Public Defender Association, Inc. (waives in support)
9:18:59 AM Arthur Rosenberg, Attorney, Florida Legal Services (waives in support)
9:19:04 AM Linda Alexionok, Executive Director, The Children's Campaign (waives in support)
9:19:15 AM Albert Balido, Southern Poverty Law Center (waives in support)
9:19:15 AM Lawrence Clermont, Florida PTA (waives in support)
9:19:23 AM Laura Fellman, Palm Beach County Council of PTAs (waives in support)
9:19:37 AM Ingrid Delgado, Associate for Social Concerns & Respect Life, Florida Conference of Catholic Bishops (waives in support)
9:19:38 AM Margarita Romo, Executive Director, Youth Farmworkers Self-Help (waives in support)
9:19:51 AM Natalie Kato, Human Rights Watch (waives in support)
9:20:02 AM Jorge Chamizo, Florida Association of Criminal Defense Lawyers (waives in support)
9:20:09 AM Wansley Walters, Former Secretary Department of Juvenile Justice (waives in support)
9:20:24 AM Brian Pitts, Trustee, Justice-2-Jesus

9:20:36 AM Greg Pound, citizen
9:24:06 AM Buddy Jacobs, General Cousel FPAA, State Attorneys (waives in support)
9:24:15 AM Laura Youmans, Florida Association of Counties (waives in support)
9:25:19 AM S 7054
9:25:25 AM PCS 366342
9:25:36 AM Sen. Sobel
9:26:59 AM Am 500696
9:27:06 AM Sen. Sobel
9:27:18 AM Am. 607676
9:27:24 AM Sen. Hays
9:28:25 AM Am. 712692
9:29:07 AM Sen. Sobel
9:30:32 AM S 7054 (cont.)
9:30:36 AM Deborah Linton, CEO of Arc of Florida, The Arc of Florida (waives in support)
9:30:36 AM John Finch, Arc of Florida Dental Program Director, The Arc of Florida (waives in support)
9:30:51 AM Robert Brown, Legislative Affairs Director, Agency for Persons with Disabilities (waives in support)
9:31:55 AM S 170
9:31:57 AM Am. 399704
9:32:14 AM Sen. Brandes
9:33:12 AM Jeffrey Sharkey, Capitol Alliance Group, Energy Freedom Coalition of America (waives in support)
9:33:16 AM David Cullen, Sierra Club of Florida (waives in opposition)
9:33:37 AM S 170 (cont.)
9:34:12 AM Brian Pitts, Trustee, Justice-2-Jesus
9:35:19 AM Davin Suggs, Fiscal Policy Director, Florida Association of Countries (waives in support)
9:35:28 AM Richard Pinsky, Florida Solar Energy Industry Association (waives in support)
9:35:40 AM Susan Glickman, Florida Director, Southern Alliance for Clean Energy (waives in support)
9:35:55 AM Janet Bowman, The Nature Conservancy (waives in support)
9:35:56 AM Melissa Ramba, VP Government Affairs, Florida Retail Federation (waives in support)
9:35:57 AM D. Cullen (waives in support)
9:35:58 AM Debbie Harrison-Rumberger, Legislative Liaison, Florida League of Women Voters (waives in support)
9:36:50 AM S 172
9:36:54 AM Am. 573552
9:37:07 AM Sen. Brandes
9:37:40 AM Am. 158306
9:37:43 AM Sen. Brandes
9:38:07 AM Am. 573552 (cont.)
9:38:19 AM Jeffrey Sharkey, Capitol Alliance Group, Energy Freedom Coalition of America (waives in support)
9:38:23 AM David Cullen, Sierra Club of Florida (waives in opposition)
9:38:49 AM S 172 (cont.)
9:38:55 AM Richard Pinsky, Florida Solar Energy Industry Association (waives in support)
9:39:05 AM Susan Glickman, Florida Director, Southern Alliance for Clean Energy (waives in support)
9:39:07 AM Janet Bowman, Director of Legislative Policy and Strategies, The Nature Conservancy (waives in support)
9:39:08 AM Melissa Ramba, VP Government Affairs, Florida Retail Federation (waives in support)
9:40:17 AM S 770
9:40:23 AM PCS 389166
9:40:31 AM Sen. Flores
9:41:02 AM Carol Bracy, Consultant, City of Marathon (waives in support)
9:41:11 AM Brian Pitts, Trustee, Justice-2-Jesus (waives in support)
9:41:59 AM S 868
9:42:06 AM Sen. Smith
9:42:34 AM Am. 380482
9:42:53 AM Am. 971344
9:43:02 AM Sen. Flores
9:44:17 AM Ron Book, Mourning Family Foundation (waives in support)
9:44:18 AM Bill Peebles, Florida Redevelopment Associaiton
9:46:36 AM David Cruz, Assistant General Counsel, Florida League of Cities
9:46:57 AM Am. 380482 (cont.)
9:48:03 AM R. Book (waives in support)
9:48:10 AM S 868 (cont.)
9:48:11 AM R. Book (waives in support)
9:48:54 AM S 1168
9:48:57 AM PCS 419000

9:49:06 AM Sen. Negron
9:49:39 AM Carol Bracy, Consultant, Martin County Board of County Commissioners (waives in support)
9:49:40 AM Brian Pitts, Trustee, Justice-2-Jesus (waives in support)
9:49:46 AM Rebecca O'hara, Florida League of Cities (waives in support)
9:50:48 AM S 1088
9:50:52 AM Sen. Stargel
9:51:37 AM Robyn Rennick, Board Member, The Coalition of McKay Scholarship Schools (waives in support)
9:51:41 AM James Herzog, Associate Director for Education, Florida Conference of Catholic Bishops (waives in support)
9:51:49 AM Alexandra Dominguez, Advocacy Associate, Foundation for Florida's Future (waives in support)
9:51:51 AM Melissa Fausz, Policy Analyst, Americans Prosperity (waives in support)
9:52:49 AM S 1428
9:52:51 AM Sen. Simmons
9:53:14 AM John Kuczwanski, Communications Manager (waives in support)
9:54:10 AM S 1290
9:54:22 AM PCS 914914
9:54:27 AM Sen. Simpson
9:54:38 AM Andrew Ketchel, Director of Legislative Affairs, Department of Environmental Protection (waives in support)
9:54:49 AM Brian Pitts, Trustee, Justice-2-Jesus (waives in support)
9:54:50 AM David Cullen, Sierra Club of Florida (waives in opposition)
9:56:03 AM S 750
9:56:15 AM PCS 743014
9:56:26 AM Sen. Hutson
9:56:58 AM Am. 491150
9:56:59 AM Sen. Hutson
9:57:31 AM Pamela Gomez, Central Florida Community Organizer, Florida Immigrants Coalition (waives in support)
9:57:35 AM Francesca Menes, Director of Policy and Advocacy, Florida Immmigration Coalition (waives in support)
9:57:36 AM Karen Woodall, Executive Director, Florida Center for Fiscal and Economic Policy (waives in support)
9:57:48 AM S 750 (cont.)
9:58:00 AM Brian Pitts, Trustee, Justice-2-Jesus (waives in support)
9:58:03 AM Ritu Patel, Communty Organizer (waives in support)
9:58:07 AM Jose Palacios, Florida Immigrant Coalition (waives in support)
9:58:11 AM P. Gomez (waives in support)
9:58:13 AM F. Menes (waives in support)
9:58:16 AM K. Woodall (waives in support)
9:58:32 AM Greg Pound, citizen
9:59:30 AM S 1430
9:59:31 AM PCS 680352
9:59:32 AM Am. 699884
9:59:37 AM Sen. Brandes