

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**COMMUNITY AFFAIRS**  
**Senator Simpson, Chair**  
**Senator Brandes, Vice Chair**

**MEETING DATE:** Tuesday, February 17, 2015  
**TIME:** 9:00 a.m.—12:00 noon  
**PLACE:** 301 Senate Office Building

**MEMBERS:** Senator Simpson, Chair; Senator Brandes, Vice Chair; Senators Abruzzo, Bradley, Dean, Diaz de la Portilla, and Thompson

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 52</b> Negron	Relief of the Estate of Manuel Antonio Matute by the Palm Beach County Sheriff's Office; Providing for the relief of Criss Matute, Christian Manuel Torres, Eddna Torres De Mayne, Lansky Torres, and Nasdry Yamileth Torres Barahona, as beneficiaries of the Estate of Manuel Antonio Matute, by the Palm Beach County Sheriff's Office; providing for an appropriation to compensate them for the wrongful death of their father, Manuel Antonio Matute, as a result of the negligence of an employee of the Palm Beach County Sheriff's Office; providing that the amount paid by the sheriff's office and the appropriation satisfy all present and future claims related to the negligent act; providing a limitation on the payment of fees and costs, etc.  SM 01/26/2015 Recommendation: Favorable JU 02/03/2015 Favorable CA 02/17/2015 Favorable FP	Favorable Yeas 6 Nays 0
2	<b>SB 130</b> Hays (Identical H 53)	Florida Catastrophic Storm Risk Management Center; Requiring the State Board of Administration to annually transfer a portion of the investment income of the Florida Hurricane Catastrophe Fund to the Florida Catastrophic Storm Risk Management Center to support the center's ongoing operations; specifying that the transferred income does not affect funding otherwise available to the center, etc.  BI 01/21/2015 Favorable CA 02/17/2015 Favorable AP	Favorable Yeas 6 Nays 0
3	<b>SB 442</b> Altman (Similar H 337)	Local Government Services; Authorizing a county to provide certain services and facilities outside the boundaries of a municipality without the express consent of the municipality's governing body under certain circumstances; prohibiting a municipality from extending its corporate powers within unincorporated areas of a county without the express consent of the county's governing body, etc.  CA 02/17/2015 Temporarily Postponed EP RC	Temporarily Postponed

**COMMITTEE MEETING EXPANDED AGENDA**

Community Affairs

Tuesday, February 17, 2015, 9:00 a.m.—12:00 noon

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>SB 590</b> Altman (Identical H 225)	Flags; Citing this act as the "All-American Flag Act"; requiring a United States flag or a state flag that is purchased on or after a specified date by the state, a county, or a municipality for public use to be made in the United States, etc.  CA 02/17/2015 Favorable GO FP	Favorable Yeas 5 Nays 1
5	<b>CS/SB 172</b> Governmental Oversight and Accountability / Bradley / Ring (Similar H 341)	Local Government Pension Reform; Requiring that firefighter and police officer pension plans meet the requirements of ch. 175 and 185, F.S., in order to receive certain insurance premium tax revenues; revising the method of creating and maintaining firefighters' and police officers' retirement trust funds; providing that the use of premium tax revenues may deviate from the requirements of ch. 175 and ch. 185, F.S., under certain circumstances, etc.  GO 01/21/2015 Fav/CS CA 02/17/2015 Favorable FP	Favorable Yeas 6 Nays 0
6	<b>SB 7006</b> Education Pre-K - 12	Early Learning; Including large family child care homes in local zoning regulation requirements; revising certain minimum standards for child care facilities; providing for the inspection of programs regulated by the department; providing exemptions from child care facility licensing standards; revising restrictions on residential property insurance coverage to include coverage for large family child care homes, etc.  CA 02/17/2015 Fav/CS AP	Fav/CS Yeas 6 Nays 0
7	<b>CS/SB 22</b> Judiciary / Bradley (Similar H 3519)	Relief of Joseph Stewart and Audrey Stewart by the City of Jacksonville; Providing for the relief of Joseph Stewart and Audrey Stewart on behalf of their son, Aubrey Stewart, by the City of Jacksonville; providing for an appropriation to compensate Aubrey Stewart for injuries and damages sustained as a result of the negligence of the City of Jacksonville; providing a limitation on the payment of fees and costs; providing for repayment of Medicaid liens, etc.  SM 01/26/2015 Recommendation: Fav/1 Amendment JU 02/03/2015 Fav/CS CA 02/17/2015 Favorable FP	Favorable Yeas 6 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Community Affairs

Tuesday, February 17, 2015, 9:00 a.m.—12:00 noon

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	<b>SB 404</b> Simpson	Improvements to Real Property Damaged by Sinkhole Activity; Declaring that there is a compelling state interest in enabling property owners to voluntarily finance certain improvements to property damaged by sinkhole activity with local government assistance; expanding the definition of the term "qualifying improvement" to include stabilization or other repairs to property damaged by sinkhole activity; expanding the definition of "blighted area" to include a substantial number or percentage of properties damaged by sinkhole activity which are not adequately repaired or stabilized, etc.	Favorable Yeas 6 Nays 0
		CA 02/17/2015 Favorable BI FT RC	

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Other Related Meeting Documents

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**THE FLORIDA SENATE**  
**SPECIAL MASTER ON CLAIM BILLS**

*Location*  
402 Senate Office Building

*Mailing Address*  
404 South Monroe Street  
Tallahassee, Florida 32399-1100  
(850) 487-5237

DATE	COMM	ACTION
12/16/14	SM	Favorable
2/3/15	JU	Favorable
2/17/15	CA	Favorable
	FP	

December 16, 2014

The Honorable Andy Gardiner  
President, The Florida Senate  
Suite 409, The Capitol  
Tallahassee, Florida 32399-1100

Re: **SB 52** – Senator Negrón  
Relief of Chriss Matute, Christian Manuel Torres, Eddna Torres De Mayne, Lansky  
Torres, and Nasdry Yamileth Torres Barahona

**SPECIAL MASTER'S FINAL REPORT**

THIS IS AN UNOPPOSED CLAIM FOR \$371,850.98 IN LOCAL FUNDS BY EDDNA TORRES DE MAYNE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF HER FATHER, MANUEL A. MATUTE. THE CLAIM IS BASED ON A COURT-APPROVED SETTLEMENT AGREEMENT BETWEEN DE MAYNE AND THE PALM BEACH SHERIFF'S OFFICE TO COMPENSATE THE ESTATE FOR MR. MATUTE'S DEATH, WHICH OCCURRED IN A CAR ACCIDENT CAUSED BY A PALM BEACH DEPUTY SHERIFF.

CURRENT STATUS:

On November 9, 2011, an administrative law judge from the Division of Administrative Hearings, serving as a Senate special master, held a de novo hearing on a previous version of this bill, SB 52 (2012). After the hearing, the judge issued a report containing findings of fact and conclusions of law and recommended that the bill be reported favorably. That report is attached as an addendum to this report.

Due to the passage of time since the hearing, the Senate President reassigned the claim to me, Tracy Sumner. My responsibilities were to review the records relating to the claim bill, be available for questions from the members, and

determine whether any changes have occurred since the hearing, which if known at the hearing, might have significantly altered the findings or recommendation in the previous report.

According to counsel for the parties, no changes have occurred since the hearing which might have altered the findings and recommendations in the report.

Additionally, the prior claim bill, SB 52 (2012), is effectively identical to claim bill filed for the 2015 Legislative Session.

Respectfully submitted,

Tracy Jeanne Sumner  
Senate Special Master



**THE FLORIDA SENATE**  
**SPECIAL MASTER ON CLAIM BILLS**

*Location*  
402 Senate Office Building

*Mailing Address*  
404 South Monroe Street  
Tallahassee, Florida 32399-1100  
(850) 487-5237

DATE	COMM	ACTION
11/9/11	SM	Favorable
2/23/12	RC	Favorable

November 9, 2011

The Honorable Mike Haridopolos  
President, The Florida Senate  
Suite 409, The Capitol  
Tallahassee, Florida 32399-1100

Re: **SB 52 (2012)** – Senator Joe Negrón  
Relief of Chriss Matute, Christian Manuel Torres, Eddna Torres De Mayne, Lansky  
Torres, and Nasdry Yamileth Torres Barahona

**SPECIAL MASTER'S FINAL REPORT**

THIS IS AN UNOPPOSED CLAIM FOR \$371,850.98 IN LOCAL FUNDS BY EDDNA TORRES DE MAYNE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF HER FATHER, MANUEL A. MATUTE. THE CLAIM IS BASED ON A COURT-APPROVED SETTLEMENT AGREEMENT BETWEEN DE MAYNE AND THE PALM BEACH SHERIFF'S OFFICE TO COMPENSATE THE ESTATE FOR MR. MATUTE'S DEATH, WHICH OCCURRED IN A CAR ACCIDENT CAUSED BY A PALM BEACH DEPUTY SHERIFF.

FINDINGS OF FACT:

On October 29, 2008, just before sunrise, Deputy Sheriff Gerald Ramirez was returning home after his shift, driving northbound on US highway 441. At the same time, travelling southbound on the same highway, Mr. Matute, age 60, was on his way to work as a maintenance man at a golf club. Deputy Ramirez fell asleep at the wheel and lost control of his police cruiser, allowing it to cross the raised concrete median, and crash head-on into Mr. Matute's van.

Mr. Matute was wearing his seatbelt at the time of the crash, but was killed in the collision. The collision caused Mr. Matute's van to hit a third vehicle driven by Orlando Cordova.

Mr. Cordova and his passenger, Dhalid Johnson, were injured in the collision. Mr. Matute's van also hit a fourth vehicle driven by Robert Morgan, who was not injured. All four vehicles were totaled or damaged.

Deputy Ramirez admitted to Fire Rescue and a Sergeant at the scene of the accident that he had fallen asleep while driving. He suffered minor injuries from the collision, and was ultimately disciplined. He remains employed with the Palm Beach Sheriff's Office.

Mr. Matute was the father of five children. Two adult daughters live in Honduras with their children. Two adult sons live in Palm Beach County, as well as a minor son, Chriss, age 15, who is a high school student.

#### LITIGATION HISTORY:

On July 21, 2009, in the circuit court for the Fifteenth Judicial Circuit, Claimant brought a wrongful death action against the Palm Beach Sheriff's Office. The complaint alleged that Palm Beach County was vicariously liable for Mr. Matute's fatal injuries sustained as a result of Deputy Ramirez's negligent operation of a Palm Beach Sheriff's Office vehicle.

On January 4, 2011, the parties successfully reached a mediated settlement in the amount of \$500,000.00. The Palm Beach Sheriff's Office admitted liability, and admitted that Mr. Matute was in no way responsible or comparatively negligent. Pursuant to the terms of the settlement, the Palm Beach Sheriff's Office agreed to tender \$128,149.02 to the Claimant upon the approval of the court. Palm Beach Sheriff's Office further agreed not to oppose a claim bill in the amount of \$371,850.98.

The Palm Beach Sheriff's Office also settled claims that had been filed by Mr. Cordova, Mr. Johnson, and Mr. Morgan. Mr. Cordova received \$40,000.00, Mr. Johnson received \$22,000.00, and Mr. Morgan received \$9,850.98.

Following the approval of the settlement agreement by the circuit court, Palm Beach Sheriff's Office tendered \$128,149.02 to Claimant. Twenty-five percent of the amount paid was deducted for attorney's fees and costs.

**CLAIMANT'S POSITION:** The Palm Beach Sheriff's Office is vicariously liable for the negligence of its employee, who negligently operated a Palm Beach Sheriff's Office vehicle.

**RESPONDENT'S POSITION:** The Palm Beach Sheriff's Office accepts full responsibility for the fatal crash. Palm Beach Sheriff's Office does not support or object to the passage of this claim bill.

**CONCLUSIONS OF LAW:** The claim bill hearing was a de novo proceeding for the purpose of determining, based on the evidence presented to the Special Master, whether the Palm Beach Sheriff's Office was liable in negligence for the death of Mr. Matute and, if so, whether the amount of the claim is reasonable.

The evidence clearly demonstrates that Deputy Ramirez lost control of his police cruiser, crashed head-on into Mr. Matute's van, and caused Mr. Matute's fatal injuries.

The Palm Beach Sheriff's Office, as Deputy Ramirez's employer, is liable for his negligent act. Mercury Motors Express v. Smith, 393 So. 2d 545, 549 (Fla. 1981) (holding that an employer is vicariously liable for compensatory damages resulting from the negligent acts of employees committed within the scope of their employment); see also Aurbach v. Gallina, 753 So. 2d 60, 62 (Fla. 2000) (holding that the dangerous instrumentality doctrine "imposes strict vicarious liability upon the owner of a motor vehicle who voluntarily entrusts that motor vehicle to an individual whose negligent operation causes damage to another").

The undersigned concludes that the sum the Palm Beach Sheriff's Office has agreed to pay the Claimant is both reasonable and fair.

**ATTORNEYS FEES:** The Claimant's attorneys have agreed to limit their fees to 25 percent of any amount awarded by the Legislature in compliance with s. 768.28(8), Florida Statutes. No lobbyist fees will be paid.

**RECOMMENDATIONS:** For the reasons set forth above, the undersigned recommends that Senate Bill 52 (2012) be reported FAVORABLY.



SPECIAL MASTER'S FINAL REPORT – SB 52 (2012)

November 9, 2011

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Respectfully submitted,

Jessica Enciso Varn  
Senate Special Master

By Senator Negrón

32-00040A-15

201552\_\_

1 A bill to be entitled

2 An act for the relief of Criss Matute, Christian  
3 Manuel Torres, Eddna Torres De Mayne, Lansky Torres,  
4 and Nasdry Yamileth Torres Barahona, as beneficiaries  
5 of the Estate of Manuel Antonio Matute, by the Palm  
6 Beach County Sheriff's Office; providing for an  
7 appropriation to compensate them for the wrongful  
8 death of their father, Manuel Antonio Matute, as a  
9 result of the negligence of an employee of the Palm  
10 Beach County Sheriff's Office; providing that the  
11 amount paid by the sheriff's office and the  
12 appropriation satisfy all present and future claims  
13 related to the negligent act; providing a limitation  
14 on the payment of fees and costs; providing an  
15 effective date.

16  
17 WHEREAS, on October 29, 2008, Manuel Antonio Matute, age  
18 60, was hit head-on by a vehicle owned by the Palm Beach County  
19 Sheriff's Office and driven by a Palm Beach County deputy  
20 sheriff, after the deputy sheriff lost control of the vehicle on  
21 U.S. Highway 441 in Palm Beach County, and

22 WHEREAS, Mr. Matute was killed as a result of the accident,  
23 and

24 WHEREAS, one of Mr. Matute's surviving children, Eddna  
25 Torres De Mayne, brought a wrongful-death action against the  
26 Palm Beach County Sheriff's Office seeking damages for herself  
27 and her siblings, Criss Matute, Christian Manuel Torres, Lansky  
28 Torres, and Nasdry Yamileth Torres Barahona, for their anguish  
29 and mental pain and suffering due to the tragic death of their

32-00040A-15

201552\_\_

30 father, and

31 WHEREAS, on January 4, 2011, the Palm Beach County  
32 Sheriff's Office offered to settle the claim for the amount of  
33 \$500,000 and Ms. Torres De Mayne, as personal representative of  
34 the Estate of Manuel Antonio Matute, accepted the Sheriff's  
35 offer on or about January 9, 2011, and

36 WHEREAS, in May 2011, the Palm Beach County Sheriff's  
37 Office tendered to Ms. Torres De Mayne, as personal  
38 representative of the Estate of Manuel Antonio Matute, a payment  
39 of \$128,149.02 in accordance with the remaining statutory limits  
40 of liability set forth in s. 768.28, Florida Statutes, and

41 WHEREAS, Ms. Torres De Mayne, as personal representative of  
42 the Estate of Manuel Antonio Matute, seeks satisfaction of the  
43 balance of the settlement agreement, which is \$371,850.98, NOW,  
44 THEREFORE,

45  
46 Be It Enacted by the Legislature of the State of Florida:

47  
48 Section 1. The facts stated in the preamble to this act are  
49 found and declared to be true.

50 Section 2. The Palm Beach County Sheriff's Office is  
51 authorized and directed to appropriate from funds of the county  
52 not otherwise appropriated and to draw a warrant in the sum of  
53 \$371,850.98 to Eddna Torres De Mayne, as personal representative  
54 of the Estate of Manuel Antonio Matute, as compensation for the  
55 wrongful death of Mr. Matute as a result of the negligence of an  
56 employee of the sheriff's office.

57 Section 3. The amount paid by the Palm Beach County  
58 Sheriff's Office pursuant to s. 768.28, Florida Statutes, and

32-00040A-15

201552\_\_

59 the amount awarded under this act are intended to provide the  
60 sole compensation for all present and future claims arising out  
61 of the factual situation described in this act which resulted in  
62 the death of Mr. Matute. The total amount paid for attorney  
63 fees, lobbying fees, costs, and other similar expenses relating  
64 to this claim may not exceed 25 percent of the amount awarded  
65 under this act.

66 Section 4. This act shall take effect upon becoming a law.



# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**COMMITTEES:**  
Appropriations Subcommittee on Criminal and  
Civil Justice, *Chair*  
Appropriations  
Banking and Insurance  
Ethics and Elections  
Higher Education  
Regulated Industries  
Rules

**SENATOR JOE NEGRON**  
32nd District

February 3, 2015

The Honorable Wilton Simpson, Chair  
Committee on Community Affairs  
315 Knot Building  
404 S Monroe Street  
Tallahassee, FL 32399-1100

Re: Senate Bill 52

Dear Chairman Simpson:

I would like to request Senate Bill 52 relating to relief of the Estate of Manuel Antonio Matute by the Palm Beach County Sheriff's Office be placed on the agenda for the next scheduled committee meeting.

Thank you for your consideration of this request.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Joe Negron".

Joe Negron  
State Senator  
District 32

JN/hd

c: Tom Yeatman, 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](http://www.flsenate.gov)

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Community Affairs

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BILL: SB 130

INTRODUCER: Senator Hays

SUBJECT: Florida Catastrophic Storm Risk Management Center

DATE: February 16, 2015

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Matiyow</u>	<u>Knudson</u>	<u>BI</u>	<b>Favorable</b>
2.	<u>Stearns</u>	<u>Yeatman</u>	<u>CA</u>	<b>Favorable</b>
3.	_____	_____	<u>AP</u>	_____

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**I. Summary:**

SB 130 requires the State Board of Administration to transfer a portion of the investment income from the Florida Hurricane Catastrophe Fund to the Florida Catastrophic Storm Risk Management Center. The transfer is to begin during the 2015-2016 fiscal year. The amount transferred for each fiscal year is to be the lesser of \$1 million or 35 percent of the fund's investment income minus \$10 million, based on the fund's most recent fiscal year-end audit. The amount transferred must be used for the center's statutory purpose of supporting the state's ability to prepare for, respond to, and recover from catastrophic storms.

**II. Present Situation:**

**Florida Catastrophic Storm Risk Management Center**

The Florida Catastrophic Storm Risk Management Center (Center) was created by the Florida Legislature in 2007.<sup>1</sup> The Center is located at the Department of Risk Management/Insurance, Real Estate & Legal Studies at the Florida State University College of Business. The focus of the Center is to support the state's ability to prepare for, respond to, and recover from catastrophic storms. Specifically, the Center:

- Coordinates and disseminates research efforts that are expected to have an immediate impact on policy and practices related to catastrophic storm preparedness.
- Coordinates and disseminates information related to catastrophic storm risk management, including but not limited to research and information that benefits businesses, consumers and public policy makers.
- Facilitates Florida's preparedness and responsiveness to catastrophic storms and collaborates with other public and private institutions.

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<sup>1</sup> Ch. 2007-90, s. 24, L.O.F. (creating s. 1004.647, F.S., effective June 11, 2007).

- Creates and promotes studies that enhance the educational options available to risk management and insurance students.
- Publishes and disseminates findings primarily related to risk management.
- Organizes and sponsors conferences, symposia and workshops to educate consumers and policymakers.

In previous years the Center has received its funding by way of transfer from the Insurance Regulatory Trust Fund. The transfer of such funds were authorized in the state's yearly budget approved by both House and Senate and signed by the Governor. In fiscal year 2012-2013<sup>2</sup> the amount transferred to fund the operations of the Center was \$350,000. In fiscal year 2013-2014<sup>3</sup> the amount transferred was \$750,000, but included an additional requirement that the Center study and report to the Legislature alternative methods for managing the size of the Florida Hurricane Catastrophe Fund.<sup>4</sup> In fiscal year 2014-2015 the amount transferred to the Center was \$1.5 million.<sup>5</sup>

### **The Florida Hurricane Catastrophe Fund (Cat Fund)**

The Cat Fund is a tax-exempt fund created in 1993 after Hurricane Andrew and is administered by the State Board of Administration (SBA). The fund provides mandatory reimbursement to property insurers for a selected percentage (45, 75, or 90 percent) of hurricane losses above the insurer's retention (deductible). The Cat Fund affords insurers an additional source of reinsurance that is significantly less expensive than what is available in the private market, enabling insurers to generally write more residential property insurance in the state than would otherwise be written. It is estimated that coverage purchased through the Cat Fund costs insurers one-fourth to one-third what it would cost in the private reinsurance market.<sup>6</sup> There are several reasons for these cost savings, including:<sup>7</sup>

- The Cat Fund operating cost is less than one percent of the annual premium collected, whereas the operating costs for private reinsurance can range from 10 percent to 15 percent of the premium collected.
- The Cat Fund does not pay reinsurance brokerage commissions.
- The Cat Fund has no underwriting costs.
- The Cat Fund is a tax-exempt entity that does not pay federal income taxes or state taxes.
- The Cat Fund has the ability to issue tax-exempt debt which results in lower financing costs should it become necessary to finance losses with revenue bonds.
- The Cat Fund does not include a factor for profit for reinsurance sold by the Cat Fund.
- The Cat Fund does not include a risk load for reinsurance sold by the Cat Fund.

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<sup>2</sup> Ch. 2012-118, s. 6, Line 2488A, L.O.F.

<sup>3</sup> Ch. 2013-40, s. 6, Line 2410A, L.O.F.

<sup>4</sup> The center is also directed to produce a report on alternative methods for managing the size of the Florida Hurricane Catastrophe Fund. The center shall coordinate its research efforts with the State Board of Administration. The report shall be submitted to the President of the Senate, Speaker of the House of Representatives, the Governor and Cabinet Officers by December 1, 2013.

<sup>5</sup> Ch. 2014-51, s. 6, Line 2447, L.O.F.

<sup>6</sup> Annual Report of the Florida Hurricane Catastrophe Fund Fiscal Year 2011-2012, p. 16, available at <http://www.sbafla.com/fhcf/Home/FHCFReports/tabid/315/Default.aspx> (last visited February 5, 2015).

<sup>7</sup> *Id.*

Because of the low cost of reinsurance coverage from the Cat Fund, the fund acts to lower residential property insurance premiums for consumers. The Cat Fund must charge insurers the actuarially indicated premium for the coverage provided, based on hurricane loss projection models found acceptable by the Florida Commission on Hurricane Loss Projection Methodology.

### **Cat Fund Mandatory Coverage**

Each insurance company writing insurance policies covering residential property or any policy covering a residential structure or its contents must participate in the Cat Fund. Residential property is defined in s. 627.4025(1), F.S., to include personal lines and commercial lines residential coverage. This coverage includes the following insurance policies: homeowner, mobile homeowner, dwelling, tenant, condominium unit owner, condominium association, cooperative association, and apartment building.

The Cat Fund is authorized by statute to sell \$17 billion of mandatory layer coverage. Each insurer that purchases coverage may receive up to its proportional share of the \$17 billion mandatory layer of coverage based upon the insurer's share of the actual premium paid for the contract year, multiplied by the claims paying capacity of the fund. For example, if an insurer paid 10 percent of the total premium paid in a contract-year, then that insurer would be eligible to receive up to 10 percent of the mandatory layer of coverage (\$1.7 billion of the \$17 billion mandatory layer).

To access the Cat Fund an insurer must have incurred losses above the retention levels calculated and set by statute. Insurers that experience multiple hurricanes causing losses during the contract year may receive reimbursement from the Cat Fund for losses that exceed the applicable retention. The insurer's full retention is applied to each hurricane causing the two largest losses for that insurer. For each other covered event resulting in losses, the insurer's retention is only one-third of the full retention. Citizens Property Insurance Corporation is the largest purchaser of Cat Fund coverage.

### **Cat Fund Premiums**

The Cat Fund must charge insurers the "actuarially indicated" premium for the coverage provided, based on hurricane loss projection models found acceptable by the Florida Commission on Hurricane Loss Projection Methodology. The "actuarially indicated" premium is an amount that is adequate to pay current and future obligations and expenses of the fund. In practice, each insurer pays the Cat Fund annual reimbursement premiums that are proportionate to each insurer's share of the Cat Fund's risk exposure. The cost of Cat Fund coverage is significantly lower than the cost of private reinsurance due to the fact that the fund is a tax-exempt non-profit corporation and does not charge a "risk load."



### **Cat Fund Claims-Paying Resources**

The Cat Fund cash balance at year-end 2014 was estimated at \$10.936 billion.<sup>8</sup> Assuming no change in FHCF premiums, the 2015 year-end balance would be approximately \$12.2 billion.<sup>9</sup> For the contract year beginning June 1, 2015, therefore, the maximum amount of additional borrowing that would be needed in the event of losses equal to or exceeding the Cat Fund's \$17 billion limit would be approximately \$2.8 billion.<sup>10</sup> The assessment base for the Cat Fund is approximately \$37.933 billion for premiums written at year end 2013,<sup>11</sup> enabling the Cat Fund to levy annual assessments of as much as \$2.276 billion for one contract year and \$3.793 billion for multiple contract years.<sup>12</sup>

### **Cat Fund Bonding and Assessment Authority**

Reimbursements to insurers for losses above the current cash balance of the fund are financed through bonding. When the cash balance of the Cat Fund is insufficient to cover losses, the law authorizes the Cat Fund to issue revenue bonds, which are funded by emergency assessments on property and casualty policyholders. If a large storm triggered the full capacity of the Cat Fund during the 2015 contract year, bond issues totaling over \$2.8 billion could be necessary for the fund to meet its maximum obligations.

Bonds would be funded by an emergency assessment of up to 6 percent of premium on most lines of property and casualty insurance for funding losses from a single year, and up to 10 percent of premium for funding losses from multiple years. All lines of property and casualty insurance, including surplus lines insurance, are subject to emergency assessment except for workers' compensation and medical malpractice liability insurance. The Cat Fund's broad-based assessment authority is one of the reasons the Cat Fund was able to obtain an exemption from federal taxation from the Internal Revenue Service as an integral part of state government.

### **Cat Fund Claims-Paying Capacity Estimates**

In May and October of each contract year, the SBA is required to publish in the Florida Administrative Weekly a statement of the fund's estimated borrowing capacity, the fund's estimated claims-paying capacity, and the projected balance of the fund. At the end of each calendar year, the board is required to notify insurers of the estimated borrowing capacity, estimated claims-paying capacity, and the balance of the fund as of December 31, to provide insurers with data necessary to assist them in determining their retention and projected payout from the fund for loss reimbursement purposes.

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<sup>8</sup> Email from CAT Fund staff received January 27, 2015, on file with Banking and Insurance staff.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

The October 14, 2014, Claims-Paying Capacity Estimate is the most recent such report to be issued. The report, prepared by Raymond James, evaluated the Cat Fund's bonding capacity by analyzing the current financial markets and obtaining written feedback from a senior managing underwriter from four large financial services firms (Barclay's, Citi, Goldman Sachs, and J.P. Morgan).

Bonding capacity (the estimated dollar amount of bonds that could be successfully issued) for a 12-month period is estimated to be \$8.3 billion, with an additional \$6.5 billion of capacity estimated for months 13-24. These amounts are in excess of the maximum amount of bonding that could have been needed for the 2014-2015 contract year. Claims-paying resources for the 2015-2016 contract year will include these amounts plus additional reimbursement premium revenues of approximately \$1.3 billion.<sup>13</sup>

### **Cat Fund Investments**

As of September 30, 2014, the market value of the Cat Fund's investment assets was \$12,653,706,790.<sup>14</sup> The SBA investment policy covering the Cat Fund's assets is designed to provide adequate liquidity by using highly liquid short-term investment strategies. Liquidity is a primary concern for the Cat Fund since insurers may file claims weekly, and investment strategies are planned accordingly. The primary investment objective of the Cat Fund's investment policy is defined by the following prioritized goals: liquidity, so that reimbursement to insurers can be paid in a timely manner; safety of principal investment; and competitive returns.

The Cat Fund's investment policy provides for a high level of liquidity such that assets can be converted to cash on a timely basis in order to match insurer loss reimbursement needs. The Cat Fund's portfolios include only short-term, high quality and highly liquid fixed income securities. Permitted fixed income securities and their diversification limits include:

- Corporate debt securities (not more than 50 percent of total portfolio amortized cost);
- U.S. Treasury securities and U.S. Government Agency securities (at least 50 percent of total portfolio amortized costs); and
- Repurchase Agreements collateralized at least 102 percent with U.S. Government, Agency, or Agency Mortgage Backed Securities (not more than 25 percent of total portfolio amortized cost).

The Cat Fund's investment income for the last 10 years totaled \$525,315,000.

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<sup>13</sup> The precise amount of reimbursement premium will not be determined until after the Cat Fund premium formula is adopted by the SBA Trustees under s. 215.555(5), F.S., and 2015 exposure reports are received from insurers.

<sup>14</sup> Email from CAT Fund staff received January 27, 2015 on file with Banking and Insurance staff.

<b>Cat Fund Investment Income</b>	
Audited Financial Statements (Excludes Finance Corporation)	
<b>Fiscal Year</b>	<b>Investment Income</b>
June 30, 2014	\$19,174,000
June 30, 2013	\$34,638,000
June 30, 2012	\$26,634,000
June 30, 2011	\$29,983,000
June 30, 2010	\$54,298,000
June 30, 2009	\$7,803,000
June 30, 2008	\$46,816,000
June 30, 2007	\$36,065,000
June 30, 2006	\$103,105,000
June 30, 2005	\$108,672,000
June 30, 2004	\$58,127,000
	<b>Total \$525,315,000</b>
Source: FHCF Audited Financial Statements <sup>15</sup>	

**III. Effect of Proposed Changes:**

The bill requires the State Board of Administration to transfer a portion of the investment income from the Florida Hurricane Catastrophe Fund to the Florida Catastrophic Storm Risk Management Center. The funds must solely be used for the center’s statutory purpose of supporting the state’s ability to prepare for, respond to, and recover from catastrophic storms.<sup>16</sup> In addition, the bill is not intended to limit or supplant any funding otherwise available to the center.

The transfer is to begin during the 2015-2016 fiscal year. The amount transferred is to be the lesser of \$1 million or 35 percent minus \$10 million of the fund’s investment income based on the fund’s most recent year-end audit. Based on the Florida Hurricane Catastrophe Fund’s Investment Income for the last 5 fiscal years, had the statutory changes in the bill been in law, the funding to the Florida Catastrophic Storm Risk Management Center would have averaged \$498,800.00 per year, as demonstrated in the following table:

<sup>15</sup> <http://www.sbafla.com/fhcf/Home/AuditedFinancials/tabid/319/Default.aspx> (Last visited 1/15/15).

<sup>16</sup> Section 1004.647, F.S.

<b>Florida Hurricane Catastrophe Fund Investment Income<sup>17</sup></b>		
Audited Financial Statements (Excludes Finance Corporation)		
<b>Fiscal Year</b>	<b>Investment Income</b>	<b>35 percent of Investment Income – (\$10,000,000)</b>
June 30, 2014	\$19,174,000	\$6,711,000 – (\$10,000,000) = <b>\$0</b> < \$1,000,000
June 30, 2013	\$34,638,000	\$12,123,300 – (\$10,000,000) = \$2,123,300 > <b>\$1,000,000</b>
June 30, 2012	\$26,634,000	\$9,321,900 – (\$10,000,000) = <b>\$0</b> < \$1,000,000
June 30, 2011	\$29,983,000	\$10,494,050 – (\$10,000,000) = <b>\$494,000</b> < \$1,000,000
June 30, 2010	\$54,298,000	\$19,004,300 – (\$10,000,000) = \$9,004,300 > <b>\$1,000,000</b>
<b>Five-Year Average</b>		\$498,800
<b>Five-Year Total</b>		\$2,494,000

**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:

No more than \$1 million per year will be transferred from the Florida Hurricane Catastrophe Fund’s investment income to fund the operations of the Florida Catastrophic Storm Risk Management Center.

**VI. Technical Deficiencies:**

None.

<sup>17</sup> <http://www.sbafla.com/fhcf/Home/AuditedFinancials/tabid/319/Default.aspx> (Last visited 1/15/15).

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 215.555 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.

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

---

By Senator Hays

11-00023-15

2015130\_\_

1                   A bill to be entitled  
2       An act relating to the Florida Catastrophic Storm Risk  
3       Management Center; amending s. 215.555, F.S.;  
4       requiring the State Board of Administration to  
5       annually transfer a portion of the investment income  
6       of the Florida Hurricane Catastrophe Fund to the  
7       Florida Catastrophic Storm Risk Management Center to  
8       support the center's ongoing operations; specifying  
9       that the transferred income does not affect funding  
10      otherwise available to the center; providing an  
11      effective date.

12  
13 Be It Enacted by the Legislature of the State of Florida:

14  
15       Section 1. Present paragraphs (d), (e), and (f) of  
16      subsection (7) of section 215.555, Florida Statutes, are  
17      redesignated as paragraphs (e), (f), and (g), respectively, and  
18      a new paragraph (d) is added to that subsection, to read:

19       215.555 Florida Hurricane Catastrophe Fund.—

20       (7) ADDITIONAL POWERS AND DUTIES.—

21       (d) Beginning with the 2015-2016 fiscal year, the State  
22 Board of Administration shall annually transfer a portion of the  
23 investment income of the Florida Hurricane Catastrophe Fund to  
24 the Florida Catastrophic Storm Risk Management Center created by  
25 s. 1004.647 to fund the center's ongoing operations. The amount  
26 of the transfer for each fiscal year shall be the lesser of \$1  
27 million, or 35 percent of the fund's investment income minus \$10  
28 million as determined by using the most recent fiscal year-end  
29 audited financial statements. The amount transferred must be

11-00023-15

2015130\_\_

30 used solely for the center's statutory purposes as specified in  
31 s. 1004.647. This paragraph is not intended to limit or supplant  
32 any funding otherwise available to the center.

33 Section 2. This act shall take effect July 1, 2015.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2-17-2015

Meeting Date

Topic \_\_\_\_\_

Name BRIAN PITTS

Job Title Trustee

Address 1119 Newton Ave S  
Street

St Petersburg FL 33705  
City State Zip

Speaking:  For  Against  Information

Representing Justice-2-Jesus

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

Bill Number 130  
(if applicable)

Amendment Barcode \_\_\_\_\_  
(if applicable)

Phone 727/897-9291

E-mail justice2jesus@yahoo.com





## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Appropriations Subcommittee on General Government, *Chair*  
Governmental Oversight and Accountability, *Vice Chair*  
Appropriations  
Environmental Preservation and Conservation  
Ethics and Elections  
Fiscal Policy

### JOINT COMMITTEE:

Joint Select Committee on Collective Bargaining, *Alternating Chair*

**SENATOR ALAN HAYS**

11th District

## MEMORANDUM

**To:** Senator Wilton Simpson, Chair  
Community Affairs Committee  
CC: Tom Yeatman, Staff Director  
Ann Whittaker, Committee Administrative Assistant

**From:** Senator D. Alan Hays

**Subject:** Request to agenda SB 130 – Florida Catastrophic Storm Risk Management Center

**Date:** January 21, 2014

---

I respectfully request that you agenda the above referenced bill at your earliest convenience. If you have any questions regarding this legislation, I welcome the opportunity to meet with you one-on-one to discuss it in further detail. Thank you so much for your consideration of this request.

Sincerely,

A handwritten signature in cursive script that reads "D. Alan Hays, DMD".

D. Alan Hays, DMD  
State Senator, District 11

### REPLY TO:

- 871 South Central Avenue, Umatilla, Florida 32784-9290 (352) 742-6441
- 320 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5011
- 1104 Main Street, The Villages, Florida 32159 (352) 360-6739 FAX: (352) 360-6748
- 685 West Montrose Street, Suite 210, Clermont, Florida 34711 (352) 241-9344 FAX: (888) 263-3677

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Community Affairs

---

BILL: SB 442

INTRODUCER: Senator Altman

SUBJECT: Local Government Services

DATE: February 16, 2015

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stearns	Yeatman	CA	<b>Pre-meeting</b>
2.			EP	
3.			RC	

---

**I. Summary:**

SB 442 requires a municipality to obtain the express consent of a county prior to exercising its corporate powers under ch. 180, F.S., within unincorporated areas of a county.

The bill expands a prohibition on the provision of water or sewer facilities by a county to properties already receiving such facilities from a municipality to include a ban on the provision of services as well. However, the bill authorizes a county to provide water/sewer facilities or services to a property without the municipality's permission if the property is outside the municipality's borders and any prior consent agreement between the county and municipality related to the provision of such services or facilities has expired.

**II. Present Situation:**

**Counties**

Article VIII, s. 1 of the State Constitution establishes the powers of non-charter counties and charter counties. Non-charter counties have the power of self-government as provided by general law or special law.<sup>1</sup> Charter counties have broader powers; these counties have all powers of local self-government not inconsistent with general law or special law approved by vote of the electors and may enact ordinances not inconsistent with general law.<sup>2</sup>

**Municipalities**

Pursuant to Art. VIII, s. 2(b) of the State Constitution municipalities, have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal

---

<sup>1</sup> Art. VIII, s. 1(f), Fla. Const.

<sup>2</sup> Art. VIII, s. 1(g), Fla. Const.

purposes except as otherwise provided by law. The legislative body of each municipality has the power to enact legislation on any subject upon which the state Legislature may act, with certain exceptions.<sup>3</sup>

### **Current Law Governing the Provision of Water Facilities**

Section 153.03(1), F.S., provides all counties the power to construct and operate water and sewer systems. However, a county may not construct, own, or operate any water or sewer facilities on property within the corporate limits of a municipality without the consent of the municipality's governing body.<sup>4</sup> In addition, a county may not furnish such facilities to a property already being furnished similar facilities by a municipality without the consent of the municipality's governing body.

An exception to the general grant of power made to municipalities is the exercise of extra-territorial powers, which must be performed in accordance with general or special law.<sup>5</sup> Chapter 180, F.S., authorizes municipalities to execute their corporate powers to provide for water supply and sewage collection and disposal systems outside of their corporate limits.

Section 180.19(1), F.S., allows a municipality to permit any other municipality and the owners or association of owners of lots or lands outside of its corporate limits or within the limits of any other municipality, to connect with or use the utilities mentioned in ch. 180, F.S., upon such terms and conditions as are agreeable to the parties. Incidental powers necessary to accomplish the provision of such facilities are also provided for, including the authority to: "construct reservoirs, sewerage systems, trunk sewers, intercepting sewers, pumping stations, wells, siphons, intakes, pipelines, distribution systems, purification works, collection systems, treatment and disposal works."<sup>6</sup>

A recent survey of municipalities in Florida indicated that 254 municipalities provide water services and 222 provide sewer services.<sup>7</sup> Of these municipalities, 137 provide water and/or sewer services to customers outside of their municipal boundaries.

### **III. Effect of Proposed Changes:**

**Section 1** expands the current prohibition against a county providing, absent a municipality's permission, water or sewer **facilities** to a property to which a municipality already furnishes such facilities to also ban the provision of water or sewer **services**. However, the bill allows a county to furnish such facilities or services to a property without the municipality's permission if the

---

<sup>3</sup> Pursuant to s. 166.021(3)(a)-(d), F.S., a municipality may not enact legislation on the following: the subjects of annexation, merger, and exercise of extraterritorial power, which require general law or special law; any subject expressly prohibited by the constitution; any subject expressly preempted to state or county government by the constitution or by general law; and any subject preempted to a county pursuant to a county charter adopted under the authority of the State constitution.

<sup>4</sup> Section 153.03(1), F.S. An exception exists where such facilities were owned by the county on such property prior to the time such property was included within the corporate limits of such municipality.

<sup>5</sup> Art. VIII, s. 2(c), Fla. Const.

<sup>6</sup> Section 180.06(6), F.S.

<sup>7</sup> Analysis for HB 813, by the House Subcommittee on Energy and Utilities (March 18, 2014) at p. 3, available at <http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName=h0813a.EUS.DOCX&DocumentType=Analysis&BillNumber=0813&Session=2014> (last visited February 9, 2015).

property is outside the municipality's boundary and any prior consent agreement between the municipality and the county regarding such facilities or services has expired.

**Section 2** prohibits a municipality from extending and executing its corporate powers in relation to public works projects into the unincorporated areas of a county without the express consent of the governing body of the county.

**Section 3** provides an effective date of July 1, 2015.

**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:

Those municipalities currently providing water and wastewater facilities or services outside their municipal boundaries pursuant to a consent agreement between the municipality and the county may experience a reduction in revenues upon the expiration of the consent agreement.

**VI. Technical Deficiencies:**

None.

## VII. Related Issues:

### Possible Conflict with Exclusive Jurisdiction of the Public Service Commission

Section 180.02, F.S., authorizes a municipality to “extend and execute **all** of its corporate powers... outside of its corporate limits...as may be desirable or necessary for the promotion of the public health, safety and welfare...”

Pursuant to Art. VIII, s. 2(b) of the State Constitution, municipalities have “governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law.” No general or special law prohibits a municipality from providing electric utility services.

Furthermore, s. 366.02(2), F.S., defines an “electric utility” to include “any municipal electric utility.” In fact, according to the Florida Municipal Power Agency, 31 municipalities in Florida do actually operate a municipal electric utility.<sup>8</sup> Therefore, it is reasonable to assume that provision of electric utility services is one of a municipality’s many “corporate powers” which may be exercised outside of its corporate limits to promote the public health, safety and welfare.

In 1994, the Fifth District Court of Appeal interpreted s. 180.02, F.S., to allow a municipality to exercise its authority to construct an electrical utility outside of the municipal boundary. *City of Ocala v. Red Oak Farm, Inc.*, 636 So.2d 81 (Fla. 5th DCA 1994). A similar argument can be made with relation to a municipal gas utility.

The Public Service Commission has power over electric utilities to “approve territorial agreements,”<sup>9</sup> and “to resolve, upon petition of a utility or on its own motion, any territorial dispute involving service areas.”<sup>10</sup> The commission is provided the same powers with respect to natural gas utilities.<sup>11</sup>

The commission’s jurisdiction is declared by the Florida Statutes to be “exclusive and superior to that of all other boards, agencies, political subdivisions, municipalities, towns, villages, or **counties**...”<sup>12</sup>

Section 2 of the bill purports to give counties authority over whether a municipality may extend or apply its corporate powers (which may include the power to provide electric and gas utility services) within the unincorporated areas of a county. This would appear to be in conflict with the exclusive authority of the Public Service Commission, as provided by s. 366.04(1), F.S.

## VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 153.03, 180.02.

<sup>8</sup> See <http://fmpa.com/about/members/> (last visited February 12, 2015).

<sup>9</sup> Section 366.04(2)(d), F.S.

<sup>10</sup> Section 366.04(2)(e), F.S.

<sup>11</sup> Section 366.04(3)(a) and (b), F.S.

<sup>12</sup> Section 366.04(1), F.S.

**IX. Additional Information:**

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

None.

- B. **Amendments:**

None.

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

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By Senator Altman

16-00582-15

2015442\_\_

1                   A bill to be entitled  
2           An act relating to local government services; amending  
3           s. 153.03, F.S.; authorizing a county to provide  
4           certain services and facilities outside the boundaries  
5           of a municipality without the express consent of the  
6           municipality's governing body under certain  
7           circumstances; amending s. 180.02, F.S.; prohibiting a  
8           municipality from extending its corporate powers  
9           within unincorporated areas of a county without the  
10          express consent of the county's governing body;  
11          providing an effective date.

12  
13 Be It Enacted by the Legislature of the State of Florida:

14  
15           Section 1. Subsection (1) of section 153.03, Florida  
16 Statutes, is amended to read:

17           153.03 General grant of power.—Any of the several counties  
18 of the state which may hereafter come under the provisions of  
19 this chapter as hereinafter provided is hereby authorized and  
20 empowered:

21           (1) To purchase or ~~and/or~~ construct and ~~to~~ improve, extend,  
22 enlarge, and reconstruct a water supply system ~~or systems~~ or  
23 sewage disposal system ~~or systems~~, or both, within such county  
24 and any adjoining ~~county or~~ counties and to purchase or ~~and/or~~  
25 construct or reconstruct water system improvements or sewer  
26 improvements, or both, within such county and any adjoining  
27 ~~county or~~ counties and to operate, manage, and control all such  
28 systems so purchased or ~~and/or~~ constructed and all properties  
29 pertaining thereto and to furnish and supply water and sewage

16-00582-15

2015442\_\_

30 collection and disposal services to any of such counties and to  
 31 any municipalities and any persons, firms or corporations,  
 32 public or private, in any of such counties. ~~;~~ ~~provided,~~ However,  
 33 ~~that~~ none of the facilities provided by this chapter may be  
 34 constructed, owned, operated, or maintained by the county on  
 35 property located within the corporate limits of any municipality  
 36 without the consent of the governing council, ~~commission or~~ body  
 37 ~~having general legislative authority in the government~~ of such  
 38 municipality unless such facilities were owned by the county on  
 39 such property prior to the time such property was included  
 40 within the corporate limits of such municipality. A ~~No~~ county  
 41 may not shall furnish any of the facilities or services provided  
 42 by this chapter to a any property already being furnished such  
 43 like facilities or services by a any municipality without the  
 44 express consent of the governing council, ~~commission or~~ body  
 45 ~~having general legislative authority in the government~~ of such  
 46 municipality, unless the facilities or services are being  
 47 provided outside the boundary of the municipality and the prior  
 48 consent agreement between the parties related to the provision  
 49 of such facilities or services has expired.

50 Section 2. Subsection (2) of section 180.02, Florida  
 51 Statutes, is amended to read:

52 180.02 Powers of municipalities.-

53 (2) A ~~Any~~ municipality may extend and execute all of its  
 54 corporate powers to accomplish ~~applicable for the accomplishment~~  
 55 ~~of~~ the purposes of this chapter outside of its corporate limits,  
 56 as hereinafter provided and as may be desirable or necessary to  
 57 promote ~~for the promotion of~~ the public health, safety, and  
 58 welfare or to accomplish ~~for the accomplishment of~~ the purposes



16-00582-15

2015442\_\_

59 of this chapter. ~~;~~ ~~provided,~~ However, such ~~that~~ ~~said~~ corporate  
60 powers do ~~shall~~ not extend or apply within the corporate limits  
61 of another municipality or extend or apply within the  
62 unincorporated areas of a county without the express consent of  
63 the governing body of such county.

64 Section 3. This act shall take effect July 1, 2015.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2 / 17 / 2015

*Meeting Date*

Topic \_\_\_\_\_

Bill Number 442

*(if applicable)*

Name BRIAN PITTS

Amendment Barcode \_\_\_\_\_

*(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

*Street*

SAINT PETERSBURG

FLORIDA

33705

E-mail JUSTICE2JESUS@YAHOO.COM

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/20/11)



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Military and Veterans Affairs, Space, and Domestic Security, *Chair*  
Children, Families, and Elder Affairs, *Vice-Chair*  
Appropriations  
Appropriations Subcommittee on General Government  
Environmental Preservation and Conservation  
Finance and Tax

### SENATOR THAD ALTMAN

16th District

February 5, 2014

The Honorable Wilton Simpson  
Senate Committee on Community Affairs, Chair  
315 Knott Building  
404 South Monroe Street  
Tallahassee, FL 32399

Dear Chairman Simpson:

I respectfully request that SB 0442, related to *Local Government Services*, 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,

A handwritten signature in blue ink that reads "Thad Altman".

Thad Altman

CC: Tom Yeatman, Staff Director, 315 Knott Building  
Ann Whittaker, Committee Administrative Assistant

TA/svb

#### REPLY TO:

- 8710 Astronaut Blvd, Cape Canaveral, FL 32920 (321) 752-3138
- 314 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5016

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Community Affairs

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BILL: SB 590

INTRODUCER: Senator Altman

SUBJECT: Flags

DATE: February 16, 2015

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stearns	Yeatman	CA	<b>Favorable</b>
2.			GO	
3.			FP	

---

**I. Summary:**

SB 590 requires all United States and state flags purchased on or after January 1, 2016, by the state, a county, or a municipality for public use to be made in the United States entirely from domestically grown, produced, and manufactured materials.

**II. Present Situation:**

**Display of United States and State Flags**

The United States and state flags must be displayed in certain venues under current law. The United States flag must be displayed at the state capitol<sup>1</sup> and at every county courthouse,<sup>2</sup> public auditorium,<sup>3</sup> polling station on election days,<sup>4</sup> and on the grounds and in the classrooms of public K-20 educational institutions.<sup>5</sup> The state flag must be displayed on the grounds of every public K-20 educational institution in the state.<sup>6</sup> Display of the state flag is otherwise governed by protocols adopted by the Governor.<sup>7</sup>

**Procurement of Flags**

Purchases by the executive branch are regulated by the provisions of ch. 287, F.S. The Department of Management Services (DMS) is responsible for the procurement of goods and

---

<sup>1</sup> Section 256.01, F.S.

<sup>2</sup> *Id.*

<sup>3</sup> Section 256.11, F.S.

<sup>4</sup> Section 256.011(1), F.S.

<sup>5</sup> Section 1000.06(1), F.S.

<sup>6</sup> Section 1000.06(1), F.S.; see also S. 256.032, F.S. (requiring state flag to be displayed on grounds of every elementary and secondary public school).

<sup>7</sup> Section 256.015(1), F.S.

services for all state agencies.<sup>8</sup> DMS employs state-wide purchasing rules to coordinate purchases across the various agencies of the state, utilizing the buying power of the state to promote efficiency and savings in the procurement process.<sup>9</sup> Agencies are defined by ch. 287, F.S., as "any of the various state officers, departments, boards, commissions, divisions, bureaus, and councils and any other unit of organization, however designated, of the executive branch of state government."<sup>10</sup> State universities and colleges, including their boards of trustees, are specifically excluded from this definition of agency.<sup>11</sup>

Accounting requirements for purchases vary depending on the value of the services. Formal competitive bidding is required for all contracts in excess of \$35,000.<sup>12</sup> For contracts between \$2,500 and \$35,000, agencies should receive informal bids when practical, but may conform to "good purchasing practices," such as written quotations or written records of telephone quotations.<sup>13</sup> For contracts less than \$2,500, agencies are only required to conform to good purchasing practices.<sup>14</sup>

While there is currently no specific state law on flag procurement, most flags purchased by DMS are manufactured in the United States from domestically-sourced materials. Of the 772 flags purchased by agencies via MyFloridaMarketplace<sup>15</sup> in fiscal year 2012-13, 682 were produced by RESPECT of Florida.<sup>16</sup> RESPECT of Florida is a 501(c)3<sup>17</sup> non-profit organization under contract with DMS<sup>18</sup> to administer the State Use Program, designed to provide employment opportunities for handicapped individuals.<sup>19</sup> All United States and state flags sold by RESPECT are assembled in the organization's Miami employment center from materials produced in the United States.<sup>20</sup>

The legislative and judicial branches have separate procurement processes. The purchase of flags for the House of Representatives and Senate are handled by each chamber's administrative offices. Procurement for the judicial branch falls under the aegis of the Office of the State Courts Administrator.<sup>21</sup>

The procurement of goods and services by counties, municipalities, and school districts are not governed by the provisions of ch. 287, F.S.<sup>22</sup> Generally, flags purchased by counties,

<sup>8</sup> Section 287.042(1)(a), F.S.

<sup>9</sup> Section 287.032, F.S.

<sup>10</sup> Section 287.012(1), F.S.

<sup>11</sup> Section 287.012(1), F.S. Other statutes define the word "agency" differently in different contexts. See, s. 120.52(1), F.S.

<sup>12</sup> Section 287.057, F.S.

<sup>13</sup> Rule 60A-1.002(3), F.A.C.

<sup>14</sup> Rule 60A-1.002(2), F.A.C.

<sup>15</sup> The online procurement system operated by DMS through which agencies may make certain types of purchases, at [http://www.dms.myflorida.com/business\\_operations/state\\_purchasing/myfloridamarketplace](http://www.dms.myflorida.com/business_operations/state_purchasing/myfloridamarketplace) (last visited February 6, 2015).

<sup>16</sup> HB 201 Bill Analysis, Department of Management Services, March 6, 2014.

<sup>17</sup> 26 U.S.C. s. 501(c)(3).

<sup>18</sup> See Rule 60E-1.003, F.A.C. (authorizing DMS to designate a "Central, Non-Profit Agency" to provide services specified in ss. 413.032-413.037, F.S.).

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> See Fla. R. Jud. Admin. 2.205(e)(2).

<sup>22</sup> *Cf.* s. 287.055(2)(b), F.S. (including "a municipality, a political subdivision, a school district, or a school board" in the definition of "agency" for the purposes of procuring architectural, engineering, and surveying services).

municipalities, or school districts would only be subject to local ordinance. However, current law authorizes the Department of State to provide state flags to schools, governmental agencies, and other groups and organizations at no cost, up to an annual cost for the Department of \$15,000 per year.<sup>23</sup>

Current law gives a preference to Florida businesses in the awarding of competitive bids, equal to either the preference given by the lowest out-of-state vendor's home state or five percent (if no preference is given by the lowest out-of-state vendor's home state).<sup>24</sup> State agencies, universities, colleges, school districts, and other political subdivisions are required to give this preference,<sup>25</sup> but counties and municipalities are specifically excluded from the requirement.<sup>26</sup>

While it is possible that some of the flags purchased by state and local governments are foreign-made, the quantity is likely to be small. The Flag Manufacturers Association of America estimates that 95 percent of United States flags are manufactured entirely in the United States.<sup>27</sup> According to the Census Bureau, \$302.7 million of "fabricated flags, banners, and similar emblems" were produced in the United States in 2007,<sup>28</sup> while \$4 million worth of flags were imported in 2013.<sup>29</sup>

### **Procurement of Flags by the Federal Government and Other States**

The federal government is required to purchase domestically manufactured goods if the contract amount exceeds a minimum threshold.<sup>30</sup> These requirements can be waived by the President of the United States under the Trade Agreements Act of 1979, if a waiver is necessary for the purpose of entering into trade agreements with other countries.<sup>31</sup> According to the Congressional Research Service, waivers under the Trade Agreement Act of 1979 are heavily used, resulting in little remaining scope for the Buy American Act provisions.<sup>32</sup>

Other provisions of federal law, however, require domestically produced goods. The Berry Amendment<sup>33</sup> requires a "super percentage" of certain types of goods (including flags) to be wholly domestic in origin.<sup>34</sup> Another statute prohibits the Department of Veterans Affairs from procuring burial flags that were not domestically produced and manufactured.<sup>35</sup>

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<sup>23</sup> Section 256.031(1), F.S.

<sup>24</sup> Section 287.084(1)(a), F.S.

<sup>25</sup> *Id.*

<sup>26</sup> Section 287.084(1)(c), F.S.

<sup>27</sup> Flag Manufacturers Association of America, FAQ's, <http://fmaa-usa.com/info/FAQ.php> (last visited February 6, 2015).

<sup>28</sup> U.S. Census Bureau News, Profile America Facts for Features, The Fourth of July 2013, <http://www.census.gov/newsroom/facts-for-features/2013/cb13-ff14.html> (last visited February 6, 2015).

<sup>29</sup> U.S. Census Bureau News, Profile America Facts for Features, The Fourth of July 2014, <http://www.census.gov/newsroom/facts-for-features/2014/cb14-ff16.html> (last visited February 6, 2015).

<sup>30</sup> 41 U.S.C. s. 8301, et seq. ("Buy American Act of 1933").

<sup>31</sup> 41 U.S.C. s. 2501, et seq.

<sup>32</sup> Domestic Content Restrictions: The Buy American Act and Complementary Provisions of Federal Law, Congressional Research Service, January 6, 2014, available at <http://www.hsdl.org/?view&did=749327>.

<sup>33</sup> 10 U.S.C. s. 2533a.

<sup>34</sup> Domestic Content Legislation: The Buy American Act and Complementary Little Buy American Provisions, Congressional Research Service, April 25, 2012, available at <http://fas.org/sgp/crs/misc/R42501.pdf>.

<sup>35</sup> 38 U.S.C. s. 2301(h)(1).

Several states have existing statutes requiring the use of domestically manufactured flags. Oklahoma requires all flags purchased by the state and all political subdivisions to be manufactured in the United States.<sup>36</sup> Massachusetts has a similar law that applies to all public institutions.<sup>37</sup> Arizona requires a domestically-manufactured United States flag to be displayed in all public school classrooms.<sup>38</sup> Tennessee requires any United States or state flag purchased under a state contract to be manufactured in the United States.<sup>39</sup> Minnesota prohibits the sale of a United States flag produced outside the United States.<sup>40</sup>

### III. Effect of Proposed Changes:

**Section 1** provides that the act may be cited as the “All-American Flag Act.”

**Section 2** requires any United States or state flag purchased for public use by the state, a county, or a municipality, on or after January 1, 2016, to be wholly manufactured in the United States from materials grown and/or produced domestically.

**Section 3** provides an effective date of July 1, 2015.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

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

None.

#### C. Trust Funds Restrictions:

None.

#### D. Other Constitutional Issues:

##### Impairment of Contract

Both the United States<sup>41</sup> and Florida<sup>42</sup> constitutions prohibit the state from passing laws impairing existing contractual rights. Contractual rights are impaired to the extent the law changes the substantive rights of the parties in the existing contract.<sup>43</sup> For an impairment of contractual rights to be constitutionally valid, the law must balance the state’s objective against the harm to the contract, intruding on the contractual right no more than

<sup>36</sup> Okla. Stat. tit. 25, s. 158.

<sup>37</sup> Mass. Gen. Laws ch. 2, s. 6.

<sup>38</sup> Ariz. Rev. Stat. s. 15-1626(17).

<sup>39</sup> Tenn. Code Ann. s. 4-1-301(d).

<sup>40</sup> Minn. Stat. s. 325E.65.

<sup>41</sup> U.S. Const. art. 1, § 9, cl. 10. (“No State shall . . . pass any . . . Law impairing the Obligation of Contracts.”).

<sup>42</sup> Fla. Const. art. I, s. 10. (“No . . . law impairing the obligation of contracts shall be passed.”)

<sup>43</sup> Manning v. Travelers Ins. Co., 250 So. 2d 872, 874 (Fla. 1971).

is necessary to achieve the public purpose of the law.<sup>44</sup> The ability of the state to modify contractual obligations is most limited when a final agreement has been reached between a party and the state.<sup>45</sup>

While the bill only applies to purchases of flags by state or local governments after January 1, 2016, it is possible the state or a local government may have existing contracts that are not compliant with the bill that extend beyond that date.

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

The bill could have a positive economic impact on businesses selling United States and state flags that are domestically-produced and sourced. The bill could have a negative impact on businesses selling United States and state flags that are either imported or produced domestically from foreign materials.

**C. Government Sector Impact:**

This bill may have an indeterminate negative fiscal impact on state and local governments, depending on the extent to which state and local governments are currently purchasing flags produced outside of the United States or made from foreign materials and the cost difference between those flags and domestically-produced and sourced flags.

**VI. Technical Deficiencies:**

The bill does not contain a method of verification to ensure the flags purchased by state and local governments are manufactured in the United States from domestic materials.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 256.041 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.

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<sup>44</sup> Pomponio v. Claridge of Pompano Condominium, Inc., 378 So. 2d 774, 779-80 (Fla. 1979).

<sup>45</sup> Chiles v. United Faculty of Fla., 615 So. 2d 671, 672 (Fla. 1993).



B. Amendments:

None.

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

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By Senator Altman

16-00863-15

2015590\_\_

1                   A bill to be entitled  
2           An act relating to flags; providing a short title;  
3           creating s. 256.041, F.S.; requiring a United States  
4           flag or a state flag that is purchased on or after a  
5           specified date by the state, a county, or a  
6           municipality for public use to be made in the United  
7           States; providing an effective date.  
8

9 Be It Enacted by the Legislature of the State of Florida:  
10

11           Section 1. This act may be cited as the "All-American Flag  
12 Act."

13           Section 2. Section 256.041, Florida Statutes, is created to  
14 read:

15           256.041 Purchase of United States flag or state flag for  
16 public use.—When the state, a county, or a municipality  
17 purchases a United States flag or a state flag for public use,  
18 the flag must be made in the United States from articles,  
19 materials, or supplies, all of which are grown, produced, and  
20 manufactured in the United States. This section applies to the  
21 purchase of a flag on or after January 1, 2016.

22           Section 3. This act shall take effect July 1, 2015.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2 11/7/2015

Meeting Date

Topic \_\_\_\_\_

Bill Number 590  
*(if applicable)*

Name BRIAN PITTS

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH  
*Street*

Phone 727-897-9291

SAINT PETERSBURG      FLORIDA      33705  
*City*                                      *State*                                      *Zip*

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking:     For     Against     Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair:     Yes     No

Lobbyist registered with Legislature:     Yes     No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/17/2015

Meeting Date

590

Bill Number (if applicable)

Topic All American Flag act

Amendment Barcode (if applicable)

Name CHARLES WITHERS

Job Title intern

Address ~~235P~~ 7205 Whitney ave

Phone \_\_\_\_\_

Street

Cocoa

City

FL

State

Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing All American Flag act

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

Tallahassee, Florida 32399-1100

### COMMITTEES:

Military and Veterans Affairs, Space, and Domestic Security, *Chair*  
Children, Families, and Elder Affairs, *Vice-Chair*  
Appropriations  
Appropriations Subcommittee on General Government  
Environmental Preservation and Conservation  
Finance and Tax

### SENATOR THAD ALTMAN

16th District

February 5, 2014

The Honorable Wilton Simpson  
Senate Committee on Community Affairs, Chair  
315 Knott Building  
404 South Monroe Street  
Tallahassee, FL 32399

Dear Chairman Simpson:

I respectfully request that SB 0590, related to *Flags*, 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,

A handwritten signature in blue ink that reads "Thad Altman".

Thad Altman

CC: Tom Yeatman, Staff Director, 315 Knott Building  
Ann Whittaker, Committee Administrative Assistant

TA/svb

#### REPLY TO:

- 8710 Astronaut Blvd, Cape Canaveral, FL 32920 (321) 752-3138
- 314 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5016

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**SENATOR THAD ALTMAN**

16th District

**COMMITTEES:**

Military Affairs, Space, and Domestic Security, *Chair*  
Appropriations Subcommittee on Criminal and  
Civil Justice  
Appropriations Subcommittee on Finance and Tax  
Children, Families, and Elder Affairs  
Criminal Justice  
Environmental Preservation and Conservation

**SELECT COMMITTEE**

Indian River Lagoon and Lake Okeechobee

**JOINT COMMITTEE:**

Joint Committee on Public Counsel Oversight

February 17, 2015

The Honorable Wilton Simpson  
Senate Committee on Community Affairs  
315 Knott Building  
404 S. Monroe Street  
Tallahassee, FL 32399-1100

Dear Chairman Simpson:

Senate Bill 590, related to *American Flags* is on the Community Affairs Committee agenda on February 17, 2015. Due to a scheduling conflict I will be unable to attend.

Please recognize my Legislative Assistant Devon West to present SB 590 on my behalf. Please feel free to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Thad Altman".

Thad Altman

CC: Tom Yeatman, Staff Director, 315 Knott Building  
Ann Whittaker, Committee Administrative Assistant

TA/svb

**REPLY TO:**

- 6767 North Wickham Road, Suite 211, Melbourne, Florida 32940 (321) 752-3138
- 314 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5016

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Community Affairs

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**BILL:** CS/SB 172

**INTRODUCER:** Governmental Oversight and Accountability Committee; and Senators Bradley, Ring and Gaetz

**SUBJECT:** Local Government Pension Reform

**DATE:** February 17, 2015      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McVaney</u>	<u>McVaney</u>	<u>GO</u>	<u>Fav/CS</u>
2.	<u>White</u>	<u>Yeatman</u>	<u>CA</u>	<u>Favorable</u>
3.	_____	_____	<u>FP</u>	_____

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

COMMITTEE SUBSTITUTE - Technical Changes

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**I. Summary:**

CS/SB 172 substantially amends provisions specifying how insurance premium tax revenues must be used in police and firefighter pension plans. As a general rule, premium tax revenues equal to the amount received in 1997 by a particular plan must be used to fund the minimum benefits specified in chapters 175 or 185, F.S., and other retirement benefits. Any premium tax revenues received by a plan in excess of the 1997 threshold must be used to fund minimum benefits, additional retirement benefits and defined contribution plans under certain specified situations. The bill authorizes deviation from the specified uses of premium tax revenues, including accumulations of additional tax revenues which have not been applied to fund benefits in excess of the defined minimum benefits, by mutual consent of collective bargaining representatives or majority consent of plan members and consent of the municipality or special fire control district.

The bill increases the minimum annual benefit accrual rate from 2.0 percent to 2.75 percent, subject to certain exceptions.

The bill grandfathers changes to a plan that are based on that particular plan's reliance on an interpretation by the Department of Management Services (DMS) of the existing statute, as evidenced by correspondence with the DMS between August 14, 2012, and March 3, 2015.

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

The overall costs or savings from the bill are indeterminate. The impact of the bill will vary depending upon the level of benefits currently offered by those plans, the amount of revenue received from the insurance premium tax by the plan sponsor, the service accrual rate under each plan, and the terms of any collective bargaining agreement between the plan sponsor and the affected police or firefighter collective bargaining unit. The bill has no fiscal impact on state revenues or expenditures.

## II. Present Situation:

### Background

The Marvin B. Clayton Firefighters' and Police Officers' Pension Trust Fund Acts<sup>1</sup> declare a legitimate state purpose of providing a uniform retirement system for the benefit of firefighters and municipal police officers. All municipal and special district firefighters and all municipal police officers retirement trust fund systems or plans established pursuant to ch. 175 or 185, F.S., must be managed, administered, operated, and funded to maximize the protection of firefighters' and police officers' pension trust funds.<sup>2</sup>

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

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

### Funding

Four sources provide funding for these police officer and firefighter pension plans:

- The net proceeds from an excise tax levied by a city upon property and casualty insurance companies (known as the "premium tax");
- Employee contributions;

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<sup>1</sup> See ch. 175 and 185, F.S.

<sup>2</sup> See ss. 175.021(1) and 185.01(1), F.S.

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



- Other revenue sources (fines, gifts, and interest earnings); and
- Mandatory payments by the city of the normal cost of the plan.<sup>4</sup>

An excise tax of 1.85 percent imposed on the gross premiums of property insurance covering property within boundaries of the municipality or special fire control district funds the Firefighters’ Pension Trust Fund of each participating municipality or special fire control district.<sup>5</sup> The insurers pay the tax to the Department of Revenue (DOR), and the net proceeds are transferred to the appropriate fund at the division.<sup>6</sup> These taxes paid by the insurers are fully creditable against the state insurance premium taxes imposed pursuant to ch. 624, F.S.<sup>7</sup> In other words, a similar amount of tax would be deposited into the state’s General Revenue Fund but for the imposition of the local premium tax. In 2013, premium tax distributions to municipalities and special fire districts from the Firefighters’ Pension Trust Fund amounted to \$74.7 million.<sup>8</sup>

An excise tax of 0.85 percent imposed on the gross premiums on casualty insurance policies covering property within the boundaries of a municipality funds the Police Officers’ Retirement Trust Fund.<sup>9</sup> Similar to the Firefighters’ Pension Trust Fund, insurers pay the excise tax to the DOR, which transfers the net proceeds to the appropriate fund at the division.<sup>10</sup> These taxes paid by the insurers are fully creditable against the state insurance premium taxes imposed pursuant to ch. 624, F.S.<sup>11</sup> In other words, a similar amount of tax would be deposited into the state’s General Revenue Fund but for the imposition of the local premium tax. In 2013, premium tax distributions to municipalities from the Police Officers’ Retirement Trust Fund amounted to \$64.9 million.<sup>12</sup>

Year	Premium Taxes Distributed to Chapter 175 Plans (Firefighter)	Premium Taxes Distributed to Chapter 185 Plans (Police)
1997	\$26,841,000	\$41,030,000
1998	\$29,469,000	\$41,218,000
1999	\$30,116,000	\$42,104,000
2000	\$30,902,000	\$43,600,000
2001	\$34,765,000	\$48,652,000
2002	\$40,044,000	\$54,556,000
2003	\$44,731,000	\$61,545,000
2004	\$48,515,000	\$62,224,000
2005	\$53,460,000	\$64,326,000
2006	\$60,500,000	\$65,619,000
2007	\$69,982,000	\$65,308,000

<sup>4</sup> Sections 175.091(1)(a) and 185.07(1), F.S.

<sup>5</sup> Section 175.101(1), F.S.

<sup>6</sup> See s. 175.121, F.S.

<sup>7</sup> See s. 624.509(7), F.S.

<sup>8</sup> Department of Management Services, *Firefighters' 2013 Premium Tax Distribution Calculation*, available online at: [https://www.rol.frs.state.fl.us/forms/Fire\\_2013.pdf](https://www.rol.frs.state.fl.us/forms/Fire_2013.pdf) (last visited on January 15, 2015).

<sup>9</sup> See s. 185.08, F.S.

<sup>10</sup> See s. 185.10, F.S.

<sup>11</sup> See s. 624.509(7), F.S.

<sup>12</sup> Department of Management Services, *Police Officers' 2013 Premium Tax Distribution Calculations*, available online at: [https://www.rol.frs.state.fl.us/forms/Police\\_2013.pdf](https://www.rol.frs.state.fl.us/forms/Police_2013.pdf) (last visited on January 15, 2015).

2008	\$67,152,000	\$63,961,000
2009	\$70,530,000	\$59,426,000
2010	\$70,122,000	\$57,469,000
2011	\$71,744,000	\$59,615,000
2012	\$72,471,000	\$62,608,000
2013	\$74,705,000	\$64,869,000

The table above shows the aggregate amount of premium taxes distributed to the ch. 175, F.S., (firefighter) plans and ch. 185, F.S., (police) plans during the last 17 years. The amounts shown for 1997 are the aggregate amounts distributed to the plans in 1997 and may be used to fund minimum benefits. The difference between the 2013 aggregate amounts and the 1997 aggregate amounts (roughly \$47.9 million for firefighter plans and \$23.8 million for police officer plans) are the “additional premium tax revenues” that have been available only for “extra benefits.”

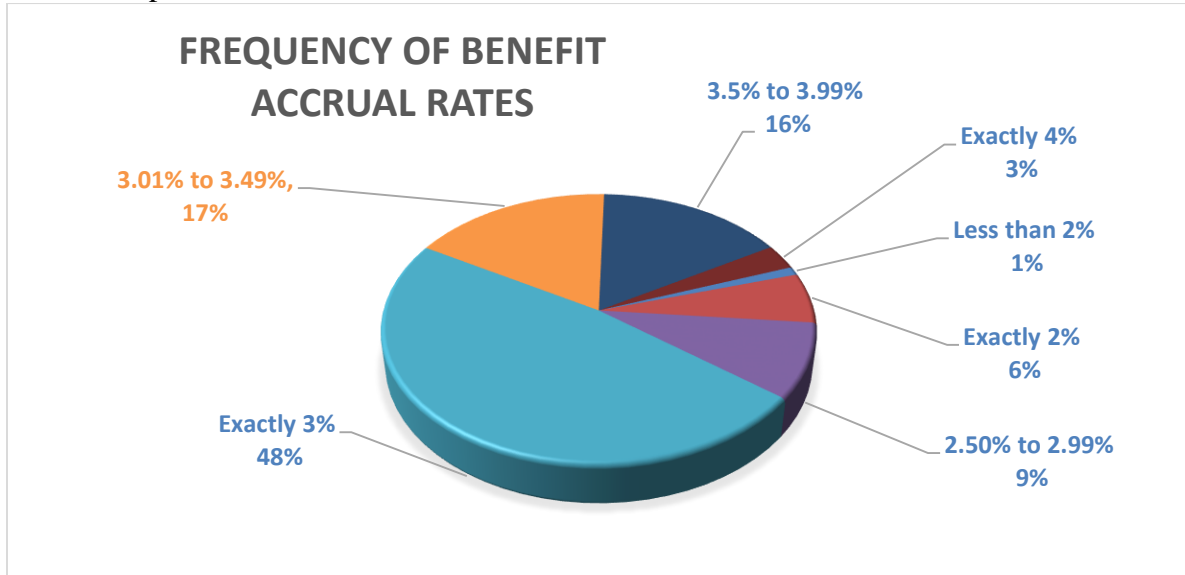
**Minimum Benefit Levels**

Chapters 175 and 185, F.S., specify certain “minimum benefits” that must be provided in firefighter and police plans,<sup>13</sup> summarized in relevant part below:

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

<sup>13</sup> Sections 175.032, 175.162, 175.191, 185.02, 185.16, and 185.18, F.S.

The chapter law plans adopt the statutory minimum benefits for their plans. The local law plans have broad discretion to establish the benefit levels, including benefit accrual rates. The chart below shows the frequency of the benefit accrual rates used by the various ch. 175 and ch. 185, F.S., plans.<sup>14</sup> A 3 percent annual accrual rate is by far the most frequently used rate – similar to the benefit accrual rate used by the Florida Retirement System for the Special Risk Class membership.



**Historical Interpretation of the Law**

In 1999, the Legislature passed legislation that made virtually all provisions of ch. 175 and 185, F.S., expressly applicable to all participating police officer and firefighter pension plans, except the local law plans established by the cities of Jacksonville, Coral Gables, Miami, and Miami Beach.<sup>15</sup> That legislation required all pension plans operating pursuant to these chapters to meet the specific “minimum benefit” standards and to use the premium tax revenues for certain purposes. A plan was authorized to use on an annual basis the amount of premium tax revenues received by the plan in 1997 to meet the costs of benefits in effect on March 12, 1999. Each plan was required to use the premium tax revenues received above the 1997 threshold to meet the costs of any statutory minimums that were not funded as of March 12, 1999, or to fund “extra benefits.” The term “extra benefits” means benefits in addition to or greater than those provided to general employees of the municipality, and in addition to those in existence for firefighters and police officers on March 12, 1999.<sup>16</sup>

Until August 2012, the division consistently interpreted the law to require that premium tax revenues be used first to meet any minimum benefit requirements and those other pension benefits that were in place on March 12, 1999. Once the plan was in compliance with the minimum benefits requirements, any additional premium tax revenues had to be used to provide

<sup>14</sup> Department of Management Services, *Benefit Accrual Rate Chart*, available online at: [https://www.rol.frs.state.fl.us/forms/Benefit\\_Accrual.pdf](https://www.rol.frs.state.fl.us/forms/Benefit_Accrual.pdf) (last visited on January 16, 2015).

<sup>15</sup> Sections 175.351(3) and 185.35(3), F.S.

<sup>16</sup> See ss. 175.351(2)(b) and 185.35(2)(b), F.S.

extra benefits. Plans were not permitted to reduce pension benefits below the minimum benefits level or the level of pension benefits in effect on March 12, 1999, if greater.

### **Re-interpretation of the Law**

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

Under the new interpretation, it appears the division will allow the following actions to occur without impacting the distribution of premium tax revenues:

- A plan sponsor may redirect, at its discretion, its 1997 premium tax revenues from funding minimum pension benefits to funding other non-pension retirement benefits;
- A plan sponsor may reduce plan pension benefits to the level that can be funded solely by those additional premium tax revenues received in excess of the 1997 level;
- A plan sponsor may reduce its mandatory contribution that it was previously making to the plan to fund minimum benefits and to redirect those monies to other municipal purposes; and
- A plan sponsor may use its premium tax revenues in excess of the 1997 threshold (previously restricted to fund “extra benefits” only) to fund any minimum benefits.

The division has subsequently provided this new interpretation to other inquiring cities. DMS has not adopted its original interpretation of the law nor its recent interpretation of the exact same statutory language as a rule.

### **Definition of Salary in Municipal Police Pension Plans**

In 2011, the Legislature imposed a 300 hour cap on the amount of overtime hours to be included in the calculation of retirement benefits in ss. 112.66, 175.032, and 185.02, F.S.<sup>17</sup> The provisions for general public retirement systems (ch. 112, F.S.) and firefighter pensions (ch. 175, F.S.) did not have existing stipulations allowing any overtime hours to be included in the calculation of retirement benefits. Section 185.02(4), F.S., had the following definition before the 2011 changes:

“Compensation” or “salary” means the total cash remuneration including “overtime” paid by the primary employer to a police officer for services rendered, but not including any payments for extra duty or a special detail work performed on behalf of a second party employer. However, a local law plan may limit the amount of overtime payments which can be used for retirement benefit

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<sup>17</sup> Chapter 2011-216, L.O.F.

calculation purposes, but in no event shall such overtime limit be less than 300 hours per officer per calendar year.

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

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

The pre-2011 provision set the limit at no less than 300 hours, effectively acting as a floor or minimum of 300 hours. The current language has been interpreted to mean that after July 1, 2011, the 300 hour floor has been replaced by a 300 hour cap. After the effective date of ch. 2011-216, L.O.F., the division appeared to take the position that the law did not *replace* the floor with a cap, but supplemented the 300 hour floor with a 300 hour cap. In other words, the employer would have had to include at least 300 hours of overtime in the calculation, but could not include more than 300 hours. Subsequently, however, the division has taken the position that the amount of overtime hours that may be included when calculating retirement benefits may be anywhere from 0 to 300 hours.<sup>18</sup>

### **III. Effect of Proposed Changes:**

#### **Definitions**

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

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<sup>18</sup> Letter from the DMS Division of Retirement to City of Largo, dated April 4, 2012, on file with the Committee on Governmental Oversight and Accountability.

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

### **Change of the Minimum Benefit Accrual Rate**

The bill increases the minimum benefit accrual rate from 2.0 percent to 2.75 percent. Plans are permitted to deviate from this minimum benefit accrual rate if the plan is otherwise in compliance with the minimum benefits and minimum standards but provides a benefit accrual rate of less than 2.75 percent. In that instance, the plan must maintain, at a minimum, the benefit accrual rate that was in effect on July 1, 2015. If the plan subsequently increases the benefit accrual rate to 2.75 percent or greater, the plan may not later reduce the rate below 2.75 percent.

### **Use of Insurance Premium Tax Revenues**

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

- Base premium tax revenues must be used to fund minimum benefits or other retirement benefits in excess of the minimum benefits.
- Of the additional premium tax revenues received in excess of the amount received in calendar year 2012, 50 percent must be used to fund minimum benefits or other retirement benefits in excess of the minimum benefits, as determined by the municipality (or special fire control district) and 50 percent must be placed in a defined contribution plan to fund special benefits.
- Additional premium tax revenues not required to be distributed to fund minimum benefits, retirement benefits in excess of minimum benefits or special benefits must be used to fund benefits **not** included in the minimum benefits. If the additional premium tax revenues required to be distributed to fund minimum benefits, additional retirement benefits and special benefits exceed the full cost of benefits provided through a retirement plan:
  - 50 percent of any excess must be used to fund minimum benefits or other retirement benefits; and
  - 50 percent must be placed in a defined contribution plan.
- Any accumulations of additional premium tax revenues which have not been applied to fund benefits in excess of minimum benefits:
  - 50 percent of the accumulation must be used to fund special benefits; and
  - 50 percent must be used to fund any unfunded actuarial liabilities of the plan, provided that any amount of accumulations in excess of amount required to fund unfunded actuarial liabilities must be used to fund special benefits.
- For plans created after March 1, 2015, 50 percent of the insurance premium tax revenues must be used to fund defined benefit plan component benefits and the remainder must be used to fund defined contribution plan component benefits.
- If a plan offers benefits in excess of the minimum benefits, excluding supplemental plan benefits in effect as of September 30, 2014, those plan benefits may be reduced if the plan continues to meet the minimum benefits and minimum standards in ch. 175 and 185, F.S. The amount of insurance premium tax revenues previously used to fund benefits in excess of minimum benefits, excluding supplemental benefits in effect as of September 30, 2014, before the reduction must be used to fund minimum benefits or other retirement benefits (50 percent) and a defined contribution plan (50 percent). However, benefits may not be reduced

if the plan does not have a minimum accrual rate of 2.75 percent, or greater, of the average final compensation of a full-time firefighter or police officer.

Notwithstanding those provisions of the bill, the use of insurance premium tax revenues, including additional tax revenues which have not been applied to fund benefits in excess of the minimum benefits, may deviate from the requirements of the bill by mutual consent of the members' collective bargaining representative or, if there is none, by majority consent of the members' of the fund and consent of the municipality (or special fire control district), provided the plan continues to meet the minimum benefits and the minimum standards of ch. 175 and 185, F.S. However, a plan that does not meet a minimum benefit as of October 1, 2012, may continue to provide the benefit not meeting the minimum benefit at the same level, but not less than that level as was provided on October 1, 2012, and all other benefits must continue to meet the minimum benefits. A mutually agreed deviation must continue until modified or revoked by subsequent mutual consent of the members' collective bargaining representative (or a majority of the members of the fund) and the municipality (or special fire control district). A special act plan or a plan within a supplemental plan municipality are considered to have mutually agreed to such deviation as of July 1, 2015, regarding the existing agreement on the use of premium tax revenues.

The bill also requires plan sponsors to create defined contribution plan components within their plans by October 1, 2015, for noncollectively bargained services, upon entering into a collectively bargaining agreement on or after July 1, 2015, or upon the creation date of a new participating plan. Depending upon the use of insurance premium tax revenues as otherwise provided in the bill, a defined contribution component may or may not receive funding.

The bill explicitly allows plans to use the insurance premium tax revenues and offer benefits below the statutorily required levels in certain instances. The plan must have relied upon the interpretation of the statute by the DMS to reduce the level of benefits or use the premium tax revenues, and such reliance must be evidenced by certain documentation. The plan may continue to offer these reduced benefits and/or use the premium tax revenues in this manner until the earlier of October 1, 2018, or another collective bargaining agreement is negotiated addressing the benefits or use of revenues.

### **300 Hour Cap of Overtime for Benefit Purposes**

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

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

**Conforming Changes**

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

**Important State Interest**

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

The bill takes effect July 1, 2015.

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

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

- The expenditure is required to comply with a law that applies to all persons similarly situated; or
- The law must be approved by two-thirds of the membership of each house of the Legislature.

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

None.

**C. Trust Funds Restrictions:**

None.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The overall costs or savings to local government from this bill are indeterminate, because approximately 350 plans are affected by the bill. The impact of the bill will vary depending upon the level of benefits currently offered by those plans, the amount of



revenue received from the insurance premium tax by the plan sponsor, the service accrual rate under each plan, and the terms of any collective bargaining agreement reached between the plan sponsor and the affected police or firefighter collective bargaining unit. The bill has no impact on state revenues and expenditures.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None

**VIII. Statutes Affected:**

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

The bill creates an undesignated section of Florida law.

**IX. Additional Information:**

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

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

**CS by Governmental Oversight and Accountability on January 21, 2015:**

CS/SB 172 makes several technical changes to add clarity to the language and correct several scriveners' errors.

**B. Amendments:**

None.

**By** the Committee on Governmental Oversight and Accountability;  
and Senators Bradley and Ring

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1                                   A bill to be entitled  
2           An act relating to local government pension reform;  
3           amending s. 175.021, F.S.; requiring that firefighter  
4           pension plans meet the requirements of ch. 175, F.S.,  
5           in order to receive certain insurance premium tax  
6           revenues; amending s. 175.032, F.S.; revising  
7           definitions to conform to changes made by the act and  
8           providing new definitions; amending s. 175.071, F.S.;  
9           conforming a cross-reference; amending s. 175.091,  
10          F.S.; revising the method of creating and maintaining  
11          a firefighters' pension trust fund; amending s.  
12          175.162, F.S.; deleting a provision basing the  
13          availability of additional benefits in a firefighter  
14          pension plan upon state funding; revising the  
15          calculation of monthly retirement income for a full-  
16          time firefighter; specifying the minimum benefits that  
17          must be maintained by certain firefighter pension  
18          plans after a specified date; amending s. 175.351,  
19          F.S.; exempting certain firefighter pension plans of a  
20          municipality or special fire control district from  
21          meeting certain minimum benefits in order to  
22          participate in the distribution of a premium tax;  
23          redesignating the term "pension plan" as "retirement  
24          plan"; revising criteria governing the use of revenues  
25          of the premium tax; authorizing a pension plan to  
26          reduce certain excess benefits if the plan continues  
27          to meet certain minimum benefits and standards;  
28          providing that the use of premium tax revenues may  
29          deviate from the requirements of ch. 175, F.S., under

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30 certain circumstances; revising the conditions for  
31 proposing the adoption of a pension plan or an  
32 amendment to a pension plan; requiring plan sponsors  
33 to have a defined contribution plan component in place  
34 by a certain date; authorizing a municipality or  
35 special fire control district to implement certain  
36 changes to a local law plan which are contrary to ch.  
37 175, F.S., for a limited time, under certain  
38 circumstances; amending s. 185.01, F.S.; requiring  
39 that police officer pension plans meet the  
40 requirements of ch. 185, F.S., in order to receive  
41 certain insurance premium tax revenues; amending s.  
42 185.02, F.S.; revising definitions to conform to  
43 changes made by the act and providing new definitions;  
44 revising applicability of the limitation on the amount  
45 of overtime payments which may be used for pension  
46 benefit calculations; amending s. 185.06, F.S.;  
47 conforming a cross-reference; amending s. 185.07,  
48 F.S.; revising the method of creating and maintaining  
49 a police officers' retirement trust fund; amending s.  
50 185.16, F.S.; deleting a provision basing the  
51 availability of additional benefits in a police  
52 officer pension plan upon state funding; revising the  
53 calculation of monthly retirement income for a police  
54 officer; specifying the minimum benefits that must be  
55 maintained by certain police officer pension plans  
56 after a specified date; amending s. 185.35, F.S.;  
57 exempting certain municipal police officer pension  
58 plans from meeting certain minimum benefits in order

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59 to participate in the distribution of a premium tax;  
60 redesignating the term "pension plan" as "retirement  
61 plan"; revising criteria governing the use of revenues  
62 from the premium tax; authorizing a plan to reduce  
63 certain excess benefits if the plan continues to meet  
64 certain minimum benefits and minimum standards;  
65 providing that the use of premium tax revenues may  
66 deviate from the requirements of ch. 185, F.S., under  
67 specified circumstances; revising the conditions for  
68 proposing the adoption of a pension plan or amendment  
69 to a pension plan; conforming a cross-reference;  
70 requiring plan sponsors to have a defined contribution  
71 plan component in place by a certain date; authorizing  
72 a municipality to implement certain changes to a local  
73 law plan which are contrary to ch. 185, F.S., for a  
74 limited time; providing a declaration of important  
75 state interest; providing an effective date.

76

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

78

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

81 175.021 Legislative declaration.—

82 (2) This chapter hereby establishes, for all municipal and  
83 special district pension plans existing ~~now or hereafter~~ under  
84 this chapter, including chapter plans and local law plans,  
85 minimum benefits and minimum standards for the operation and  
86 funding of such plans, hereinafter referred to as firefighters'  
87 pension trust funds, which must be met as conditions precedent

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88 to the plan or plan sponsor receiving a distribution of  
89 insurance premium tax revenues under s. 175.121. ~~The Minimum~~  
90 ~~benefits and minimum standards for each plan set forth in this~~  
91 ~~chapter~~ may not be diminished by local charter, ordinance, or  
92 resolution or by special act of the Legislature and may not, ~~nor~~  
93 ~~may the minimum benefits or minimum standards~~ be reduced or  
94 offset by any other local, state, or federal law that includes  
95 ~~may include~~ firefighters in its operation, except as provided  
96 under s. 112.65.

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

99 175.032 Definitions.—For any municipality, special fire  
100 control district, chapter plan, local law municipality, local  
101 law special fire control district, or local law plan under this  
102 chapter, the term ~~following words and phrases have the following~~  
103 ~~meanings:~~

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

107 (2)(1)(a) "Average final compensation" for:

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

115 (b) "Average final compensation" for A volunteer  
116 firefighter means the average salary of the 5 best years of the

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117 last 10 best contributing years before ~~prior to~~ change in status  
118 to a permanent full-time firefighter or retirement as a  
119 volunteer firefighter or the career average of a volunteer  
120 firefighter, since July 1, 1953, whichever is greater.

121 (3) "Base premium tax revenues" means:

122 (a) For a local law plan in effect on October 1, 1998, the  
123 revenues received by a municipality or special fire control  
124 district pursuant to s. 175.121 for the 1997 calendar year.

125 (b) For a local law plan created between October 1, 1998,  
126 and March 1, 2015, inclusive, the revenues received by a  
127 municipality or special fire control district pursuant to s.  
128 175.121 based upon the tax collections during the second  
129 calendar year of participation.

130 (4)~~(2)~~ "Chapter plan" means a separate defined benefit  
131 pension plan for firefighters which incorporates by reference  
132 the provisions of this chapter and has been adopted by the  
133 governing body of a municipality or special district. Except as  
134 ~~may be~~ specifically authorized in this chapter, the provisions  
135 of a chapter plan may not differ from the plan provisions set  
136 forth in ss. 175.021-175.341 and ss. 175.361-175.401. Actuarial  
137 valuations of chapter plans shall be conducted by the division  
138 as provided by s. 175.261(1).

139 (5)~~(3)~~ "Compensation" or "salary" means, for  
140 noncollectively bargained service earned before July 1, 2011, or  
141 for service earned under collective bargaining agreements in  
142 place before July 1, 2011, the fixed monthly remuneration paid a  
143 firefighter. If remuneration is based on actual services  
144 rendered, as in the case of a volunteer firefighter, the term  
145 means the total cash remuneration received yearly for such

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146 services, prorated on a monthly basis. For noncollectively  
147 bargained service earned on or after July 1, 2011, or for  
148 service earned under collective bargaining agreements entered  
149 into on or after July 1, 2011, the term has the same meaning  
150 except that when calculating retirement benefits, up to 300  
151 hours per year in overtime compensation may be included as  
152 specified in the plan or collective bargaining agreement, but  
153 payments for accrued unused sick or annual leave may not be  
154 included.

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

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

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

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175 changes in the cost of living in the manner provided by Internal  
176 Revenue Code s. 401(a)(17)(B). For any person who first became a  
177 member before the first plan year beginning on or after January  
178 1, 1996, the limitation on compensation may not be less than the  
179 maximum compensation amount that was allowed to be taken into  
180 account under the plan in effect on July 1, 1993, which  
181 limitation shall be adjusted for changes in the cost of living  
182 since 1989 in the manner provided by Internal Revenue Code s.  
183 401(a)(17)(1991).

184 ~~(6)(4)~~ "Creditable service" or "credited service" means the  
185 aggregate number of years of service~~7~~ and fractional parts of  
186 years of service~~7~~ of any firefighter, omitting intervening years  
187 and fractional parts of years when such firefighter may not have  
188 been employed by the municipality or special fire control  
189 district, subject to the following conditions:

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

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



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204 be returned without interest.

205 (c) Credited service under this chapter shall be provided  
206 only for service as a firefighter, ~~as defined in subsection (8),~~  
207 or for military service and does not include credit for any  
208 other type of service. A municipality ~~may~~, by local ordinance,  
209 or a special fire control district ~~may~~, by resolution, may  
210 provide for the purchase of credit for military service prior to  
211 employment as well as for prior service as a firefighter for  
212 some other employer as long as a firefighter is not entitled to  
213 receive a benefit for such prior service ~~as a firefighter~~. For  
214 purposes of determining credit for prior service as a  
215 firefighter, in addition to service as a firefighter in this  
216 state, credit may be given for federal, other state, or county  
217 service if the prior service is recognized by the Division of  
218 State Fire Marshal as provided in ~~under~~ chapter 633, or the  
219 firefighter provides proof to the board of trustees that his or  
220 her service is equivalent to the service required to meet the  
221 definition of a firefighter ~~under subsection (8)~~.

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

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

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

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

237           ~~(7)(5)~~ "Deferred Retirement Option Plan" or "DROP" means a  
238 local law plan retirement option in which a firefighter may  
239 elect to participate. A firefighter may retire for all purposes  
240 of the plan and defer receipt of retirement benefits into a DROP  
241 account while continuing employment with his or her employer.  
242 However, a firefighter who enters the DROP and who is otherwise  
243 eligible to participate may ~~shall~~ not ~~thereby~~ be precluded from  
244 participation or continued participation ~~participating, or~~  
245 ~~continuing to participate,~~ in a supplemental plan in existence  
246 on, or created after, March 12, 1999 ~~the effective date of this~~  
247 ~~act.~~

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

261           ~~(9)(6)~~ "Division" means the Division of Retirement of the

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262 Department of Management Services.

263 (10)~~(7)~~ "Enrolled actuary" means an actuary who is enrolled  
264 under Subtitle C of Title III of the Employee Retirement Income  
265 Security Act of 1974 and who is a member of the Society of  
266 Actuaries or the American Academy of Actuaries.

267 (11) (a)~~(8) (a)~~ "Firefighter" means a person employed solely  
268 by a constituted fire department of any municipality or special  
269 fire control district who is certified as a firefighter as a  
270 condition of employment in accordance with s. 633.408 and whose  
271 duty it is to extinguish fires, to protect life, or to protect  
272 property. The term includes all certified, supervisory, and  
273 command personnel whose duties include, in whole or in part, the  
274 supervision, training, guidance, and management responsibilities  
275 of full-time firefighters, part-time firefighters, or auxiliary  
276 firefighters but does not include part-time firefighters or  
277 auxiliary firefighters. However, for purposes of this chapter  
278 only, the term also includes public safety officers who are  
279 responsible for performing both police and fire services, who  
280 are certified as police officers or firefighters, and who are  
281 certified by their employers to the Chief Financial Officer as  
282 participating in this chapter before October 1, 1979. Effective  
283 October 1, 1979, public safety officers who have not been  
284 certified as participating in this chapter are considered police  
285 officers for retirement purposes and are eligible to participate  
286 in chapter 185. Any plan may provide that the fire chief has an  
287 option to participate,~~or not,~~ in that plan.

288 (b) "Volunteer firefighter" means any person whose name is  
289 carried on the active membership roll of a constituted volunteer  
290 fire department or a combination of a paid and volunteer fire

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291 department of any municipality or special fire control district  
292 and whose duty it is to extinguish fires, to protect life, and  
293 to protect property. Compensation for services rendered by a  
294 volunteer firefighter does ~~shall~~ not disqualify him or her as a  
295 volunteer. A person may ~~shall~~ not be disqualified as a volunteer  
296 firefighter solely because he or she has other gainful  
297 employment. Any person who volunteers assistance at a fire but  
298 is not an active member of a department described herein is not  
299 a volunteer firefighter within the meaning of this paragraph.

300 (12) ~~(9)~~ "Firefighters' Pension Trust Fund" means a trust  
301 fund, by whatever name known, as provided under s. 175.041, for  
302 the purpose of assisting municipalities and special fire control  
303 districts in establishing and maintaining a retirement plan for  
304 firefighters.

305 (13) ~~(10)~~ "Local law municipality" means ~~is~~ any municipality  
306 in which ~~there exists~~ a local law plan exists.

307 (14) ~~(11)~~ "Local law plan" means a retirement defined  
308 ~~benefit pension~~ plan which includes both a defined benefit plan  
309 component and a defined contribution plan component for  
310 firefighters, or for firefighters and ~~or~~ police officers if both  
311 are ~~where~~ included, as described in s. 175.351, established by  
312 municipal ordinance, special district resolution, or special act  
313 of the Legislature, which enactment sets forth all plan  
314 provisions. Local law plan provisions may vary from the  
315 provisions of this chapter if, ~~provided that required~~ minimum  
316 benefits and minimum standards are met. However, any such  
317 variance must ~~shall~~ provide a greater benefit for firefighters.  
318 Actuarial valuations of local law plans shall be conducted by an  
319 enrolled actuary as provided in s. 175.261(2).

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320        (15)~~(12)~~ "Local law special fire control district" means ~~is~~  
 321 any special fire control district in which ~~there exists~~ a local  
 322 law plan exists.

323        (16) "Minimum benefits" means the benefits specified in ss.  
 324 175.021-175.341 and ss. 175.361-175.401.

325        (17) "Minimum standards" means the standards specified in  
 326 ss. 175.021-175.401.

327        (18)~~(13)~~ "Property insurance" means property insurance as  
 328 defined in s. 624.604 and covers real and personal property  
 329 within the corporate limits of a ~~any~~ municipality, or within the  
 330 boundaries of a ~~any~~ special fire control district, within the  
 331 state. The term "multiple peril" means a combination or package  
 332 policy that includes both property and casualty coverage for a  
 333 single premium.

334        (19)~~(14)~~ "Retiree" or "retired firefighter" means a  
 335 firefighter who has entered retirement status. For the purposes  
 336 of a plan that includes a Deferred Retirement Option Plan  
 337 (DROP), a firefighter who enters the DROP is ~~shall be~~ considered  
 338 a retiree for all purposes of the plan. However, a firefighter  
 339 who enters the DROP and who is otherwise eligible to participate  
 340 may ~~shall~~ not ~~thereby~~ be precluded from participation or  
 341 continued participation ~~participating, or continuing to~~  
 342 ~~participate,~~ in a supplemental plan in existence on, or created  
 343 after, March 12, 1999 ~~the effective date of this act.~~

344        (20)~~(15)~~ "Retirement" means a firefighter's separation from  
 345 municipal ~~city~~ or fire district employment as a firefighter with  
 346 immediate eligibility for ~~receipt of~~ benefits under the plan.  
 347 For purposes of a plan that includes a Deferred Retirement  
 348 Option Plan (DROP), "retirement" means the date a firefighter

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349 enters the DROP.

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

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

356 (23)~~(16)~~ "Special fire control district" means a special  
357 district, as defined in s. 189.012, established for the purposes  
358 of extinguishing fires, protecting life, and protecting property  
359 within the incorporated or unincorporated portions of a any  
360 county or combination of counties, or within any combination of  
361 incorporated and unincorporated portions of a any county or  
362 combination of counties. The term does not include any dependent  
363 or independent special district, as those terms are defined in  
364 s. 189.012, the employees of which are members of the Florida  
365 Retirement System pursuant to s. 121.051(1) or (2).

366 (24)~~(17)~~ "Supplemental plan" means a plan to which deposits  
367 are made to provide special ~~extra~~ benefits for firefighters, or  
368 for firefighters and police officers if both are ~~where~~ included  
369 ~~under this chapter~~. Such a plan is an element of a local law  
370 plan and exists in conjunction with a defined benefit plan  
371 component that meets ~~the~~ minimum benefits and minimum standards  
372 ~~of this chapter~~. Any supplemental plan in existence on March 1,  
373 2015, shall be deemed to be a defined contribution plan in  
374 compliance with s. 175.351(6).

375 (25)~~(18)~~ "Supplemental plan municipality" means a any local  
376 law municipality in which any ~~there existed a~~ supplemental plan  
377 existed, of any type or nature, as of December 1, 2000.

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

380 175.071 General powers and duties of board of trustees.—For  
381 any municipality, special fire control district, chapter plan,  
382 local law municipality, local law special fire control district,  
383 or local law plan under this chapter:

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

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

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

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

393

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

399 Section 4. Paragraph (d) of subsection (1) of section  
400 175.091, Florida Statutes, is amended to read:

401 175.091 Creation and maintenance of fund.—For any  
402 municipality, special fire control district, chapter plan, local  
403 law municipality, local law special fire control district, or  
404 local law plan under this chapter:

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

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407 created and maintained in the following manner:

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

416

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

422 Section 5. Paragraph (a) of subsection (2) of section  
423 175.162, Florida Statutes, is amended to read:

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



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

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

449 2. Effective July 1, 2015, a plan that is in compliance  
450 with this chapter except that the plan provides a benefit that  
451 is less than 2.75 percent of the average final compensation of a  
452 full-time firefighter for all years of credited service or  
453 provides an effective benefit that is less than 2.75 percent as  
454 a result of a maximum benefit limitation:

455 a. Must maintain, at a minimum, the percentage amount or  
456 maximum benefit limitation in effect on July 1, 2015, and is not  
457 required to increase the benefit to 2.75 percent of the average  
458 final compensation of a full-time firefighter for all years of  
459 credited service; or

460 b. If the plan changes the percentage amount or maximum  
461 benefit limitation to 2.75 percent, or more, of the average  
462 final compensation of a full-time firefighter for all years of  
463 credited service, the plan may not thereafter decrease the  
464 percentage amount or maximum benefit limitation to less than

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465 2.75 percent of the average final compensation of a full-time  
466 firefighter for all years of credited service.

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

469 175.351 Municipalities and special fire control districts  
470 that have ~~having~~ their own retirement ~~pension~~ plans for  
471 firefighters. ~~For any municipality, special fire control~~  
472 ~~district, local law municipality, local law special fire control~~  
473 ~~district, or local law plan under this chapter,~~ In order for a  
474 municipality or municipalities and special fire control district  
475 that has its districts with their own retirement plan ~~pension~~  
476 ~~plans~~ for firefighters, or for firefighters and police officers  
477 if both are included, to participate in the distribution of the  
478 tax fund established under ~~pursuant to~~ s. 175.101, a local law  
479 plan ~~plans~~ must meet ~~the~~ minimum benefits and minimum standards,  
480 except as provided in the mutual consent provisions in paragraph  
481 (1)(g) with respect to the minimum benefits not met as of  
482 October 1, 2012 ~~set forth in this chapter.~~

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

490 ~~(a)~~ place the income from the premium tax in s. 175.101 in  
491 such ~~pension~~ plan for the sole and exclusive use of its  
492 firefighters, or for firefighters and police officers if both  
493 are included, where it shall become an integral part of that

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494 ~~pension~~ plan and ~~shall~~ be used to fund benefits as provided  
495 herein. Effective October 1, 2015, for noncollectively bargained  
496 service or upon entering into a collective bargaining agreement  
497 on or after July 1, 2015:

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

502 (b) Of the additional premium tax revenues received that  
503 are in excess of the amount received for the 2012 calendar year,  
504 50 percent must be used to fund minimum benefits or other  
505 retirement benefits in excess of the minimum benefits as  
506 determined by the municipality or special fire control district,  
507 and 50 percent must be placed in a defined contribution plan to  
508 fund special benefits.

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

516 (d) Of any accumulations of additional premium tax revenues  
517 which have not been allocated to fund benefits in excess of the  
518 minimum benefits, 50 percent of the amount of the accumulations  
519 must be used to fund special benefits, and 50 percent must be  
520 applied to fund any unfunded actuarial liabilities of the plan;  
521 provided that any amount of accumulations in excess of the  
522 amount required to fund the unfunded actuarial liabilities must

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523 ~~be used to fund special benefits to pay extra benefits to the~~  
524 ~~firefighters included in that pension plan; or~~

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

529 (e) For a plan created after March 1, 2015, 50 percent of  
530 the insurance premium tax revenues must be used to fund defined  
531 benefit plan component benefits, with the remainder used to fund  
532 defined contribution plan component benefits.

533 (f) If a plan offers benefits in excess of the minimum  
534 benefits, such benefits, excluding supplemental plan benefits in  
535 effect as of September 30, 2014, may be reduced if the plan  
536 continues to meet minimum benefits and minimum standards. The  
537 amount of insurance premium tax revenues previously used to fund  
538 benefits in excess of minimum benefits before the reduction,  
539 excluding the amount of any additional premium tax revenues  
540 distributed to a supplemental plan for the 2012 calendar year,  
541 must be used as provided in paragraph (b). However, benefits in  
542 excess of minimum benefits may not be reduced if a plan does not  
543 meet the minimum percentage amount of 2.75 percent of the  
544 average final compensation of a full-time firefighter, as  
545 required by s. 175.162(2)(a)1., or provides an effective benefit  
546 that is below 2.75 percent as a result of a maximum benefit  
547 limitation as described in s. 175.162(2)(a)2.

548 (g) Notwithstanding paragraphs (a)-(f), the use of premium  
549 tax revenues, including any accumulations of additional premium  
550 tax revenues which have not been allocated to fund benefits in  
551 excess of minimum benefits, may deviate from the provisions of

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552 this subsection by mutual consent of the members' collective  
553 bargaining representative or, if there is no representative, by  
554 a majority of the firefighter members of the fund, and by  
555 consent of the municipality or special fire control district,  
556 provided that the plan continues to meet minimum benefits and  
557 minimum standards; however, a plan that operates pursuant to  
558 this paragraph and does not meet minimum benefits as of October  
559 1, 2012, may continue to provide the benefits that do not meet  
560 the minimum benefits at the same level as was provided as of  
561 October 1, 2012, and all other benefit levels must continue to  
562 meet the minimum benefits. Such mutually agreed deviation must  
563 continue until modified or revoked by subsequent mutual consent  
564 of the members' collective bargaining representative or, if  
565 none, by a majority of the firefighter members of the fund, and  
566 the municipality or special fire control district. An existing  
567 arrangement for the use of premium tax revenues contained within  
568 a special act plan or a plan within a supplemental plan  
569 municipality is considered, as of July 1, 2015, to be a  
570 deviation for which mutual consent has been granted.

571 (2) The premium tax provided by this chapter must ~~shall in~~  
572 ~~all cases~~ be used in its entirety to provide retirement ~~extra~~  
573 benefits to firefighters, or to firefighters and police officers  
574 if both are included. ~~However, local law plans in effect on~~  
575 ~~October 1, 1998, must comply with the minimum benefit provisions~~  
576 ~~of this chapter only to the extent that additional premium tax~~  
577 ~~revenues become available to incrementally fund the cost of such~~  
578 ~~compliance as provided in s. 175.162(2)(a). If a plan is in~~  
579 ~~compliance with such minimum benefit provisions, as subsequent~~  
580 ~~additional premium tax revenues become available, they must be~~

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581 ~~used to provide extra benefits.~~ Local law plans created by  
582 special act before May 27, 1939, are deemed to comply with this  
583 chapter. ~~For the purpose of this chapter, the term:~~

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

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

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

609 (4) Notwithstanding any other provision, with respect to

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610 any supplemental plan municipality:

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

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

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

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

626 (6) In addition to the defined benefit plan component of  
627 the local law plan, each plan sponsor must have a defined  
628 contribution plan component within the local law plan by October  
629 1, 2015, for noncollectively bargained service, upon entering  
630 into a collective bargaining agreement on or after July 1, 2015,  
631 or upon the creation date of a new participating plan. Depending  
632 upon the application of subsection (1), a defined contribution  
633 plan component may or may not receive any funding.

634 (7) Notwithstanding any other provision of this chapter, a  
635 municipality or special fire control district that has  
636 implemented or proposed changes to a local law plan based on the  
637 municipality's or district's reliance on an interpretation of  
638 this chapter by the Department of Management Services on or

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639 after August 14, 2012, and before March 3, 2015, may continue  
 640 the implemented changes or continue to implement proposed  
 641 changes. Such reliance must be evidenced by a written collective  
 642 bargaining proposal or agreement, or formal correspondence  
 643 between the municipality or district and the Department of  
 644 Management Services which describes the specific changes to the  
 645 local law plan, with the initial proposal, agreement, or  
 646 correspondence from the municipality or district dated before  
 647 March 3, 2015. Changes to the local law plan which are otherwise  
 648 contrary to minimum benefits and minimum standards may continue  
 649 in effect until the earlier of October 1, 2018, or the effective  
 650 date of a collective bargaining agreement that is contrary to  
 651 the changes to the local law plan.

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

654 185.01 Legislative declaration.—

655 (2) This chapter hereby establishes, for all municipal  
 656 pension plans ~~now or hereinafter~~ provided for under this  
 657 chapter, including chapter plans and local law plans, minimum  
 658 benefits and minimum standards for the operation and funding of  
 659 such plans, hereinafter referred to as municipal police  
 660 officers' retirement trust funds, which must be met as  
 661 conditions precedent to the plan or plan sponsor receiving a  
 662 distribution of insurance premium tax revenues under s. 185.10.  
 663 ~~The~~ Minimum benefits and minimum standards for each plan set  
 664 ~~forth in this chapter~~ may not be diminished by local ordinance  
 665 or by special act of the Legislature and may not, ~~nor may the~~  
 666 ~~minimum benefits or minimum standards~~ be reduced or offset by  
 667 any other local, state, or federal plan that includes ~~may~~



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668 ~~include~~ police officers in its operation, except as provided  
669 under s. 112.65.

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

672 185.02 Definitions.—For any municipality, chapter plan,  
673 local law municipality, or local law plan under this chapter,  
674 the term following words and phrases as used in this chapter  
675 ~~shall have the following meanings, unless a different meaning is~~  
676 ~~plainly required by the context:~~

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

680 (2)~~(1)~~ "Average final compensation" means one-twelfth of  
681 the average annual compensation of the 5 best years of the last  
682 10 years of creditable service before ~~prior to~~ retirement,  
683 termination, or death.

684 (3) "Base premium tax revenues" means:

685 (a) For a local law plan in effect on October 1, 1998, the  
686 revenues received by a municipality pursuant to s. 185.10 for  
687 the 1997 calendar year.

688 (b) For a local law plan created between October 1, 1998,  
689 and March 1, 2015, inclusive, the revenues received by a  
690 municipality pursuant to s. 185.10 based upon the tax  
691 collections during the second calendar year of participation.

692 (4)~~(2)~~ "Casualty insurance" means automobile public  
693 liability and property damage insurance to be applied at the  
694 place of residence of the owner, or if the subject is a  
695 commercial vehicle, to be applied at the place of business of  
696 the owner; automobile collision insurance; fidelity bonds;

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697 burglary and theft insurance; and plate glass insurance. The  
698 term "multiple peril" means a combination or package policy that  
699 includes both property coverage and casualty coverage for a  
700 single premium.

701 (5)~~(3)~~ "Chapter plan" means a separate defined benefit  
702 pension plan for police officers which incorporates by reference  
703 the provisions of this chapter and has been adopted by the  
704 governing body of a municipality as provided in s. 185.08.  
705 Except as ~~may be~~ specifically authorized in this chapter, the  
706 provisions of a chapter plan may not differ from the plan  
707 provisions set forth in ss. 185.01-185.341 and ss. 185.37-  
708 185.39. Actuarial valuations of chapter plans shall be conducted  
709 by the division as provided by s. 185.221(1)(b).

710 (6)~~(4)~~ "Compensation" or "salary" means, for  
711 noncollectively bargained service earned before July 1, 2011, or  
712 for service earned under collective bargaining agreements in  
713 place before July 1, 2011, the total cash remuneration including  
714 "overtime" paid by the primary employer to a police officer for  
715 services rendered, but not including any payments for extra duty  
716 or special detail work performed on behalf of a second party  
717 employer. Overtime may be limited before July 1, 2011, in a  
718 local law plan by the plan provisions ~~A local law plan may limit~~  
719 ~~the amount of overtime payments which can be used for retirement~~  
720 ~~benefit calculation purposes; however, such overtime limit may~~  
721 ~~not be less than 300 hours per officer per calendar year. For~~  
722 noncollectively bargained service earned on or after July 1,  
723 2011, or for service earned under collective bargaining  
724 agreements entered into on or after July 1, 2011, the term has  
725 the same meaning except that when calculating retirement

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726 benefits, up to 300 hours per year in overtime compensation may  
727 be included as specified in the plan or collective bargaining  
728 agreement, but payments for accrued unused sick or annual leave  
729 may not be included.

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

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

743 (c) For any person who first becomes a member in any plan  
744 year beginning on or after January 1, 1996, compensation for  
745 that plan year may not include any amounts in excess of the  
746 Internal Revenue Code s. 401(a)(17) limitation, as amended by  
747 the Omnibus Budget Reconciliation Act of 1993, which limitation  
748 of \$150,000 shall be adjusted as required by federal law for  
749 qualified government plans and ~~shall be~~ further adjusted for  
750 changes in the cost of living in the manner provided by Internal  
751 Revenue Code s. 401(a)(17)(B). For any person who first became a  
752 member before the first plan year beginning on or after January  
753 1, 1996, the limitation on compensation may not be less than the  
754 maximum compensation amount that was allowed to be taken into

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755 account under the plan ~~as~~ in effect on July 1, 1993, which  
756 limitation shall be adjusted for changes in the cost of living  
757 since 1989 in the manner provided by Internal Revenue Code s.  
758 401(a)(17)(1991).

759 (7)~~(5)~~ "Creditable service" or "credited service" means the  
760 aggregate number of years of service and fractional parts of  
761 years of service of any police officer, omitting intervening  
762 years and fractional parts of years when such police officer may  
763 not have been employed by the municipality subject to the  
764 following conditions:

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

773 (b) A police officer may voluntarily leave his or her  
774 contributions in the fund for ~~a period of~~ 5 years after leaving  
775 the employ of the police department, pending the possibility of  
776 his or her being rehired by the same department, without losing  
777 credit for the time he or she has participated actively as a  
778 police officer. If he or she is not reemployed as a police  
779 officer with the same department within 5 years, his or her  
780 contributions shall be returned ~~to him or her~~ without interest.

781 (c) Credited service under this chapter shall be provided  
782 only for service as a police officer, ~~as defined in subsection~~  
783 ~~(11)~~, or for military service and may not include credit for any

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784 other type of service. A municipality ~~may~~, by local ordinance,  
785 may provide for the purchase of credit for military service  
786 occurring before employment as well as prior service as a police  
787 officer for some other employer as long as the police officer is  
788 not entitled to receive a benefit for such ~~other~~ prior service  
789 ~~as a police officer~~. For purposes of determining credit for  
790 prior service, in addition to service as a police officer in  
791 this state, credit may be given for federal, other state, or  
792 county service as long as such service is recognized by the  
793 Criminal Justice Standards and Training Commission within the  
794 Department of Law Enforcement as provided in ~~under~~ chapter 943  
795 or the police officer provides proof to the board of trustees  
796 that such service is equivalent to the service required to meet  
797 the definition of a police officer ~~under subsection (11)~~.

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

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

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

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

812 (8) ~~(6)~~ "Deferred Retirement Option Plan" or "DROP" means a

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813 local law plan retirement option in which a police officer may  
814 elect to participate. A police officer may retire for all  
815 purposes of the plan and defer receipt of retirement benefits  
816 into a DROP account while continuing employment with his or her  
817 employer. However, a police officer who enters the DROP and who  
818 is otherwise eligible to participate may ~~shall~~ not ~~thereby~~ be  
819 precluded from participation or continued participation  
820 ~~participating, or continuing to participate,~~ in a supplemental  
821 plan in existence on, or created after, March 12, 1999 ~~the~~  
822 ~~effective date of this act.~~

823 (9) "Defined contribution plan" means the component of a  
824 local law plan, as provided in s. 185.35(1), to which deposits,  
825 if any, are made to provide benefits for police officers, or for  
826 police officers and firefighters if both are included. Such  
827 component is an element of a local law plan and exists in  
828 conjunction with the defined benefit component that meets  
829 minimum benefits and minimum standards. The retirement benefits,  
830 if any, of the defined contribution plan shall be provided  
831 through individual member accounts in accordance with the  
832 applicable provisions of the Internal Revenue Code and related  
833 regulations and are limited to the contributions, if any, made  
834 into each member's account and the actual accumulated earnings,  
835 net of expenses, earned on the member's account.

836 (10) ~~(7)~~ "Division" means the Division of Retirement of the  
837 Department of Management Services.

838 (11) ~~(8)~~ "Enrolled actuary" means an actuary who is enrolled  
839 under Subtitle C of Title III of the Employee Retirement Income  
840 Security Act of 1974 and who is a member of the Society of  
841 Actuaries or the American Academy of Actuaries.

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842        (12)~~(9)~~ "Local law municipality" means ~~is~~ any municipality  
843 in which ~~there exists~~ a local law plan exists.

844        (13)~~(10)~~ "Local law plan" means a retirement defined  
845 ~~benefit pension plan~~ that includes both a defined benefit plan  
846 component and a defined contribution plan component for police  
847 officers, or for police officers and firefighters if both are~~7~~  
848 ~~where~~ included, as described in s. 185.35, established by  
849 municipal ordinance or special act of the Legislature, which  
850 ~~enactment~~ sets forth all plan provisions. Local law plan  
851 provisions may vary from the provisions of this chapter if~~7~~  
852 ~~provided that required~~ minimum benefits and minimum standards  
853 are met. However, any such variance must ~~shall~~ provide a greater  
854 benefit for police officers. Actuarial valuations of local law  
855 plans shall be conducted by an enrolled actuary as provided in  
856 s. 185.221(2) (b).

857        (14) "Minimum benefits" means the benefits specified in ss.  
858 185.01-185.341 and ss. 185.37-185.50.

859        (15) "Minimum standards" means the standards specified in  
860 ss. 185.01-185.50.

861        (16)~~(11)~~ "Police officer" means any person who is elected,  
862 appointed, or employed full time by a ~~any~~ municipality, who is  
863 certified or required to be certified as a law enforcement  
864 officer in compliance with s. 943.1395, who is vested with  
865 authority to bear arms and make arrests, and whose primary  
866 responsibility is the prevention and detection of crime or the  
867 enforcement of the penal, criminal, traffic, or highway laws of  
868 the state. The term ~~This definition~~ includes all certified  
869 supervisory and command personnel whose duties include, in whole  
870 or in part, the supervision, training, guidance, and management

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

881 (17) ~~(12)~~ "Police Officers' Retirement Trust Fund" means a  
882 trust fund, by whatever name known, as provided under s. 185.03  
883 for the purpose of assisting municipalities in establishing and  
884 maintaining a retirement plan for police officers.

885 (18) ~~(13)~~ "Retiree" or "retired police officer" means a  
886 police officer who has entered retirement status. For the  
887 purposes of a plan that includes a Deferred Retirement Option  
888 Plan (DROP), a police officer who enters the DROP is ~~shall be~~  
889 considered a retiree for all purposes of the plan. However, a  
890 police officer who enters the DROP and who is otherwise eligible  
891 to participate may ~~shall not thereby~~ be precluded from  
892 participation or continued participation ~~participating, or~~  
893 ~~continuing to participate,~~ in a supplemental plan in existence  
894 on, or created after, March 12, 1999 ~~the effective date of this~~  
895 act.

896 (19) ~~(14)~~ "Retirement" means a police officer's separation  
897 from municipal ~~city~~ employment as a police officer with  
898 immediate eligibility for ~~receipt of~~ benefits under the plan.  
899 For purposes of a plan that includes a Deferred Retirement



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900 Option Plan (DROP), "retirement" means the date a police officer  
901 enters the DROP.

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

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

908 (22)~~(15)~~ "Supplemental plan" means a plan to which deposits  
909 of the premium tax moneys as provided in s. 185.08 are made to  
910 provide special ~~extra~~ benefits to police officers, or police  
911 officers and firefighters if both are ~~where~~ included, ~~under this~~  
912 ~~chapter~~. Such a plan is an element of a local law plan and  
913 exists in conjunction with a defined benefit plan component that  
914 meets ~~the~~ minimum benefits and minimum standards ~~of this~~  
915 ~~chapter~~. Any supplemental plan in existence on March 1, 2015,  
916 shall be deemed to be a defined contribution plan in compliance  
917 with s. 185.35(6).

918 (23)~~(16)~~ "Supplemental plan municipality" means a ~~any~~ local  
919 law municipality in which any ~~there existed a~~ supplemental plan  
920 existed as of December 1, 2000.

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

923 185.06 General powers and duties of board of trustees.—For  
924 any municipality, chapter plan, local law municipality, or local  
925 law plan under this chapter:

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

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

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929 expense.

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

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

935

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

941 Section 10. Paragraph (d) of subsection (1) of section  
942 185.07, Florida Statutes, is amended to read:

943 185.07 Creation and maintenance of fund.—For any  
944 municipality, chapter plan, local law municipality, or local law  
945 plan under this chapter:

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

949 (d) By payment by the municipality or other sources of a  
950 sum equal to the normal cost and the amount required to fund any  
951 actuarial deficiency shown by an actuarial valuation conducted  
952 under ~~as provided in~~ part VII of chapter 112 after taking into  
953 account the amounts described in paragraphs (b), (c), (e), (f),  
954 and (g) and the tax proceeds described in paragraph (a) which  
955 are used to fund benefits provided in a defined benefit plan  
956 component.

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

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

965 185.16 Requirements for retirement.—For any municipality,  
966 chapter plan, local law municipality, or local law plan under  
967 this chapter, any police officer who completes 10 or more years  
968 of creditable service as a police officer and attains age 55, or  
969 completes 25 years of creditable service as a police officer and  
970 attains age 52, and for such period has been a member of the  
971 retirement fund is eligible for normal retirement benefits.  
972 Normal retirement under the plan is retirement from the service  
973 of the city on or after the normal retirement date. In such  
974 event, for chapter plans and local law plans, payment of  
975 retirement income will be governed by the following provisions  
976 of this section:

977 (2) (a) The amount of the monthly retirement income payable  
978 to a police officer who retires on or after his or her normal  
979 retirement date shall be an amount equal to the number of the  
980 police officer's years of credited service multiplied by 2.75 ~~2~~  
981 percent of his or her average final compensation. ~~However, if~~  
982 ~~current state contributions pursuant to this chapter are not~~  
983 ~~adequate to fund the additional benefits to meet the minimum~~  
984 ~~requirements in this chapter, only increment increases shall be~~  
985 ~~required as state moneys are adequate to provide. Such~~  
986 ~~increments shall be provided as state moneys become available.~~

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987 (b) Effective July 1, 2015, a plan that is in compliance  
988 with this chapter except that the plan provides a benefit that  
989 is less than 2.75 percent of the average final compensation of a  
990 police officer for all years of credited service or provides an  
991 effective benefit that is less than 2.75 percent as a result of  
992 a maximum benefit limitation:

993 1. Must maintain, at a minimum, the percentage amount or  
994 maximum benefit limitation in effect on July 1, 2015, and is not  
995 required to increase the benefit to 2.75 percent of the average  
996 final compensation of a police officer for all years of credited  
997 service; or

998 2. If the plan changes the percentage amount or maximum  
999 benefit limitation to 2.75 percent, or more, of the average  
1000 final compensation of a police officer for all years of credited  
1001 service, the plan may not thereafter decrease the percentage  
1002 amount or the maximum benefit limitation to less than 2.75  
1003 percent of the average final compensation of a police officer  
1004 for all years of credited service.

1005 Section 12. Section 185.35, Florida Statutes, is amended to  
1006 read:

1007 185.35 Municipalities that have ~~having~~ their own retirement  
1008 ~~pension~~ plans for police officers. ~~For any municipality, chapter~~  
1009 ~~plan, local law municipality, or local law plan under this~~  
1010 ~~chapter,~~ In order for a municipality that has its municipalities  
1011 ~~with their own retirement plan pension plans~~ for police  
1012 officers, or for police officers and firefighters if both are  
1013 included, to participate in the distribution of the tax fund  
1014 established under ~~pursuant to~~ s. 185.08, a local law plan plans  
1015 must meet ~~the~~ minimum benefits and minimum standards, except as

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1016 provided in the mutual consent provisions in paragraph (1)(g)  
1017 with respect to the minimum benefits not met as of October 1,  
1018 2012. ~~set forth in this chapter:~~

1019 (1) If a municipality has a retirement ~~pension~~ plan for  
1020 police officers, or for police officers and firefighters if both  
1021 are included, which, in the opinion of the division, meets ~~the~~  
1022 minimum benefits and minimum standards ~~set forth in this~~  
1023 ~~chapter,~~ the board of trustees of the retirement ~~pension~~ plan  
1024 must, ~~as approved by a majority of police officers of the~~  
1025 ~~municipality, may:~~

1026 ~~(a)~~ place the income from the premium tax in s. 185.08 in  
1027 such ~~pension~~ plan for the sole and exclusive use of its police  
1028 officers, or its police officers and firefighters if both are  
1029 included, where it shall become an integral part of that ~~pension~~  
1030 plan and ~~shall~~ be used to fund benefits as provided herein.  
1031 Effective October 1, 2015, for noncollectively bargained service  
1032 or upon entering into a collective bargaining agreement on or  
1033 after July 1, 2015:

1034 (a) The base premium tax revenues must be used to fund  
1035 minimum benefits or other retirement benefits in excess of the  
1036 minimum benefits as determined by the municipality.

1037 (b) Of the additional premium tax revenues received that  
1038 are in excess of the amount received for the 2012 calendar year,  
1039 50 percent must be used to fund minimum benefits or other  
1040 retirement benefits in excess of the minimum benefits as  
1041 determined by the municipality, and 50 percent must be placed in  
1042 a defined contribution plan component to fund special benefits.

1043 (c) Additional premium tax revenues not described in  
1044 paragraph (b) must be used to fund benefits that are not

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1045 included in the minimum benefits. If the additional premium tax  
1046 revenues subject to this paragraph exceed the full annual cost  
1047 of benefits provided through the plan which are in excess of the  
1048 minimum benefits, any amount in excess of the full annual cost  
1049 must be used as provided in paragraph (b).

1050 (d) Of any accumulations of additional premium tax revenues  
1051 which have not been allocated to fund benefits in excess of the  
1052 minimum benefits, 50 percent of the amount of the accumulations  
1053 must be used to fund special benefits and 50 percent must be  
1054 applied to fund any unfunded actuarial liabilities of the plan;  
1055 provided that any amount of accumulations in excess of the  
1056 amount required to fund the unfunded actuarial liabilities must  
1057 be used to fund special benefits ~~pay extra benefits to the~~  
1058 ~~police officers included in that pension plan; or~~

1059 ~~(b) May place the income from the premium tax in s. 185.08~~  
1060 ~~in a separate supplemental plan to pay extra benefits to the~~  
1061 ~~police officers, or police officers and firefighters if~~  
1062 ~~included, participating in such separate supplemental plan.~~

1063 (e) For a plan created after March 1, 2015, 50 percent of  
1064 the insurance premium tax revenues must be used to fund defined  
1065 benefit plan component benefits, with the remainder used to fund  
1066 defined contribution plan component benefits.

1067 (f) If a plan offers benefits in excess of the minimum  
1068 benefits, such benefits, excluding supplemental plan benefits in  
1069 effect as of September 30, 2014, may be reduced if the plan  
1070 continues to meet minimum benefits and the minimum standards.  
1071 The amount of insurance premium tax revenues previously used to  
1072 fund benefits in excess of the minimum benefits before the  
1073 reduction, excluding the amount of any additional premium tax

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1074 revenues distributed to a supplemental plan for the 2012  
1075 calendar year, must be used as provided in paragraph (b).  
1076 However, benefits in excess of the minimum benefits may not be  
1077 reduced if a plan does not meet the minimum percentage amount of  
1078 2.75 percent of the average final compensation of a police  
1079 officer or provides an effective benefit that is less than 2.75  
1080 percent as a result of a maximum benefit limitation, as  
1081 described in s. 185.16(2) (b).

1082 (g) Notwithstanding paragraphs (a)-(f), the use of premium  
1083 tax revenues, including any accumulations of additional premium  
1084 tax revenues which have not been allocated to fund benefits in  
1085 excess of the minimum benefits, may deviate from the provisions  
1086 of this subsection by mutual consent of the members' collective  
1087 bargaining representative or, if none, by a majority of the  
1088 police officer members of the fund, and by consent of the  
1089 municipality, provided that the plan continues to meet minimum  
1090 benefits and minimum standards; however, a plan that operates  
1091 pursuant to this paragraph and does not meet the minimum  
1092 benefits as of October 1, 2012, may continue to provide the  
1093 benefits that do not meet the minimum benefits at the same level  
1094 as was provided as of October 1, 2012, and all other benefit  
1095 levels must continue to meet the minimum benefits. Such mutually  
1096 agreed deviation must continue until modified or revoked by  
1097 subsequent mutual consent of the members' collective bargaining  
1098 representative or, if none, by a majority of the police officer  
1099 members of the fund, and the municipality. An existing  
1100 arrangement for the use of premium tax revenues contained within  
1101 a special act plan or a plan within a supplemental plan  
1102 municipality is considered, as of July 1, 2015, to be a

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1103 deviation for which mutual consent has been granted.

1104 (2) The premium tax provided by this chapter must ~~shall in~~  
1105 ~~all cases~~ be used in its entirety to provide retirement ~~extra~~  
1106 benefits to police officers, or to police officers and  
1107 firefighters if both are included. ~~However, local law plans in~~  
1108 ~~effect on October 1, 1998, must comply with the minimum benefit~~  
1109 ~~provisions of this chapter only to the extent that additional~~  
1110 ~~premium tax revenues become available to incrementally fund the~~  
1111 ~~cost of such compliance as provided in s. 185.16(2). If a plan~~  
1112 ~~is in compliance with such minimum benefit provisions, as~~  
1113 ~~subsequent additional tax revenues become available, they shall~~  
1114 ~~be used to provide extra benefits.~~ Local law plans created by  
1115 special act before May 27, 1939, shall be deemed to comply with  
1116 this chapter. ~~For the purpose of this chapter, the term:~~

1117 (a) ~~"Additional premium tax revenues" means revenues~~  
1118 ~~received by a municipality pursuant to s. 185.10 which exceed~~  
1119 ~~the amount received for calendar year 1997.~~

1120 (b) ~~"Extra benefits" means benefits in addition to or~~  
1121 ~~greater than those provided to general employees of the~~  
1122 ~~municipality and in addition to those in existence for police~~  
1123 ~~officers on March 12, 1999.~~

1124 (3) A retirement plan or amendment to a retirement plan may  
1125 not be proposed for adoption unless the proposed plan or  
1126 amendment contains an actuarial estimate of the costs involved.  
1127 Such proposed plan or proposed plan change may not be adopted  
1128 without the approval of the municipality or, where required  
1129 permitted, the Legislature. Copies of the proposed plan or  
1130 proposed plan change and the actuarial impact statement of the  
1131 proposed plan or proposed plan change shall be furnished to the



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1132 division before the last public hearing on the proposal is held  
1133 ~~thereon~~. Such statement must also indicate whether the proposed  
1134 plan or proposed plan change is in compliance with s. 14, Art. X  
1135 of the State Constitution and those provisions of part VII of  
1136 chapter 112 which are not expressly provided in this chapter.  
1137 Notwithstanding any other provision, only those local law plans  
1138 created by special act of legislation before May 27, 1939, are  
1139 deemed to meet the minimum benefits and minimum standards only  
1140 in this chapter.

1141 (4) Notwithstanding any other provision, with respect to  
1142 any supplemental plan municipality:

1143 (a) Section 185.02(6)(a) ~~185.02(4)(a)~~ does not apply, and a  
1144 local law plan and a supplemental plan may continue to use their  
1145 definition of compensation or salary in existence on March 12,  
1146 1999.

1147 (b) A local law plan and a supplemental plan must continue  
1148 to be administered by a board or boards of trustees numbered,  
1149 constituted, and selected as the board or boards were numbered,  
1150 constituted, and selected on December 1, 2000.

1151 ~~(c) The election set forth in paragraph (1)(b) is deemed to~~  
1152 ~~have been made.~~

1153 (5) The retirement plan setting forth the benefits and the  
1154 trust agreement, if any, covering the duties and  
1155 responsibilities of the trustees and the regulations of the  
1156 investment of funds must be in writing and copies made available  
1157 to the participants and to the general public.

1158 (6) In addition to the defined benefit component of the  
1159 local law plan, each plan sponsor must have a defined  
1160 contribution plan component within the local law plan by October

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1161 1, 2015, for noncollectively bargained service, upon entering  
1162 into a collective bargaining agreement on or after July 1, 2015,  
1163 or upon the creation date of a new participating plan. Depending  
1164 upon the application of subsection (1), a defined contribution  
1165 component may or may not receive any funding.

1166 (7) Notwithstanding any other provision of this chapter, a  
1167 municipality that has implemented or proposed changes to a local  
1168 law plan based on the municipality's reliance on an  
1169 interpretation of this chapter by the Department of Management  
1170 Services on or after August 14, 2012, and before March 3, 2015,  
1171 may continue the implemented changes or continue to implement  
1172 proposed changes. Such reliance must be evidenced by a written  
1173 collective bargaining proposal or agreement, or formal  
1174 correspondence between the municipality and the Department of  
1175 Management Services which describes the specific changes to the  
1176 local law plan, with the initial proposal, agreement, or  
1177 correspondence from the municipality dated before March 3, 2015.  
1178 Changes to the local law plan which are otherwise contrary to  
1179 minimum benefits and minimum standards may continue in effect  
1180 until the earlier of October 1, 2018, or the effective date of a  
1181 collective bargaining agreement that is contrary to the changes  
1182 to the local law plan.

1183 Section 13. The Legislature finds that a proper and  
1184 legitimate state purpose is served when employees and retirees  
1185 of this state and its political subdivisions, and the  
1186 dependents, survivors, and beneficiaries of such employees and  
1187 retirees, are extended the basic protections afforded by  
1188 governmental retirement systems that provide fair and adequate  
1189 benefits and that are managed, administered, and funded in an

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1190 actuarially sound manner as required under s. 14, Article X of  
1191 the State Constitution and part VII of chapter 112, Florida  
1192 Statutes. Therefore, the Legislature determines and declares  
1193 that this act fulfills an important state interest.

1194 Section 14. This act shall take effect July 1, 2015.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2-17-15

Meeting Date

172

Bill Number (if applicable)

Topic Pension

Amendment Barcode (if applicable)

Name Connie Vanassche

Job Title \_\_\_\_\_

Address P. O. Box 35

Phone 561-924-7702

Street

Canal Point

City

FL

State

33438

Zip

Email casgovsec@gmail.com

Speaking:  For  Against  Information

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

Representing City of Bartow

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)

2/17/15  
Meeting Date

CS15B172  
Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name Kraig Conn

Job Title Legislative Counsel

Address 301 S. Brmough Ste 300

Phone 222 9684

Street

Tall FL 32302

City

State

Zip

Email kconn@flcities.com

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.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/17/2015

Meeting Date

172

Bill Number (if applicable)

Topic local pension plans

Amendment Barcode (if applicable)

Name Matt Puckett

Job Title Lobbyist

Address 300 East Brevard St.

Phone 850 - 222-3329

Street

Tallahassee

City

FL

State

32301

Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing Florida Police Benevolent 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**

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

2/17/15  
Meeting Date

SB172  
Bill Number (if applicable)

Topic Pensions

Amendment Barcode (if applicable)

Name Skylar Zander

Job Title Deputy State Director

Address 200 W College Ave Suite 113

Phone ~~850~~ 850-428-2245

Tallahassee  
City

FL  
State

32301  
Zip

Email szander@afpq.org

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)

2/17/15  
Meeting Date

SB 172  
Bill Number (if applicable)

Topic local pension reform

Amendment Barcode (if applicable)

Name Morgan McAfee

Job Title \_\_\_\_\_

Address 106 N. Bronagh Street

Phone 850-212-5052

Tallahassee FL 32301  
City State Zip

Email morgan@floridataxwatch.org

Speaking:  For  Against  Information

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

Representing Florida Taxwatch

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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



THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

172  
Bill Number (if applicable)

Meeting Date \_\_\_\_\_

Topic Pension Reform

Amendment Barcode (if applicable) \_\_\_\_\_

Name Lisa Henning

Job Title Legislative Director

Address 242 Office Plaza Dr

Phone \_\_\_\_\_

Tallahassee FL 32301  
City State Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing Fraternal Order of Police

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/17/15  
Meeting Date

172  
Bill Number (if applicable)

Topic Municipal Retirement

Amendment Barcode (if applicable)

Name Rocco Salvatori

Job Title Vice President, Florida Prof. Firefighters

Address 345 West Madison St

Phone 850-224-7333

Street

Tallahassee

City

FL

State

32301

Zip

Email RoccoSalvatori@icloud.com

Speaking:  For  Against  Information

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

Representing Florida Professional Firefighters

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/17/15  
Meeting Date

172  
Bill Number (if applicable)

Topic Local pension Reform

Amendment Barcode (if applicable)

Name David Hart

Job Title Fla Chamber

Address \_\_\_\_\_  
Street

Phone \_\_\_\_\_

City

State

Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing Fla 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.**



The Florida Senate

## Committee Agenda Request

**To:** Senator Wilton Simpson, Chair  
Committee on Community Affairs

**Subject:** Committee Agenda Request

**Date:** January 26, 2015

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I respectfully request that **Senate Bill # 172**, relating to Local Government Pension Reform, be placed on the:

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

A handwritten signature in black ink, appearing to read "Rob Bradley".

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Senator Rob Bradley  
Florida Senate, District 7

# TAXPAYERS FOR SUSTAINABLE PENSIONS

Representative Janet Adkins  
313 House Office Building  
402 South Monroe Street  
Tallahassee, FL 32399-1300

AMERICANS FOR PROSPERITY

ASSOCIATED INDUSTRIES OF FLORIDA

FLORIDA CHAMBER FOUNDATION

FLORIDA LEAGUE OF CITIES

FLORIDA TAXWATCH

LEROY COLLINS INSTITUTE

NATIONAL FEDERATION OF  
INDEPENDENT BUSINESS

R STREET INSTITUTE

REASON FOUNDATION

January 20, 2015

Dear Representative Adkins:

Across the state of Florida, cities have amassed nearly \$11 billion in unfunded pension liabilities. Florida cities will be forced to pay off these debts by assessing and collecting additional taxes and fees from residents, or cutting city services, such as parks and recreation, trash collection, public works, community maintenance, or even public safety officer positions. This pension debt is directly affecting the quality of life in Florida communities, and unless reforms are undertaken quickly, the debt will continue to climb.

The Taxpayers for Sustainable Pensions is a coalition of individual policy groups dedicated to municipal pension reform across the state. Coalition members are committed to researching solutions to Florida's municipal pension problems and working with key stakeholders to achieve responsible reform that accounts for employee security, long-term sustainability, transparency and accountability.

Sustainable, affordable, and fair pensions for municipal police officers and firefighters can be achieved with comprehensive legislative reforms, to include:

- Clearly stating pension benefit levels, employee contributions and use of insurance premium tax revenues are subject to negotiations between cities and police and fire unions during collective bargaining;
- Removing legislative mandates on police and fire pension benefit levels, such as the "extra benefits" requirement;
- Removing legislative mandates on the composition and authority of police and fire pension boards of trustees;
- Providing options and incentives for cities to consider for placing police and fire in the Florida Retirement System; and
- Reforming disability presumptions for police and fire.

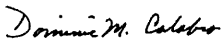
# TAXPAYERS FOR SUSTAINABLE PENSIONS

We hope you will consider these reform options as you design a proposal to control costs in Florida's municipal pension plans, and ensure long-term sustainability and financial security for taxpayers and the public safety employees who dutifully serve the communities of the Sunshine State.

AMERICANS FOR PROSPERITY

Sincerely,

ASSOCIATED INDUSTRIES OF FLORIDA

  
Dominic M. Calabro  
Florida TaxWatch

FLORIDA CHAMBER FOUNDATION

FLORIDA LEAGUE OF CITIES



FLORIDA TAXWATCH

Tony Carvajal  
Florida Chamber Foundation

LEROY COLLINS INSTITUTE



NATIONAL FEDERATION OF  
INDEPENDENT BUSINESS

Chris Hudson  
Americans for Prosperity

R STREET INSTITUTE



Tom Feeney  
Associated Industries of Florida

REASON FOUNDATION



Scott Dudley  
Florida League of Cities

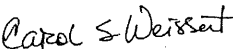


Bill Herrle  
National Federation of Independent Business



Christian Camara  
R Street Institute



Lance Christensen  
Reason Foundation  
  
Carol Weissert  
LeRoy Collins Institute

**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.)

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Prepared By: The Professional Staff of the Committee on Community Affairs

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BILL: CS/SB 7006

INTRODUCER: Community Affairs Committee; Education Pre-K - 12 Committee; and Senator Legg

SUBJECT: Early Learning

DATE: February 17, 2015

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Scott	Klebacha		<b>ED SPB 7006 as introduced</b>
1.	Stearns	Yeatman	CA	<b>Fav/CS</b>
2.			AP	

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 7006 increases the health and safety standards and personnel requirements for Voluntary Prekindergarten Programs Education (VPK) programs and School Readiness programs.

Specifically, the bill:

- Requires licensure or, if the provider is a license-exempt faith-based provider or nonpublic school, a certificate of substantial compliance with specified child care licensing standards and submission to inspections by the Department of Children and Families (DCF);
- Requires providers of child care and VPK instructional services to notify parents of and conspicuously post Class I violation citations and inspection reports that result in disciplinary action on the premises;
- Denies initial eligibility for programs to certain providers that had a Class I violation within the preceding 12 months prior to seeking eligibility and, if cited for a Class I violation, prevents an existing provider from renewing its eligibility for 12 months;
- Requires certain personnel to be at least 18 years of age and hold a high school diploma by January 1, 2017;
- Provides requirements for certain employees to be trained in first aid and cardiopulmonary resuscitation;
- Requires personnel to be trained in developmentally appropriate practices aligned to the age and needs of children served by the personnel;
- Requires the Office of Early Learning (OEL) to develop online training regarding School Readiness performance standards and provider personnel to complete the training;

- Requires the office to conduct a pilot project assessing the early literacy skills of VPK participants who are English Language Learners;
- Provides failure to report child abuse as a disqualifying offense for child care employment;
- Prohibits an operator of a program, who has been disciplined for serious licensing violations, from transferring ownership of a program to relatives;
- Authorizes Early Learning Coalitions (ELCs) to allow private providers to accept applications and determine child eligibility for the VPK program;
- Expands the DCF's authority to conduct abbreviated inspections to include family day care homes and large family child care homes;
- Requires the Division of Law Revision and Information to change the terms "family day care" to "family child care" and "family day care home" to "family child care home";
- Allows a district school board or charter school governing board to permit certain 4-year-old children to attend public kindergarten; and
- Provides 18 full-time equivalent positions and an appropriation to the DCF in the amount of \$1,034,965 in recurring funds and \$11,319 in nonrecurring funds from the General Revenue Fund, and \$70,800 in recurring funds from the Operations and Maintenance Trust Fund.

## II. Present Situation:

### **The Office of Early Learning**

The Office of Early Learning (OEL), which is within the Office of Independent Education and Parental Choice and accountable to the Commissioner of Education, administers the Voluntary Prekindergarten Education Program (VPK) and the School Readiness program at the state level.<sup>1</sup> The Florida Department of Children and Families (DCF) Office of Child Care Regulation regulates child care providers who have early learning programs because DCF is the agency responsible for the state's child care provider licensing program.<sup>2</sup>

### ***Voluntary Prekindergarten Education Program***

The VPK program is available to each child residing in the state who is four years old on or before September 1 of the school year, and the program remains available to the child until the child is eligible for admission to public school kindergarten or is admitted to kindergarten, whichever occurs sooner.<sup>3</sup> Parents may choose either a school-year or summer program offered by a public school or private prekindergarten provider, or a specialized instructional services program for a child with disabilities who is eligible for such a program.<sup>4</sup> A parent enrolling a

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<sup>1</sup> Section 1001.213, F.S.

<sup>2</sup> See ss. 402.301-402.319, F.S.; Parts V and VI, ch. 1002, F.S.

<sup>3</sup> Section 1002.53, F.S.

<sup>4</sup> Section 1002.53(3), F.S. To be eligible for a specialized instructional services program, a child must be evaluated and determined to be eligible, have a current individual educational plan developed by the local school board, and be eligible under s. 1002.66, F.S., for the program. Section 1002.53(3)(d), F.S.



child in the VPK program must complete and submit an application to the early learning coalition (ELC),<sup>5</sup> not the individual program provider, which oversees the program.<sup>6</sup>

The VPK program may be offered by either a private prekindergarten provider or a public school. Local oversight of individual VPK program providers is split with ELCs providing administration over programs delivered by private prekindergarten providers and school districts administering public school VPK programs.<sup>7</sup> Each district school board determines which district schools will offer the school-year and summer VPK programs and such schools must register with the ELC.<sup>8</sup>

A private prekindergarten VPK provider must register with the ELC and be a:

- Licensed child care facility;
- Licensed family day care home (FDCH);
- Licensed large family child care home (LFCCH);
- Nonpublic school; or
- License-exempt faith-based child care provider.<sup>9</sup>

In addition, a private prekindergarten provider must:

- Be accredited by an accrediting association that is a member of either the National Council for Private School Accreditation or the Florida Association of Academic Nonpublic Schools, or be accredited by the Southern Association of Colleges and Schools, the Western Association of Colleges and Schools, the North Central Association of Colleges and Schools, the Middle States Association of Colleges and Schools, or the New England Association of Colleges and Schools; and have written accreditation standards that meet the state's licensing requirements and require at least one onsite visit before accreditation is granted;<sup>10</sup>
- Hold a current Gold Seal Quality Care designation;<sup>11</sup> or

<sup>5</sup> An "early learning coalition" or "coalition" is described in s. 1002.83, F.S. Section 1002.51(4), F.S. Throughout the 67 counties, there are to be 31 or fewer early learning coalitions to provide access to enhancement services at the local level. Each coalition must consist of 15-30 members and have members who meet specific requirements described in statute. *See* s. 1002.83, F.S.

<sup>6</sup> Section 1002.53(4), F.S.

<sup>7</sup> *See* ss. 1002.53(6), 1002.55(1), 1002.61(1), and 1002.63(1), F.S.

<sup>8</sup> Sections 1002.61(3)(a) and (8); 1002.63(3) and (8), F.S. Each school district is able to limit the number of students enrolled in the school-year program at a public school, however, the school district must admit every eligible child, enrolled by a parent, within the district for the summer prekindergarten program. Section 1002.53(6)(b).

<sup>9</sup> Section 1002.55(3)(a) and (h), F.S.; *see also* s. 402.305, F.S. (regarding licensing standards for child care facilities); s. 402.3025, F.S. (regarding public and nonpublic schools); s. 402.313, F.S. (providing for family day care home licensing and requirements); s. 402.3131, F.S. (regarding licensure of large family child care homes); s. 402.316, F.S. (providing a licensure exemption for faith-based providers).

<sup>10</sup> Section 1002.55(3)(b)1., F.S.

<sup>11</sup> Section 1005(3)(b)2., F.S.; *see* s. 402.281, F.S.; rule 65C-22.009, F.A.C.; *see also* Florida Department of Children and Family Services, *Gold Seal Accreditation Process for Child Care Providers*, <http://myflfamilies.com/service-programs/child-care/goldseal-acredprocess> (last visited Jan. 15, 2015). DCF issues the Gold Seal Quality Care designation to child care facilities, LFCCHs, and FDCHs that are accredited by a nationally recognized accrediting association with standards that meet or exceed DCF-adopted standards. DCF's standards are based upon those of the National Association for the Education of Young Children, National Association of Family Child Care, and National Early Childhood Program Accreditation Commission. Section 402.281(1)-(3), F.S.

- Be licensed and demonstrate that the ELC has verified that the provider meets the VPK program's statutory requirements.<sup>12</sup>

### **School Readiness Program**

The School Readiness program provides subsidized child care services and early childhood education for children of low-income families, children in protective services who are at risk of abuse, neglect, or abandonment, and children with disabilities.<sup>13</sup> The School Readiness program is a state-federal partnership between the OEL and the Office of Child Care of the United States Department of Health and Human Services.<sup>14</sup> The School Readiness program receives funding from a mixture of state and federal sources, including the federal Child Care and Development Fund (CCDF) block grant, the federal Temporary Assistance for Needy Families block grant, and general revenue and other state funds.<sup>15</sup> The program is administered by ELCs.<sup>16</sup>

To deliver the School Readiness program, a provider must be:

- A licensed child care facility;
- A licensed or registered family day care home (FDCH);
- A licensed large family child care home (LFCCH);
- A public school or nonpublic school;
- A license-exempt faith-based child care provider;
- A before-school or after-school program; or
- An informal child care provider authorized in the state's CCDF plan.<sup>17</sup>

The present situation for the relevant provisions of the bill is discussed in the Effect of Proposed Changes Section of this bill analysis.

### **III. Effect of Proposed Changes:**

SB 7006 increases the health and safety standards and personnel requirements for Voluntary Prekindergarten Programs Education (VPK) programs and School Readiness programs.

<sup>12</sup> Section 1002.55(3)(b)3., F.S.

<sup>13</sup> Section 1002.87, F.S.; see s. 1002.81(1), F.S. (defining what it means to be an "at-risk child").

<sup>14</sup> 42 U.S.C ss. 618, 9858-9858q; 45 C.F.R. ss. 98, 99; Part VI, ch. 1002, F.S.; U.S. Department of Health and Human Services, *Office of Child Care Fact Sheet*, available at [http://www.acf.hhs.gov/sites/default/files/assets/FS\\_OCC\\_0.pdf](http://www.acf.hhs.gov/sites/default/files/assets/FS_OCC_0.pdf).

<sup>15</sup> Specific Appropriations 78A and 79, s. 2, ch. 2013-40, L.O.F.; see also U.S. Department of Health and Human Services, *Office of Child Care Fact Sheet*, available at [http://www.acf.hhs.gov/sites/default/files/assets/FS\\_OCC\\_0.pdf](http://www.acf.hhs.gov/sites/default/files/assets/FS_OCC_0.pdf).

<sup>16</sup> Sections 1002.83-1002.85, F.S. There are currently 31 ELCs, which is the maximum permitted by law. Section 1002.83(1), F.S.; see Florida's Office of Early Learning, *Early Learning Coalition Directory* (Jan. 7, 2015), available at <http://www.floridaearlylearning.com/sites/www/Uploads/files/Parents/CoalitionDirectory.pdf>.

<sup>17</sup> Section 1002.88(1)(a), F.S. Generally speaking, informal child care is care provided by a relative. See Florida's Office of Early Learning, *Child Care and Development Fund (CCDF) Plan for Florida FFY 2014-15*, at 71 (Oct. 1, 2013), available at [http://www.floridaearlylearning.com/sites/www/Uploads/files/Oel%20Resources/2014-2015\\_CCDF\\_Plan\\_%20Optimized.pdf](http://www.floridaearlylearning.com/sites/www/Uploads/files/Oel%20Resources/2014-2015_CCDF_Plan_%20Optimized.pdf).

## **Requirements of the Office of Early Learning**

### ***Powers and Duties of the Office of Early Learning***

Present Situation: The Office of Early Learning (OEL) is required to: independently exercise powers, duties, and functions prescribed by law; adopt rules for the establishment and operation of VPK and School Readiness programs; administer the VPK and School Readiness programs, and the operational requirements of the child care resource and referral network, at the state level; and minimize administrative staff to those needed to administer the duties of the office.<sup>18</sup>

Effect of the Bill: The bill adds additional requirements to the duties of the OEL. The additional duties are to: hire a general counsel who reports directly to the executive director of the office; hire an inspector general who reports directly to the executive director of the office and to the Chief Inspector General; and by July 1, 2017, develop and implement best practices for providing parental notification in the parent's native language to a parent whose native language is not English. The bill also requires the OEL to conduct a 2-year pilot project studying the impact of assessing the early literacy skills of VPK participants who are English Language Learners, in both English and Spanish, and report its findings to the Governor, the President of the Senate, and the Speaker of the House of Representatives by July 1, 2016, and July 1, 2017.

### ***The Standardized Voluntary Prekindergarten Contract***

Present Situation: Through adopted rules, the OEL is required to have a standard, statewide provider contract for VPK programs that includes provisions on: provider probation, termination for cause and emergency termination; due process procedures; and provide that during the pendency of an appeal, a provider may not continue to offer services.<sup>19</sup>

Effect of the Bill: The bill, in addition to the requirements that currently exist, requires the standard statewide contract to provide provisions that:

- Mandate each private VPK provider and each School Readiness provider to conspicuously post each citation for a Class I violation in an area visible to parents. The posting must use simple language to describe each violation with specificity and include a copy of the citation, as well as contact information for the Department of Children and Families (DCF) or the local licensing agency. Such posting must occur within 24 hours of receipt of the Class I violation citation. Additionally, the provider must post each inspection report on the premises until the next report is available; and
- Specify that child care personnel employed by the provider who are responsible for supervising children in care must be trained in appropriate practices, through DCF courses, aligned to the age and needs of children the employee oversees within 30 days of being assigned to children for which the personnel has not previously completed the training.

Additionally, the bill creates a new requirement for the OEL to develop and implement an online training course on the performance standards for School Readiness program provider personnel and the bill requires personnel to complete the online training course.

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<sup>18</sup> Section 1001.213, F.S.

<sup>19</sup> Section 1002.75, F.S. (regarding VPK programs); s. 1002.82(2)(m), F.S. (regarding School Readiness Programs).

## **Provider, Instructor, and Child Care Personnel Qualifications**

### ***Background Screening***

Present Situation: Personnel at child care facilities must meet a minimum standard of having good moral character as determined by the requirement of level 2 employment screening under ch. 435, F.S.<sup>20</sup>

Effect of the Bill: The bill adds that in addition to the list of offenses in s. 435.04, F.S., pertaining to level 2 screening, child care personnel undergoing background screening must not have an arrest awaiting final disposition for, may not have been found guilty of, or entered a plea of nolo contendere or guilty to, and may not have been adjudicated delinquent and have a record that has been sealed or expunged for an offense specified in s. 39.205, F.S., which relate to penalties associated with the absence of reporting of child abuse, abandonment, or neglect.

The bill applies the background screening requirement and language of s. 402.305(2)(a), F.S., as amended by the bill and described above, to each VPK instructor employed by a private VPK provider delivering the summer VPK program. As noted above, the bill amends the statute to add more prohibited offenses that are not included in current law and current law does not address those offenses because the statute specifically refers to s. 435.04, F.S., without referencing s. 39.205, F.S.<sup>21</sup>

The bill also adds the requirement that before employing child care personnel, an employer must conduct employment history checks and document the findings.

### ***Instructor Credentials***

Present Situation: A private VPK instructor must minimally hold a child development associate credential issued by the National Credentialing Program of the Council for Professional Recognition or a credential deemed equivalent by DCF.<sup>22</sup>

Currently, s. 1002.55, F.S., does not explicitly state requirements for VPK instructors relating to first aid and infant and child cardiopulmonary resuscitation, nor does the statute address a minimum age or high school diploma requirement for employment.

Effect of the Bill: The bill retains the current options that satisfy the minimum credential requirement and provides new credentials, which would also satisfy the requirement. The additional credentials added to the list include, among other options, associate and baccalaureate degrees in child-oriented focus areas and associate and baccalaureate degrees in unrelated areas with additional hours of experience in teaching or child care services. This provision expands the type of credential that is acceptable.

The bill requires at least 50 percent of a private VPK provider's instructors at each location and at least 50 percent of child care personnel at each School Readiness Program location to be trained in first aid and child cardiopulmonary resuscitation, demonstrated by documentation of

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<sup>20</sup> Section 402.305(2), F.S.

<sup>21</sup> See s. 1002.61(5), F.S.

<sup>22</sup> Section 1002.55(3)(c), F.S.

course completion, unless the instructor or personnel is not responsible for supervising children in care, by January 1, 2016. Additionally, instructors and personnel hired on or after January 1, 2016, must complete the training within 60 days of employment.

The bill also adds that, as of January 1, 2017, private VPK providers must employ child care personnel who have a high school diploma, or its equivalent, and are at least 18 years old, unless the personnel are not responsible for supervising children in care or are under direct supervision.

### ***Transfer of Ownership***

**Present Situation:** One week before the transfer of ownership of a child care facility, the transferor must notify the parent or caretaker of each child of the transfer and DCF must establish rules relating to the methods by which such notice will occur and the minimum standards for implementing the notification and transfer.<sup>23</sup>

**Effect of the Bill:** The bill prohibits the transfer of a child care facility *or a large family child care home* to a relative of the operator if the license of the operator has been suspended or revoked by DCF, the operator received notice from DCF that reasonable cause existed to suspend or revoke the operator's license, or the operator has been placed on the United States Department of Agriculture National Disqualified List. The new provision provides a definition of "relative," which includes immediate family members, grandparents, uncles, aunts, nephews, nieces, fathers-in-law, mothers-in-law, step-parents, step-siblings, and half-siblings.

### ***Course Requirements for Operators and Substitute Operators of Family Day Care Homes and Large Family Child Care Homes***

**Present Situation:** Operators of family day care homes must complete an approved 30-clock-hour introductory course in child care and demonstrate successful completion through passage of a competency examination before caring for children.<sup>24</sup>

Operators of large family child care homes must complete an approved 40-clock-hour introductory course in group child care and demonstrate successful completion through passage of a competency examination.<sup>25</sup>

**Effect of the Bill:** The bill adds that *substitute* operators must also meet the 30-clock-hour requirement that is currently in law for operators. Additionally, the bill states specific topics that must be included in the course, which are:

- State and local rules and regulations governing child care;
- Health, safety, and nutrition;
- Identifying and reporting child abuse and neglect;
- Child development;
- Observation of developmental behaviors; and
- Specialized areas including numeracy, early literacy and language development of children from birth to five years of age.

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<sup>23</sup> Section 402.305(18), F.S.

<sup>24</sup> Section 402.313(4), F.S.

<sup>25</sup> Section 402.3131(3), F.S.

The bill adds requirements to the 40-clock-hour introductory course that an operator of a large family child care home must complete. In addition to the existing requirement that the course be about group child care, the course must include numeracy, early literacy, and language development of children from birth to five years of age.

## **Health and Safety**

### ***Inspection and Substantial Compliance with Licensing Standards***

Present Situation: Licensing requirements, except for the requirements regarding screening of child care personnel, do not currently apply to a faith-based facility or educational programs accredited by (or by a member of) an organization that publishes and requires compliance with its standards for health, safety, and sanitation.<sup>26</sup> Nonpublic schools which are not licensed under ss. 402.301-402.319, F.S., are required to substantially comply with the minimum child care standards adopted pursuant to ss. 402.305-402.3057, F.S.<sup>27</sup>

Effect of the Bill: The bill requires child care facilities that are exempt from licensure requirements pursuant to s. 402.316, F.S., to substantially comply with the adopted minimum standards for child care facilities pursuant to ss. 402.305-402.3057, F.S., and obtain a certificate of substantial compliance from DCF. Nonpublic schools which are not licensed are also required to obtain a certificate of substantial compliance. Such facilities must allow DCF or the local licensing agency access to monitor and enforce compliance. The bill adds that DCF must establish a fee for inspection and compliance activities and the amount may not exceed the fee established for child care licensure under s. 402.315, F.S. The bill also provides penalties for the misrepresentation and misuse of certain information. The effect of this provision and the bill is that all programs will either be licensed or must be substantially compliant with existing licensing standards.

Present Situation: A licensed child care facility must allow DCF to inspect facilities and personnel at reasonable times during regular business hours to ensure statutory compliance. An application for a license or the advertisement to the public for the provision of child care allows DCF to enter or inspect a facility.<sup>28</sup>

DCF and local governmental agencies that license child care facilities must develop a plan to eliminate duplicative and unnecessary inspections of child care facilities and conduct abbreviated inspections for child care facilities that have no Class I or Class II deficiencies.

Effect of the Bill: The bill extends DCF's ability to inspect the facilities and personnel of licensed child care facilities to include programs regulated by the department. Additionally, the bill amends the law to add that an application for authorization to operate a child care program that must substantially comply with child care standards under ch. 402, F.S., or renewal of such a license or authorization, also constitutes permission for DCF to enter and inspect the premises.

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<sup>26</sup> Section 402.316(1), F.S.

<sup>27</sup> Section 402.3025(2)(d)1., F.S.

<sup>28</sup> Section 402.311, F.S.

The bill adds licensed family day care homes and licensed large family child care homes without a Class I or Class II violation to the facilities eligible for abbreviated inspections by DCF and the local licensing agency. The bill also requires DCF to adopt rules establishing criteria and procedures for abbreviated inspections and inspection schedules for announced and unannounced inspections.

***Eligibility of a Private Provider to Deliver the Voluntary Prekindergarten Program***

Present Situation: A private provider delivering the VPK program must meet one of the following: be accredited by a particular accrediting body,<sup>29</sup> hold a Gold Seal Quality Care designation, or be licensed under particular statutes.<sup>30</sup> School Readiness facilities are also required to provide basic health and safety of its premises.<sup>31</sup>

Effect of the Bill: The bill adds an additional option for a private VPK provider's required status and states that the private VPK provider may be a child development center located on a military installation that is certified by the United States Department of Defense.

The bill also adds that each private VPK provider must provide basic health and safety on its premises and in its facilities. The bill provides standards that satisfy the requirement for specific VPK and School Readiness programs as follows:

- For a public school, compliance with s. 1003.22, F.S., (school-entry health examinations and immunizations) and s. 1013.12, F.S., (casualty, safety, sanitation, fire safety standards and inspection of property), is sufficient;
- For a nonpublic school, compliance with s. 402.3025(2)(d), F.S., (requiring substantial compliance with statutory licensing standards);
- For a child care facility, a licensed family day care home, or a large family child care home, compliance with s. 402.305, F.S., (licensing standards), s. 402.313, F.S., (licensing of family day care homes requirements), or s. 402.3131, F.S., (licensing of large family child care homes requirements), satisfy this requirement.
- For a facility exempt from licensure, compliance with s. 402.316(4), F.S., (which is created by this bill) satisfies this requirement. The language creating s. 402.316(4), F.S., requires substantial compliance with statutory licensing standards and requirements of ss. 402.305-402.3057, F.S.

In effect, this provision ensures that all providers are licensed or substantially compliant with existing statutory licensing standards.

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<sup>29</sup> Section 1002.55(3)(b)1., F.S. A private VPK provider must be accredited by: “an accrediting association that is a member of the National Council for Private School Accreditation, or the Florida Association of Academic Nonpublic Schools, or be accredited by the Southern Association of Colleges and Schools, or Western Association of Colleges and Schools, or North Central Association of Colleges and Schools, or Middle States Association of Colleges and Schools, or New England Association of Colleges and Schools; and have written accreditation standards that meet or exceed the state’s licensing requirements under ss. 402.305, 402.313, or 402.3131, F.S., and require at least one onsite visit to the provider or school before accreditation is granted.” *Id.*

<sup>30</sup> Section 1002.55, F.S.

<sup>31</sup> Section 1002.88(1)(c), F.S.

### ***Display of License or Registration by Family Day Care Homes***

Present Situation: A licensed or registered family day care home is not required to display its license or registration.<sup>32</sup>

Effect of the Bill: The bill specifically requires each licensed or registered family day care home to conspicuously display its license or registration in the common area of the home.

The bill also creates specific requirements for DCF to verify certain information upon receipt of registration from a family day care home. DCF must verify that the home is in compliance with the background screening requirements, and that the operator and the designated substitute have completed 30-clock-hour training courses (demonstrated through passage of a competency examination and required continuing education units or clock hours).

### ***Rulemaking Authority***

Present Situation: Rulemaking authority is not provided to DCF with regard to defining and enforcing substantial compliance with minimum standards for child care facilities for programs operating under s. 1002.55, F.S., (private school-year VPK programs), s. 1002.61, F.S., (public school and private VPK summer programs), and s. 1002.88, F.S., (School Readiness programs).<sup>33</sup>

Effect of the Bill: The bill provides DCF with rulemaking authority to define and enforce substantial compliance with the minimum standards for child care facilities operating programs under the aforementioned statutes.

### ***Eligibility to Deliver the Voluntary Prekindergarten Program***

Present Situation: Denial of initial eligibility based upon a Class I violation within 12 months of seeking eligibility to deliver a VPK program and preventing renewal of such eligibility for a Class I violation are not currently in law.

Effect of the Bill: The bill denies initial eligibility to a private provider seeking eligibility to deliver the VPK program if the provider has been cited for a Class I violation in the 12 months prior to seeking such eligibility. The bill also prevents an existing provider from renewing its eligibility for 12 months if cited for a Class I violation. In effect, the provision inhibits the growth of a provider's program if the provider has received a citation for the most severe grouping of violations within the past year.

## **Participant-Related Provisions**

### ***Voluntary Prekindergarten Eligibility and Enrollment***

Present Situation: Each parent enrolling a child in the VPK program must complete and submit an application to the early learning coalition (ELC).<sup>34</sup>

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<sup>32</sup> See s. 402.313, F.S.

<sup>33</sup> See s. 402.305, F.S.

<sup>34</sup> Section 1002.53(4)(a), F.S.



**Effect of the Bill:** The bill adds language to allow application submission to a private VPK provider if the provider is authorized by the ELC to determine student eligibility for enrollment in the VPK program, which is a new authority for private VPK programs. The bill also provides the actions a provider must take upon receipt of an application, requires retention of the original application and certified birth certificate of the child for five years, and provides that the ELC may audit applications in its service area to determine whether children enrolled and reported for funding by the provider have met the eligibility criteria. This provision provides a check on the newly authorized ability of some private VPK providers to accept applications, and determine eligibility and enrollment directly.

### ***School Readiness Eligibility***

**Present Situation:** For the purposes of establishing eligibility for the School Readiness program, the terms “at-risk child,” “family income,” and “working family” are defined in statute.<sup>35</sup>

**Effect of the Bill:** The bill amends the definition of an “at-risk child” to provide that a designated lead agency on the homeless assistance continuum of care established under ss. 420.622-420.624, F.S., must determine whether a child is in the custody of a parent who is considered homeless – as opposed to current law which requires DCF to make the determination.

The bill adds to the list of income that is not included in the definition of “family income.” The new language provides that the following is not considered family income:

- Income earned by a teen parent residing in the same residence as a separate family unit; and
- Selected items from the state’s Child Care and Development Fund Plan, including documented child support and alimony payments paid out of the home.

The bill expands the definition of a “working family” to include a single-parent family in which the parent with whom the child resides is exempt from work requirements due to age or disability and a two-parent family with whom the child resides in which both parents are exempt from work requirements due to age or disability.

### **Provider-Related Provisions**

#### ***Reviser’s Bill for the 2016 Regular Session***

**Present Situation:** The terms “family day care” and “family day care home” are currently used in statute.

**Effect of the Bill:** The bill directs the Division of Law Revision and Information to prepare a reviser’s bill for the 2016 regular session that will change the term “family day care” to “family child care,” and the term “family day care home” to “family child care home” throughout the F.S.

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<sup>35</sup> Section 1002.81, F.S.

### ***Zoning, Utility Rates, and Residential Property Insurance Coverage***

Present Situation: Only the operation of a residence as a family day care home as being a valid residential use for local zoning regulation purposes is specifically stated in law.<sup>36</sup>

Effect of the Bill: The bill adds large family child care homes to the existing law so that the operation of a residence as a family day care home *or as a large family child care home* is a valid residential use for local zoning regulation purposes.

Additionally, the bill provides that, despite any other state or local law or ordinance, any licensed large family child care home may not be charged commercial utility rates and must be charged the rates accorded to a residential home.

Present Situation: Family day care homes must not have residential property insurance canceled, denied, or nonrenewed solely because child care services are provided on the premises.<sup>37</sup>

Effect of the Bill: The bill adds large family child care homes to this provision, which currently only includes family day care homes.

### ***Applicability of Requirements to Nonpublic Schools***

Present Situation: Requirements under s. 402.3025, F.S., apply to nonpublic programs for children at least three years of age, but under five years of age, that are not licensed under ss. 402.301-402.319, F.S.<sup>38</sup>

Effect of the Bill: The bill removes the specific age range in current law of three to five years of age and states that the provision is applicable to nonpublic schools delivering school-year and summer VPK programs, and School Readiness programs.

### ***Voluntary Prekindergarten and School Readiness Funding and Attendance Reporting***

Present Situation: Each parent enrolling a child in the VPK program must comply with the attendance policy of the private VPK provider or public school board. Each provider must supply a child's parent with a copy of the attendance policy.<sup>39</sup>

For a School Readiness program, if a child is absent for five consecutive days without notification from the parent of such an absence, the provider is required to report the absence to the ELC.<sup>40</sup>

Effect of the Bill: The bill, in addition to the requirements that a parent comply with the VPK provider's attendance policy and that the provider give the policy to each child's parent, adds that each private VPK provider, public school, and School Readiness program provider must supply each child's parent with information regarding child development, parent engagement

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<sup>36</sup> Sections 125.0109 and 166.0445, F.S.

<sup>37</sup> Section 627.70161, F.S.

<sup>38</sup> Section 402.3025(2)(c), F.S.

<sup>39</sup> Section 1002.71(6)(a), F.S.

<sup>40</sup> Section 1002.87(8), F.S.

expectations, a daily schedule, and, procedures for contacting a parent if a child has been absent for two consecutive days without a known reason.

The bill amends the requirements of the attendance reporting requirement for the School Readiness program to add an additional responsibility of the provider to contact the parent of a child who has been absent for two consecutive days to determine the reason for the absence. This requirement is in addition to the provider being required to contact the ELC if a child is absent for five consecutive days.

### ***School Readiness Program Eligibility Requirements***

Present Situation: The eligibility of each child for the School Readiness program must be determined annually, and a child who is no longer eligible may not continue to receive services.<sup>41</sup>

Effect of the Bill: The bill adds additional language stating that if a child is no longer eligible for the program, the ELC must immediately notify the child's parent and the provider that funding will end two weeks after the date on which the child's ineligibility was determined or when the current School Readiness authorization expires, whichever is sooner.

### ***School Readiness Investigations of Fraud or Overpayment***

Present Situation: The ELC may not contract with a School Readiness or VPK program provider who is on the United States Department of Agriculture National Disqualified List.<sup>42</sup>

Effect of the Bill: The bill adds that an ELC may not contract with an individual on the United States Department of Agriculture National Disqualified List either.

## **Kindergarten-Related Provisions**

### ***Eligibility to Attend Kindergarten***

Present Situation: Children who have attained the age of 5 years on or before September 1 of the school year are eligible for admission to public kindergartens during that school year under rules adopted by the district school board.

Effect of the Bill: The bill allows a district school board or charter school governing board to permit certain 4-year-old children to attend public kindergarten. The board must adopt a policy that requires the child to pass:

- The kindergarten readiness assessment pursuant to s. 1002.69, F.S.; and
- A social assessment developed or selected by the school district or charter school.

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<sup>41</sup> Section 1002.87(6), F.S.

<sup>42</sup> Section 1002.91(7), F.S.

**Appropriation**

The bill provides an appropriation in the amount of \$1,034,965 to the Department of Children and Families and authorizes 18 full-time equivalent positions for the purpose of funding the operating costs associated with implementing the bill.

**Effective Date**

The bill takes effect on July 1, 2015.

**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:**

Section 12 of the bill requires the department to establish a fee for inspection and compliance activities.

**B. Private Sector Impact:**

Some of the bill's provisions may have an indeterminate negative fiscal impact on the private sector. Those provisions relate to the following: certification requirements, training requirements, notification requirements, and a fee for inspection and compliance.

**C. Government Sector Impact:**

According to the DCF, the bill would require the department to monitor over 768 additional child care facilities to ensure substantial compliance with health and safety standards. For fiscal year 2015-16, the Office of Child Care Regulation and Background Screening and the Office of the General Counsel would require \$1,252,441 and 18 full-time equivalent positions.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 125.0109, 166.0445, 402.302, 402.3025, 402.305, 402.311, 402.3115, 402.313, 402.3131, 402.316, 627.70161, 1001.213, 1002.53, 1002.55, 1002.59, 1002.61, 1002.63, 1002.71, 1002.75, 1002.77, 1002.81, 1002.82, 1002.84, 1002.87, 1002.88, 1002.89, 1002.91, 1002.94, and 1003.21.

This bill creates section 402.3085 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 Community Affairs on February 17, 2015:**

Amends s. 1003.21(1)(a)2., F.S., to allow a district school board or charter school governing board to permit certain 4-year-old children to attend public kindergarten. The board must adopt a policy that requires the child to pass:

- The kindergarten readiness assessment pursuant to s. 1002.69, F.S.; and
- A social assessment developed or selected by the school district or charter school.

**B. Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/17/2015	.	
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The Committee on Community Affairs (Simpson) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 1863 and 1864

insert:

Section 31. Paragraph (a) of subsection (1) of section 1003.21, Florida Statutes, is amended to read:

1003.21 School attendance.—

(1) (a) 1. All children who have attained the age of 6 years or who will have attained the age of 6 years by February 1 of any school year or who are older than 6 years of age but who



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11 have not attained the age of 16 years, except as otherwise  
12 provided, are required to attend school regularly during the  
13 entire school term.

14 2.a. Children who will have attained the age of 5 years on  
15 or before September 1 of the school year are eligible for  
16 admission to public kindergartens during that school year under  
17 rules adopted by the district school board.

18 b. A district school board or charter school governing  
19 board may adopt a policy that allows a child who has attained  
20 the age of 4 years on or before September 1 of the school year  
21 to be eligible for admission to public kindergarten during that  
22 school year. The policy must include, but is not limited to, a  
23 requirement that the child complete and pass the following  
24 assessments:

25 (I) The kindergarten readiness assessment pursuant to s.  
26 1002.69. The child must meet the minimum readiness rate adopted  
27 pursuant to s. 1002.69(6); and

28 (II) A social assessment developed or selected by the  
29 school district or charter school. The child must meet the  
30 minimum readiness score identified in the district school  
31 board's or charter school governing board's policy.

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

33 And the title is amended as follows:

34 Delete line 90

35 and insert:

36 an early learning coalition; amending s. 1003.21,  
37 F.S.; authorizing a district school board or charter  
38 school governing board to adopt a policy to allow a  
39 child to be admitted to a public kindergarten if the



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40 child meets certain requirements; requiring the Office  
41 of



By the Committee on Education Pre-K - 12

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1                                   A bill to be entitled  
2       An act relating to early learning; providing a  
3       directive to the Division of Law Revision and  
4       Information to change the term "family day care home"  
5       to "family child care home," and the term "family day  
6       care" to "family child care"; amending ss. 125.0109  
7       and 166.0445, F.S.; including large family child care  
8       homes in local zoning regulation requirements;  
9       amending s. 402.302, F.S.; redefining the term  
10      "substantial compliance"; requiring the Department of  
11      Children and Families to adopt rules for compliance by  
12      certain programs regulated, but not licensed, by the  
13      department; amending s. 402.3025, F.S.; revising  
14      requirements for nonpublic schools delivering certain  
15      voluntary prekindergarten education programs and  
16      school readiness programs; amending s. 402.305, F.S.;  
17      revising certain minimum standards for child care  
18      facilities; prohibiting the transfer of ownership of  
19      such facilities to specified individuals; creating s.  
20      402.3085, F.S.; requiring nonpublic schools or  
21      providers seeking to operate certain programs to  
22      annually obtain a certificate from the department or a  
23      local licensing agency; providing for issuance of the  
24      certificate upon examination of the applicant's  
25      premises and records; prohibiting a provider from  
26      participating in the programs without a certificate;  
27      authorizing local licensing agencies to apply their  
28      own minimum child care standards under certain  
29      circumstances; amending s. 402.311, F.S.; providing

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30 for the inspection of programs regulated by the  
31 department; amending s. 402.3115, F.S.; providing for  
32 abbreviated inspections of specified child care homes;  
33 requiring rulemaking; amending s. 402.313, F.S.;  
34 revising provisions for licensure, registration, and  
35 operation of family child care homes; amending s.  
36 402.3131, F.S.; revising requirements for large family  
37 child care homes; amending s. 402.316, F.S.; providing  
38 exemptions from child care facility licensing  
39 standards; requiring a child care facility operating  
40 as a provider of certain voluntary prekindergarten  
41 education programs or child care programs to comply  
42 with minimum standards; providing penalties for  
43 failure to disclose or for use of certain information;  
44 requiring the department to establish a fee for  
45 inspection and compliance activities; amending s.  
46 627.70161, F.S.; revising restrictions on residential  
47 property insurance coverage to include coverage for  
48 large family child care homes; amending s. 1001.213,  
49 F.S.; providing additional duties of the Office of  
50 Early Learning; amending s. 1002.53, F.S.; revising  
51 requirements for application and determination of  
52 eligibility to enroll in the Voluntary Prekindergarten  
53 (VPK) Education Program; amending s. 1002.55, F.S.;  
54 revising requirements for a school-year  
55 prekindergarten program delivered by a private  
56 prekindergarten provider, including requirements for  
57 providers, instructors, and child care personnel;  
58 providing requirements in the case of provider

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59 violations; amending s. 1002.59, F.S.; conforming a  
60 cross-reference to changes made by the act; amending  
61 ss. 1002.61 and 1002.63, F.S.; revising employment  
62 requirements and educational credentials of certain  
63 instructional personnel; amending s. 1002.71, F.S.;  
64 revising information that must be provided to parents;  
65 amending s. 1002.75, F.S.; revising provisions  
66 included in the standard statewide VPK program  
67 provider contract; amending s. 1002.77, F.S.; revising  
68 the purpose and meetings of the Florida Early Learning  
69 Advisory Council; amending s. 1002.81, F.S.; revising  
70 certain program definitions; amending s. 1002.82,  
71 F.S.; revising the powers and duties of the Office of  
72 Early Learning; revising provisions included in the  
73 standard statewide school readiness provider contract;  
74 amending s. 1002.84, F.S.; revising the powers and  
75 duties of early learning coalitions; conforming  
76 provisions to changes made by the act; amending s.  
77 1002.87, F.S.; revising student eligibility and  
78 enrollment requirements for the school readiness  
79 program; amending s. 1002.88, F.S.; revising  
80 eligibility requirements for program providers that  
81 want to deliver the school readiness program;  
82 providing conditions for denial of initial  
83 eligibility; providing child care personnel  
84 requirements; amending s. 1002.89, F.S.; revising the  
85 use of funds for the school readiness program;  
86 amending s. 1002.91, F.S.; prohibiting an early  
87 learning coalition from contracting with specified

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88 persons; amending s. 1002.94, F.S.; revising  
89 establishment of a community child care task force by  
90 an early learning coalition; requiring the Office of  
91 Early Learning to conduct a pilot project to study the  
92 impact of assessing the early literacy skills of  
93 certain VPK program participants; requiring the office  
94 to report its findings to the Governor and Legislature  
95 by specified dates; providing an appropriation;  
96 providing an effective date.

97

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

99

100 Section 1. The Division of Law Revision and Information is  
101 directed to prepare a reviser's bill for the 2016 Regular  
102 Session of the Legislature to change the term "family day care  
103 home" to "family child care home" and the term "family day care"  
104 to "family child care" wherever the terms appear in the Florida  
105 Statutes.

106 Section 2. Section 125.0109, Florida Statutes, is amended  
107 to read:

108 125.0109 Family child day care homes and large family child  
109 care homes; local zoning regulation.—The operation of a  
110 residence as a family child day care home or large family child  
111 care home, as defined in s. 402.302, licensed or registered  
112 pursuant to s. 402.313 or s. 402.3131, as applicable,  
113 constitutes, as defined by law, registered or licensed with the  
114 Department of Children and Families shall constitute a valid  
115 residential use for purposes of any local zoning regulations,  
116 and ~~no~~ such regulation may not shall require the owner or

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117 operator of such family child day care home or large family  
118 child care home to obtain any special exemption or use permit or  
119 waiver, or to pay any special fee in excess of \$50, to operate  
120 in an area zoned for residential use.

121 Section 3. Section 166.0445, Florida Statutes, is amended  
122 to read:

123 166.0445 Family child day care homes and large family child  
124 care homes; local zoning regulation.—The operation of a  
125 residence as a family child day care home or large family child  
126 care home, as defined in s. 402.302, licensed or registered  
127 pursuant to s. 402.313 or s. 402.3131, as applicable,  
128 constitutes, ~~as defined by law, registered or licensed with the~~  
129 ~~Department of Children and Families shall constitute~~ a valid  
130 residential use for purposes of any local zoning regulations,  
131 and ~~no~~ such regulations may not ~~regulation shall~~ require the  
132 owner or operator of such family child day care home or large  
133 family child care home to obtain any special exemption or use  
134 permit or waiver, or to pay any special fee in excess of \$50, to  
135 operate in an area zoned for residential use.

136 Section 4. Subsection (17) of section 402.302, Florida  
137 Statutes, is amended to read:

138 402.302 Definitions.—As used in this chapter, the term:

139 (17) "Substantial compliance" means, for purposes of  
140 programs operating under s. 1002.55, s. 1002.61, or s. 1002.88,  
141 ~~that level of adherence to adopted standards~~ which is sufficient  
142 to safeguard the health, safety, and well-being of all children  
143 under care. The standards must address the requirements of s.  
144 402.305 and must be limited to supervision, transportation,  
145 access, health-related requirements, food and nutrition,

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146 personnel screening, records, and enforcement of these  
147 standards. The standards must not limit or exclude the  
148 curriculum provided by a faith-based provider or nonpublic  
149 school. The department, in consultation with the Office of Early  
150 Learning, must adopt rules to define and enforce substantial  
151 compliance with minimum standards for child care facilities for  
152 programs operating under s. 1002.55, s. 1002.61, or s. 1002.88  
153 which are regulated, but not licensed, by the department  
154 ~~Substantial compliance is greater than minimal adherence but not~~  
155 ~~to the level of absolute adherence. Where a violation or~~  
156 ~~variation is identified as the type which impacts, or can be~~  
157 ~~reasonably expected within 90 days to impact, the health,~~  
158 ~~safety, or well-being of a child, there is no substantial~~  
159 ~~compliance.~~

160 Section 5. Paragraphs (d) and (e) of subsection (2) of  
161 section 402.3025, Florida Statutes, are amended to read:

162 402.3025 Public and nonpublic schools.—For the purposes of  
163 ss. 402.301-402.319, the following shall apply:

164 (2) NONPUBLIC SCHOOLS.—

165 (d)1. Nonpublic schools delivering programs under s.  
166 1002.55, s. 1002.61, or s. 1002.88 ~~Programs for children who are~~  
167 ~~at least 3 years of age, but under 5 years of age,~~ which are not  
168 licensed under ss. 402.301-402.319 shall substantially comply  
169 with the minimum child care standards adopted ~~promulgated~~  
170 pursuant to ss. 402.305-402.3057.

171 2. The department or local licensing agency shall enforce  
172 compliance with such standards, where possible, to eliminate or  
173 minimize duplicative inspections or visits by staff enforcing  
174 the minimum child care standards and staff enforcing other

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175 standards under the jurisdiction of the department.

176 3. The department or local licensing agency may inspect  
177 programs operating under this paragraph and pursue  
178 administrative or judicial action under ss. 402.310-402.312  
179 against nonpublic schools operating under this paragraph  
180 ~~commence and maintain all proper and necessary actions and~~  
181 ~~proceedings for any or all of the following purposes:~~

182 a. ~~to protect the health, sanitation, safety, and well-~~  
183 ~~being of all children under care.~~

184 b. ~~To enforce its rules and regulations.~~

185 c. ~~To use corrective action plans, whenever possible, to~~  
186 ~~attain compliance prior to the use of more restrictive~~  
187 ~~enforcement measures.~~

188 d. ~~To make application for injunction to the proper circuit~~  
189 ~~court, and the judge of that court shall have jurisdiction upon~~  
190 ~~hearing and for cause shown to grant a temporary or permanent~~  
191 ~~injunction, or both, restraining any person from violating or~~  
192 ~~continuing to violate any of the provisions of ss. 402.301-~~  
193 ~~402.319. Any violation of this section or of the standards~~  
194 ~~applied under ss. 402.305-402.3057 which threatens harm to any~~  
195 ~~child in the school's programs for children who are at least 3~~  
196 ~~years of age, but are under 5 years of age, or repeated~~  
197 ~~violations of this section or the standards under ss. 402.305-~~  
198 ~~402.3057, shall be grounds to seek an injunction to close a~~  
199 ~~program in a school.~~

200 e. ~~To impose an administrative fine, not to exceed \$100,~~  
201 ~~for each violation of the minimum child care standards~~  
202 ~~promulgated pursuant to ss. 402.305-402.3057.~~

203 4. It is a misdemeanor of the first degree, punishable as

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204 provided in s. 775.082 or s. 775.083, for any person willfully,  
205 knowingly, or intentionally to:

206 a. Fail, by false statement, misrepresentation,  
207 impersonation, or other fraudulent means, to disclose in any  
208 required written documentation for exclusion from licensure  
209 pursuant to this section a material fact used in making a  
210 determination as to such exclusion; or

211 b. Use information from the criminal records obtained under  
212 s. 402.305 or s. 402.3055 for any purpose other than screening  
213 that person for employment as specified in those sections or  
214 release such information to any other person for any purpose  
215 other than screening for employment as specified in those  
216 sections.

217 5. It is a felony of the third degree, punishable as  
218 provided in s. 775.082, s. 775.083, or s. 775.084, for any  
219 person willfully, knowingly, or intentionally to use information  
220 from the juvenile records of any person obtained under s.  
221 402.305 or s. 402.3055 for any purpose other than screening for  
222 employment as specified in those sections or to release  
223 information from such records to any other person for any  
224 purpose other than screening for employment as specified in  
225 those sections.

226 6. The inclusion of nonpublic schools within options  
227 available under ss. 1002.55, 1002.61, and 1002.88 does not  
228 expand the regulatory authority of the state, its officers, any  
229 local licensing agency, or any early learning coalition to  
230 impose any additional regulation of nonpublic schools beyond  
231 those reasonably necessary to enforce requirements expressly  
232 specified in this paragraph.



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233 ~~(c) The department and the nonpublic school accrediting~~  
234 ~~agencies are encouraged to develop agreements to facilitate the~~  
235 ~~enforcement of the minimum child care standards as they relate~~  
236 ~~to the schools which the agencies accredit.~~

237 Section 6. Paragraphs (a) and (d) of subsection (2),  
238 paragraph (b) of subsection (9), and subsections (10) and (18)  
239 of section 402.305, Florida Statutes, are amended to read:

240 402.305 Licensing standards; child care facilities.—

241 (2) PERSONNEL.—Minimum standards for child care personnel  
242 shall include minimum requirements as to:

243 (a) Good moral character based upon screening, according to  
244 the level 2 screening requirements of. ~~This screening shall be~~  
245 ~~conducted as provided in chapter 435, using the level 2~~  
246 ~~standards for screening set forth in that chapter.~~ In addition  
247 to the offenses specified in s. 435.04, all child care personnel  
248 required to undergo background screening pursuant to this  
249 section may not have an arrest awaiting final disposition for,  
250 may not have been found guilty of, regardless of adjudication,  
251 or entered a plea of nolo contendere or guilty to, and may not  
252 have been adjudicated delinquent and have a record that has been  
253 sealed or expunged for an offense specified in s. 39.205. Before  
254 employing child care personnel subject to this section, the  
255 employer must conduct employment history checks of each of the  
256 personnel's previous employers and document the findings. If  
257 unable to contact a previous employer, the employer must  
258 document efforts to contact the previous employer.

259 (d) Minimum training requirements for child care personnel.

260 1. Such minimum standards for training shall ensure that  
261 all child care personnel take an approved 40-clock-hour

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262 introductory course in child care, which course covers at least  
263 the following topic areas:

264 a. State and local rules and regulations which govern child  
265 care.

266 b. Health, safety, and nutrition.

267 c. Identifying and reporting child abuse and neglect.

268 d. Child development, including typical and atypical  
269 language, cognitive, motor, social, and self-help skills  
270 development.

271 e. Observation of developmental behaviors, including using  
272 a checklist or other similar observation tools and techniques to  
273 determine the child's developmental age level.

274 f. Specialized areas, including computer technology for  
275 professional and classroom use and numeracy, early literacy, and  
276 language development of children from birth to 5 years of age,  
277 as determined by the department, for owner-operators and child  
278 care personnel of a child care facility.

279 g. Developmental disabilities, including autism spectrum  
280 disorder and Down syndrome, and early identification, use of  
281 available state and local resources, classroom integration, and  
282 positive behavioral supports for children with developmental  
283 disabilities.

284  
285 Within 90 days after employment, child care personnel shall  
286 begin training to meet the training requirements pursuant to  
287 this paragraph. Child care personnel shall successfully complete  
288 such training within 1 year after the date on which the training  
289 began, as evidenced by passage of a competency examination.  
290 Successful completion of the 40-clock-hour introductory course

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291 shall articulate into community college credit in early  
292 childhood education, pursuant to ss. 1007.24 and 1007.25.  
293 Exemption from all or a portion of the required training shall  
294 be granted to child care personnel based upon educational  
295 credentials or passage of competency examinations. Child care  
296 personnel possessing a 2-year degree or higher that includes 6  
297 college credit hours in early childhood development or child  
298 growth and development, or a child development associate  
299 credential or an equivalent state-approved child development  
300 associate credential, or a child development associate waiver  
301 certificate shall be automatically exempted from the training  
302 requirements in sub-subparagraphs b., d., and e.

303 2. The introductory course in child care shall stress, to  
304 the extent possible, an interdisciplinary approach to the study  
305 of children.

306 3. The introductory course shall cover recognition and  
307 prevention of shaken baby syndrome; prevention of sudden infant  
308 death syndrome; recognition and care of infants and toddlers  
309 with developmental disabilities, including autism spectrum  
310 disorder and Down syndrome; and early childhood brain  
311 development within the topic areas identified in this paragraph.

312 4. On an annual basis in order to further their child care  
313 skills and, if appropriate, administrative skills, child care  
314 personnel who have fulfilled the requirements for the child care  
315 training shall be required to take an additional 1 continuing  
316 education unit of approved inservice training, or 10 clock hours  
317 of equivalent training, as determined by the department.

318 5. Child care personnel shall be required to complete 0.5  
319 continuing education unit of approved training or 5 clock hours

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320 of equivalent training, as determined by the department, in  
321 numeracy, early literacy, and language development of children  
322 from birth to 5 years of age one time. The year that this  
323 training is completed, it shall fulfill the 0.5 continuing  
324 education unit or 5 clock hours of the annual training required  
325 in subparagraph 4.

326 6. Procedures for ensuring the training of qualified child  
327 care professionals to provide training of child care personnel,  
328 including onsite training, shall be included in the minimum  
329 standards. It is recommended that the state community child care  
330 coordination agencies (central agencies) be contracted by the  
331 department to coordinate such training when possible. Other  
332 district educational resources, such as community colleges and  
333 career programs, can be designated in such areas where central  
334 agencies may not exist or are determined not to have the  
335 capability to meet the coordination requirements set forth by  
336 the department.

337 7. Training requirements do ~~shall~~ not apply to certain  
338 occasional or part-time support staff, including, but not  
339 limited to, swimming instructors, piano teachers, dance  
340 instructors, and gymnastics instructors.

341 8. The department shall evaluate or contract for an  
342 evaluation for the general purpose of determining the status of  
343 and means to improve staff training requirements and testing  
344 procedures. The evaluation shall be conducted every 2 years. The  
345 evaluation must ~~shall~~ include, but not be limited to,  
346 determining the availability, quality, scope, and sources of  
347 current staff training; determining the need for specialty  
348 training; and determining ways to increase inservice training

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349 and ways to increase the accessibility, quality, and cost-  
350 effectiveness of current and proposed staff training. The  
351 evaluation methodology must ~~shall~~ include a reliable and valid  
352 survey of child care personnel.

353 9. The child care operator shall be required to take basic  
354 training in serving children with disabilities within 5 years  
355 after employment, either as a part of the introductory training  
356 or the annual 8 hours of inservice training.

357 (9) ADMISSIONS AND RECORDKEEPING.—

358 (b) ~~During the months of August and September of each year,~~  
359 Each child care facility shall provide parents of children  
360 enrolling ~~enrolled~~ in the facility detailed information  
361 regarding the causes, symptoms, and transmission of the  
362 influenza virus in an effort to educate those parents regarding  
363 the importance of immunizing their children against influenza as  
364 recommended by the Advisory Committee on Immunization Practices  
365 of the Centers for Disease Control and Prevention.

366 (10) TRANSPORTATION SAFETY.—Minimum standards must ~~shall~~  
367 include requirements for child restraints or seat belts in  
368 vehicles used by child care facilities, and large family child  
369 care homes, and licensed family child care homes to transport  
370 children, requirements for annual inspections of the vehicles,  
371 limitations on the number of children in the vehicles, and  
372 accountability for children being transported.

373 (18) TRANSFER OF OWNERSHIP.—

374 (a) One week before ~~prior to~~ the transfer of ownership of a  
375 child care facility, ~~or~~ family child ~~day~~ care home, or large  
376 family child care home, the transferor shall notify the parent  
377 or caretaker of each child of the impending transfer.

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378       (b) The owner of a child care facility, family child care  
379 home, or large family child care home may not transfer ownership  
380 to a relative of the operator if the operator has had his or her  
381 license suspended or revoked by the department pursuant to s.  
382 402.310, has received notice from the department that reasonable  
383 cause exists to suspend or revoke his or her license, or has  
384 been placed on the United States Department of Agriculture  
385 National Disqualified List. For purposes of this paragraph, the  
386 term "relative" means father, mother, son, daughter,  
387 grandfather, grandmother, brother, sister, uncle, aunt, cousin,  
388 nephew, niece, husband, wife, father-in-law, mother-in-law, son-  
389 in-law, daughter-in-law, brother-in-law, sister-in-law,  
390 stepfather, stepmother, stepson, stepdaughter, stepbrother,  
391 stepsister, half brother, or half sister.

392       (c)~~(b)~~ The department shall, by rule, establish methods by  
393 which notice will be achieved and minimum standards by which to  
394 implement this subsection.

395       Section 7. Section 402.3085, Florida Statutes, is created  
396 to read:

397       402.3085 Certificate of substantial compliance with minimum  
398 child care standards.—Each nonpublic school or provider seeking  
399 to operate a program pursuant to s. 402.3025(2) (d) or s.  
400 402.316(4), respectively, shall annually obtain a certificate  
401 from the department or local licensing agency in the manner and  
402 on the forms prescribed by the department or local licensing  
403 agency. An annual certificate or a renewal of an annual  
404 certificate shall be issued upon an examination of the  
405 applicant's premises and records to determine that the applicant  
406 is in substantial compliance with the minimum child care

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407 standards. A provider may not participate in these programs  
408 without this certification. Local licensing agencies may apply  
409 their own minimum child care standards if the department  
410 determines that such standards meet or exceed department  
411 standards as provided in s. 402.307.

412 Section 8. Section 402.311, Florida Statutes, is amended to  
413 read:

414 402.311 Inspection.—A licensed child care facility or  
415 program regulated by the department shall accord to the  
416 department or the local licensing agency, whichever is  
417 applicable, the privilege of inspection, including access to  
418 facilities and personnel and to those records required in s.  
419 402.305, at reasonable times during regular business hours, to  
420 ensure compliance with ~~the provisions of~~ ss. 402.301-402.319.  
421 The right of entry and inspection shall also extend to any  
422 premises which the department or local licensing agency has  
423 reason to believe are being operated or maintained as a child  
424 care facility or program ~~without a license~~, but no such entry or  
425 inspection of any premises shall be made without the permission  
426 of the person in charge thereof unless a warrant is first  
427 obtained from the circuit court authorizing same. Any  
428 application for a license, application for authorization to  
429 operate a child care program which must maintain substantial  
430 compliance with child care standards adopted under this chapter,  
431 ~~or renewal of such license or authorization, made pursuant to~~  
432 ~~this act~~ or the advertisement to the public for the provision of  
433 child care as defined in s. 402.302 constitutes ~~shall constitute~~  
434 permission for any entry to or inspection of the subject  
435 premises ~~for which the license is sought in order~~ to facilitate

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436 verification of the information submitted on or in connection  
437 with the application. In the event a ~~licensed~~ facility or  
438 program refuses permission for entry or inspection to the  
439 department or local licensing agency, a warrant shall be  
440 obtained from the circuit court authorizing same before ~~prior to~~  
441 such entry or inspection. The department or local licensing  
442 agency may institute disciplinary proceedings pursuant to s.  
443 402.310~~7~~ for such refusal.

444 Section 9. Section 402.3115, Florida Statutes, is amended  
445 to read:

446 402.3115 ~~Elimination of duplicative and unnecessary~~  
447 ~~inspections;~~ Abbreviated inspections. ~~The Department of Children~~  
448 ~~and Families and local governmental agencies that license child~~  
449 ~~care facilities shall develop and implement a plan to eliminate~~  
450 ~~duplicative and unnecessary inspections of child care~~  
451 ~~facilities. In addition,~~ The department and the local licensing  
452 ~~governmental~~ agencies shall conduct ~~develop and implement an~~  
453 abbreviated inspections of inspection plan for child care  
454 facilities licensed under s. 402.305, family child care homes  
455 licensed under s. 402.313, and large family child care homes  
456 licensed under s. 402.3131 that have had no Class I ~~±~~ or Class  
457 II violations ~~2 deficiencies~~, as defined by rule, for at least 2  
458 consecutive years. The abbreviated inspection must include those  
459 elements identified by the department and the local licensing  
460 ~~governmental~~ agencies as being key indicators of whether the  
461 child care facility continues to provide quality care and  
462 programming. The department shall adopt rules establishing  
463 criteria and procedures for abbreviated inspections and  
464 inspection schedules that provide for both announced and



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465 unannounced inspections.

466 Section 10. Section 402.313, Florida Statutes, is amended  
467 to read:

468 402.313 Family child day care homes.-

469 (1) A family child day care home must ~~homes shall~~ be  
470 licensed under this section ~~act~~ if it is ~~they are~~ presently  
471 being licensed under an existing county licensing ordinance, ~~or~~  
472 if the board of county commissioners passes a resolution that  
473 requires licensure of family child day care homes, or the family  
474 child care home is operating a program under s. 1002.55, s.  
475 1002.61, or s. 1002.88 ~~be licensed.~~ Each licensed or registered  
476 family child care home must conspicuously display its license or  
477 registration in the common area of the home.

478 (a) If not subject to license, a family child day care home  
479 must comply with this section and ~~homes shall~~ register annually  
480 with the department, providing the following information:

- 481 1. The name and address of the home.
- 482 2. The name of the operator.
- 483 3. The number of children served.
- 484 4. Proof of a written plan to identify a ~~provide at least~~  
485 ~~one other~~ competent adult who has met the screening and training  
486 requirements of the department to serve as a designated ~~to be~~  
487 ~~available to~~ substitute for the operator ~~in an emergency.~~ This  
488 plan must ~~shall~~ include the name, address, and telephone number  
489 of the designated substitute who will serve in the absence of  
490 the operator.
- 491 5. ~~Proof of screening and background checks.~~
- 492 6. ~~Proof of successful completion of the 30-hour training~~  
493 ~~course, as evidenced by passage of a competency examination,~~

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494 ~~which shall include:~~

495 ~~a. State and local rules and regulations that govern child~~  
496 ~~care.~~

497 ~~b. Health, safety, and nutrition.~~

498 ~~c. Identifying and reporting child abuse and neglect.~~

499 ~~d. Child development, including typical and atypical~~  
500 ~~language development; and cognitive, motor, social, and self-~~  
501 ~~help skills development.~~

502 ~~e. Observation of developmental behaviors, including using~~  
503 ~~a checklist or other similar observation tools and techniques to~~  
504 ~~determine a child's developmental level.~~

505 ~~f. Specialized areas, including early literacy and language~~  
506 ~~development of children from birth to 5 years of age, as~~  
507 ~~determined by the department, for owner operators of family day~~  
508 ~~care homes.~~

509 ~~5.7.~~ Proof that immunization records are kept current.

510 ~~8.~~ Proof of completion of the required continuing education  
511 ~~units or clock hours.~~

512  
513 Upon receipt of registration information submitted by a family  
514 child care home pursuant to this paragraph, the department shall  
515 verify that the home is in compliance with the background  
516 screening requirements in subsection (3) and that the operator  
517 and the designated substitute are in compliance with the  
518 applicable training requirements of subsection (4).

519 (b) A family child ~~day~~ care home may volunteer to be  
520 licensed ~~under this act.~~

521 (c) The department may provide technical assistance to  
522 counties and operators of family child ~~day~~ care homes ~~home~~

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523 ~~providers~~ to enable counties and operators ~~family day care~~  
524 ~~providers~~ to achieve compliance with family child day care home  
525 ~~homes~~ standards.

526 (2) This information shall be included in a directory to be  
527 published annually by the department to inform the public of  
528 available child care facilities.

529 (3) Child care personnel in family child day care homes are  
530 ~~shall be~~ subject to the applicable screening provisions  
531 contained in ss. 402.305(2) and 402.3055. For purposes of  
532 screening in family child day care homes, the term "child care  
533 personnel" includes the operator, the designated substitute, any  
534 member over the age of 12 years of a family child day care home  
535 operator's family, or persons over the age of 12 years residing  
536 with the operator in the family child day care home. Members of  
537 the operator's family, or persons residing with the operator,  
538 who are between the ages of 12 years and 18 years may ~~shall~~ not  
539 be required to be fingerprinted, but shall be screened for  
540 delinquency records.

541 (4) (a) Before licensure and before caring for children,  
542 operators of family child day care homes and an individual  
543 serving as a designated substitute for the operator who works 40  
544 hours or more per month on average must:

545 1. Successfully complete an approved 30-clock-hour  
546 introductory course in child care, as evidenced by passage of a  
547 competency examination, before caring for children. The course  
548 must include:

549 a. State and local rules and regulations that govern child  
550 care.

551 b. Health, safety, and nutrition.

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552 c. Identifying and reporting child abuse and neglect.

553 d. Child development, including typical and atypical  
554 language development, and cognitive, motor, social, and  
555 executive functioning skills development.

556 e. Observation of developmental behaviors, including using  
557 checklists or other similar observation tools and techniques to  
558 determine a child's developmental level.

559 f. Specialized areas, including numeracy, early literacy,  
560 and language development of children from birth to 5 years of  
561 age, as determined by the department, for operators of family  
562 child care homes.

563 ~~(5) In order to further develop their child care skills~~  
564 ~~and, if appropriate, their administrative skills, operators of~~  
565 ~~family day care homes shall be required to complete an~~  
566 ~~additional 1 continuing education unit of approved training or~~  
567 ~~10 clock hours of equivalent training, as determined by the~~  
568 ~~department, annually.~~

569 ~~2.(6) Operators of family day care homes shall be required~~  
570 ~~to~~ Complete a 0.5 continuing education unit of approved training  
571 in numeracy, early literacy, and language development of  
572 children from birth to 5 years of age one time. For an operator,  
573 the year that this training is completed, it shall fulfill the  
574 0.5 continuing education unit or 5 clock hours of the annual  
575 training required in paragraph (c) subsection (5).

576 3. Complete training in first aid and infant and child  
577 cardiopulmonary resuscitation as evidenced by current  
578 documentation of course completion.

579 (b) Before licensure and before caring for children, family  
580 child care home designated substitutes who work less than 40

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581 hours per month on average must complete the department's 6-  
 582 clock-hour Family Child Care Home Rules and Regulations  
 583 training, as evidenced by successful completion of a competency  
 584 examination and first aid and infant and child cardiopulmonary  
 585 resuscitation training required under subparagraph (a)3. A  
 586 designated substitute who has successfully completed the 3-  
 587 clock-hour Fundamentals of Child Care training established by  
 588 rules of the department or the 30-clock-hour training under  
 589 subparagraph (a)1. is not required to complete the 6-clock-hour  
 590 Family Child Care Home Rules and Regulations training.

591 (c) Operators of family child care homes must annually  
 592 complete an additional 1 continuing education unit of approved  
 593 training regarding child care and administrative skills or 10  
 594 clock hours of equivalent training, as determined by the  
 595 department.

596 (5)(7) Operators of family child ~~day~~ care homes must ~~shall~~  
 597 ~~be required~~ annually to complete a health and safety home  
 598 inspection self-evaluation checklist developed by the department  
 599 in conjunction with the statewide resource and referral program.  
 600 The completed checklist shall be signed by the operator of the  
 601 family child ~~day~~ care home and provided to parents as  
 602 certification that basic health and safety standards are being  
 603 met.

604 (6)(8) Operators of family child ~~day~~ care homes ~~home~~  
 605 operators may avail themselves of supportive services offered by  
 606 the department.

607 (7)(9) The department shall prepare a brochure on family  
 608 child ~~day~~ care for distribution by the department and by local  
 609 licensing agencies, if appropriate, to family child ~~day~~ care

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610 homes for distribution to parents using ~~utilizing~~ such child  
611 care, and to all interested persons, including physicians and  
612 other health professionals; mental health professionals; school  
613 teachers or other school personnel; social workers or other  
614 professional child care, foster care, residential, or  
615 institutional workers; and law enforcement officers. The  
616 brochure shall, at a minimum, contain the following information:

617 (a) A brief description of the requirements for family  
618 child day care registration, training, and background  
619 ~~fingerprinting and~~ screening.

620 (b) A listing of those counties that require licensure of  
621 family child day care homes. Such counties shall provide an  
622 addendum to the brochure that provides a brief description of  
623 the licensure requirements or may provide a brochure in lieu of  
624 the one described in this subsection, provided it contains all  
625 the required information on licensure and the required  
626 information in the subsequent paragraphs.

627 (c) A statement indicating that information about the  
628 family child day care home's compliance with applicable state or  
629 local requirements can be obtained from ~~by telephoning~~ the  
630 department ~~office~~ or ~~the office of~~ the local licensing agency,  
631 including the, if appropriate, at a telephone number or numbers  
632 and website address for the department or local licensing  
633 agency, as applicable ~~which shall be affixed to the brochure.~~

634 (d) The statewide toll-free telephone number of the central  
635 abuse hotline, together with a notice that reports of suspected  
636 and actual child physical abuse, sexual abuse, and neglect are  
637 received and referred for investigation by the hotline.

638 (e) Any other information relating to competent child care

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639 that the department or local licensing agency, if preparing a  
640 separate brochure, considers ~~deems would be~~ helpful to parents  
641 and other caretakers in their selection of a family child day  
642 care home.

643 (8) ~~(10)~~ On an annual basis, the department shall evaluate  
644 the registration and licensure system for family child day care  
645 homes. Such evaluation shall, at a minimum, address the  
646 following:

647 (a) The number of family child day care homes registered  
648 and licensed and the dates of such registration and licensure.

649 (b) The number of children being served in both registered  
650 and licensed family child day care homes and any available slots  
651 in such homes.

652 (c) The number of complaints received concerning family  
653 child day care, the nature of the complaints, and the resolution  
654 of such complaints.

655 (d) The training activities used ~~utilized~~ by child care  
656 personnel in family child day care homes for meeting the state  
657 or local training requirements.

658  
659 The evaluation, pursuant to this subsection, shall be used  
660 ~~utilized~~ by the department in any administrative modifications  
661 or adjustments to be made in the registration of family child  
662 day care homes or in any legislative requests for modifications  
663 to the system of registration or to other requirements for  
664 family child day care homes.

665 ~~(11) In order to inform the public of the state requirement~~  
666 ~~for registration of family day care homes as well as the other~~  
667 ~~requirements for such homes to legally operate in the state, the~~

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668 ~~department shall institute a media campaign to accomplish this~~  
669 ~~end. Such a campaign shall include, at a minimum, flyers,~~  
670 ~~newspaper advertisements, radio advertisements, and television~~  
671 ~~advertisements.~~

672 (9) ~~(12)~~ Notwithstanding any other state or local law or  
673 ordinance, any family child ~~day~~ care home licensed pursuant to  
674 this chapter or pursuant to a county ordinance shall be charged  
675 the utility rates accorded to a residential home. A licensed  
676 family child ~~day~~ care home may not be charged commercial utility  
677 rates.

678 (10) ~~(13)~~ The department shall, by rule, establish minimum  
679 standards for family child ~~day~~ care homes that are required to  
680 be licensed by county licensing ordinance or county licensing  
681 resolution or that voluntarily choose to be licensed. The  
682 standards should include requirements for staffing, training,  
683 maintenance of immunization records, minimum health and safety  
684 standards, reduced standards for the regulation of child care  
685 during evening hours by municipalities and counties, and  
686 enforcement of standards. Additionally, the department shall, by  
687 rule, adopt procedures for verifying a registered family child  
688 care home's compliance with background screening and training  
689 requirements.

690 (11) ~~(14)~~ ~~During the months of August and September of each~~  
691 ~~year,~~ Each family child ~~day~~ care home shall provide parents of  
692 children enrolling ~~enrolled~~ in the home detailed information  
693 regarding the causes, symptoms, and transmission of the  
694 influenza virus in an effort to educate those parents regarding  
695 the importance of immunizing their children against influenza as  
696 recommended by the Advisory Committee on Immunization Practices



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697 of the Centers for Disease Control and Prevention.

698 Section 11. Subsections (1), (3), (5), and (9) of section  
699 402.3131, Florida Statutes, are amended, and subsection (10) is  
700 added to that section, to read:

701 402.3131 Large family child care homes.—

702 (1) A large family child care home must ~~homes shall~~ be  
703 licensed under this section and conspicuously display its  
704 license in the common area of the home.

705 (3) Operators of large family child care homes must  
706 successfully complete an approved 40-clock-hour introductory  
707 course in group child care, including numeracy, early literacy,  
708 and language development of children from birth to 5 years of  
709 age, as evidenced by passage of a competency examination.  
710 Successful completion of the 40-clock-hour introductory course  
711 shall articulate into community college credit in early  
712 childhood education, pursuant to ss. 1007.24 and 1007.25.

713 (5) Operators of large family child care homes shall be  
714 required to complete 0.5 continuing education unit of approved  
715 training or 5 clock hours of equivalent training, as determined  
716 by the department, in numeracy, early literacy, and language  
717 development of children from birth to 5 years of age one time.  
718 The year that this training is completed, it shall fulfill the  
719 0.5 continuing education unit or 5 clock hours of the annual  
720 training required in subsection (4).

721 (9) ~~During the months of August and September of each year,~~  
722 Each large family child care home shall provide parents of  
723 children enrolling ~~enrolled~~ in the home detailed information  
724 regarding the causes, symptoms, and transmission of the  
725 influenza virus in an effort to educate those parents regarding

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726 the importance of immunizing their children against influenza as  
727 recommended by the Advisory Committee on Immunization Practices  
728 of the Centers for Disease Control and Prevention.

729 (10) Notwithstanding any other state or local law or  
730 ordinance, a large family child care home licensed pursuant to  
731 this chapter or pursuant to a county ordinance shall be charged  
732 the utility rates accorded to a residential home. Such a home  
733 may not be charged commercial utility rates.

734 Section 12. Subsections (4), (5), and (6) are added to  
735 section 402.316, Florida Statutes, to read:

736 402.316 Exemptions.—

737 (4) A child care facility operating under subsection (1)  
738 which is applying to operate or is operating as a provider of a  
739 program described in s. 1002.55, s. 1002.61, or s. 1002.88 must  
740 substantially comply with the minimum standards for child care  
741 facilities adopted pursuant to ss. 402.305-402.3057 and must  
742 allow the department or local licensing agency access to monitor  
743 and enforce compliance with such standards.

744 (a) The department or local licensing agency may pursue  
745 administrative or judicial action under ss. 402.310-402.312 and  
746 the rules adopted under those sections against any child care  
747 facility operating under this subsection to enforce substantial  
748 compliance with child care facility minimum standards or to  
749 protect the health, safety, and well-being of any child in the  
750 facility's care. A child care facility operating under this  
751 subsection is subject to ss. 402.310-402.312 and the rules  
752 adopted under those sections to the same extent as a child care  
753 facility licensed under ss. 402.301-402.319.

754 (b) It is a misdemeanor of the first degree, punishable as

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755 provided in s. 775.082 or s. 775.083, for a person willfully,  
756 knowingly, or intentionally to:

757 1. Fail, by false statement, misrepresentation,  
758 impersonation, or other fraudulent means, to disclose in any  
759 required written documentation for exclusion from licensure  
760 pursuant to this section a material fact used in making a  
761 determination as to such exclusion; or

762 2. Use information from the criminal records obtained under  
763 s. 402.305 or s. 402.3055 for a purpose other than screening the  
764 subject of those records for employment as specified in those  
765 sections or to release such information to any other person for  
766 a purpose other than screening for employment as specified in  
767 those sections.

768 (c) It is a felony of the third degree, punishable as  
769 provided in s. 775.082, s. 775.083, or s. 775.084, for a person  
770 willfully, knowingly, or intentionally to use information from  
771 the juvenile records of a person obtained under s. 402.305 or s.  
772 402.3055 for a purpose other than screening for employment as  
773 specified in those sections or to release information from such  
774 records to any other person for a purpose other than screening  
775 for employment as specified in those sections.

776 (5) The department shall establish a fee for inspection and  
777 compliance activities performed pursuant to this section in an  
778 amount sufficient to cover costs. However, the amount of such  
779 fee for the inspection of a program may not exceed the fee  
780 imposed for child care licensure pursuant to s. 402.315.

781 (6) The inclusion of a child care facility operating under  
782 subsection (1) as a provider of a program described in s.  
783 1002.55, s. 1002.61, or s. 1002.88 does not expand the

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784 regulatory authority of the state, its officers, any local  
785 licensing agency, or any early learning coalition to impose any  
786 additional regulation of child care facilities beyond those  
787 reasonably necessary to enforce requirements expressly included  
788 in this section.

789 Section 13. Section 627.70161, Florida Statutes, is amended  
790 to read:

791 627.70161 Residential property insurance coverage; family  
792 child day care homes and large family child care homes  
793 insurance.—

794 (1) PURPOSE AND INTENT.—The Legislature recognizes that  
795 family child day care homes and large family child care homes  
796 fulfill a vital role in providing child care in Florida. It is  
797 the intent of the Legislature that residential property  
798 insurance coverage should not be canceled, denied, or nonrenewed  
799 solely because child ~~on the basis of the family day care~~  
800 services are provided at the residence. The Legislature also  
801 recognizes that the potential liability of residential property  
802 insurers is substantially increased by the rendition of child  
803 care services on the premises. The Legislature therefore finds  
804 that there is a public need to specify that contractual  
805 liabilities associated ~~that arise in connection~~ with the  
806 operation of a the family child day care home or large family  
807 child care home are excluded from residential property insurance  
808 policies unless they are specifically included in such coverage.

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

810 (a) "Child care" means the care, protection, and  
811 supervision of a child, for a period of up to ~~less than~~ 24 hours  
812 a day on a regular basis, which supplements parental care,

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813 enrichment, and health supervision for the child, in accordance  
814 with his or her individual needs, and for which a payment, fee,  
815 or grant is made for care.

816 (b) "Family child day care home" has the same meaning as  
817 provided in s. 402.302 ~~means an occupied residence in which~~  
818 ~~child care is regularly provided for children from at least two~~  
819 ~~unrelated families and which receives a payment, fee, or grant~~  
820 ~~for any of the children receiving care, whether or not operated~~  
821 ~~for a profit.~~

822 (c) "Large family child care home" has the same meaning as  
823 provided in s. 402.302.

824 (3) FAMILY CHILD DAY CARE; COVERAGE.—A residential property  
825 insurance policy may ~~shall~~ not provide coverage for liability  
826 for claims arising out of, or in connection with, the operation  
827 of a family child day care home or large family child care home,  
828 and the insurer shall be under no obligation to defend against  
829 lawsuits covering such claims, unless:

830 (a) Specifically covered in a policy; or

831 (b) Covered by a rider or endorsement for business coverage  
832 attached to a policy.

833 (4) DENIAL, CANCELLATION, REFUSAL TO RENEW PROHIBITED.—An  
834 insurer may not deny, cancel, or refuse to renew a policy for  
835 residential property insurance solely on the basis that the  
836 policyholder or applicant operates a family child day care home  
837 or a large family child care home. In addition to other lawful  
838 reasons for refusing to insure, an insurer may deny, cancel, or  
839 refuse to renew a policy of a family child day care home or  
840 large family child care home provider if one or more of the  
841 following conditions occur:

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842 (a) The policyholder or applicant provides care for more  
843 children than authorized for family child day care homes or  
844 large family child care homes by s. 402.302;

845 (b) The policyholder or applicant fails to maintain a  
846 separate commercial liability policy or an endorsement providing  
847 liability coverage for ~~the~~ family child day care home or large  
848 family child care home operations;

849 (c) The policyholder or applicant fails to comply with the  
850 family child day care home licensure and registration  
851 requirements specified in s. 402.313 or the large family child  
852 care home licensure requirements specified in s. 402.3131; or

853 (d) Discovery of willful or grossly negligent acts or  
854 omissions or any violations of state laws or regulations  
855 establishing safety standards for family child day care homes  
856 and large family child care homes by the named insured or his or  
857 her representative which materially increase any of the risks  
858 insured.

859 Section 14. Subsections (7), (8), and (9) are added to  
860 section 1001.213, Florida Statutes, to read:

861 1001.213 Office of Early Learning.—There is created within  
862 the Office of Independent Education and Parental Choice the  
863 Office of Early Learning, as required under s. 20.15, which  
864 shall be administered by an executive director. The office shall  
865 be fully accountable to the Commissioner of Education but shall:

866 (7) Hire a general counsel who reports directly to the  
867 executive director of the office.

868 (8) Hire an inspector general who reports directly to the  
869 executive director of the office and to the Chief Inspector  
870 General pursuant to s. 14.32.

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871       (9) By July 1, 2017, develop and implement, in consultation  
872 with early learning coalitions and providers of the Voluntary  
873 Prekindergarten Education Program and the school readiness  
874 program, best practices for providing parental notifications in  
875 the parent's native language to a parent whose native language  
876 is a language other than English.

877       Section 15. Subsection (4) of section 1002.53, Florida  
878 Statutes, is amended to read:

879       1002.53 Voluntary Prekindergarten Education Program;  
880 eligibility and enrollment.-

881       (4) (a) Each parent enrolling a child in the Voluntary  
882 Prekindergarten Education Program must complete and submit an  
883 application to the early learning coalition through the single  
884 point of entry established under s. 1002.82 or to a private  
885 prekindergarten provider if the provider is authorized by the  
886 early learning coalition to determine student eligibility for  
887 enrollment in the program.

888       (b) The application must be submitted on forms prescribed  
889 by the Office of Early Learning and must be accompanied by a  
890 certified copy of the child's birth certificate. The forms must  
891 include a certification, in substantially the form provided in  
892 s. 1002.71(6)(b)2., that the parent chooses the private  
893 prekindergarten provider or public school in accordance with  
894 this section and directs that payments for the program be made  
895 to the provider or school. The Office of Early Learning may  
896 authorize alternative methods for submitting proof of the  
897 child's age in lieu of a certified copy of the child's birth  
898 certificate.

899       (c) If a private prekindergarten provider has been

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900 authorized to determine child eligibility and enrollment, upon  
901 receipt of an application, the provider must:

902 1. Determine the child's eligibility for the program and be  
903 responsible for any errors in such determination.

904 2. Retain the original application and certified copy of  
905 the child's birth certificate or authorized alternative proof of  
906 age on file for at least 5 years.

907

908 Pursuant to this paragraph, the early learning coalition may  
909 audit applications held by a private prekindergarten provider in  
910 the coalition's service area to determine whether children  
911 enrolled and reported for funding by the provider have met the  
912 eligibility criteria in subsection (2).

913 (d)(e) Each early learning coalition shall coordinate with  
914 each of the school districts within the coalition's county or  
915 multicounty region in the development of procedures for  
916 enrolling children in prekindergarten programs delivered by  
917 public schools, including procedures for making child  
918 eligibility determinations and auditing enrollment records to  
919 confirm that enrolled children have met eligibility  
920 requirements.

921 Section 16. Section 1002.55, Florida Statutes, is amended  
922 to read:

923 1002.55 School-year prekindergarten program delivered by  
924 private prekindergarten providers.—

925 (1) Each early learning coalition shall administer the  
926 Voluntary Prekindergarten Education Program at the county or  
927 regional level for students enrolled under s. 1002.53(3)(a) in a  
928 school-year prekindergarten program delivered by a private



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929 prekindergarten provider. Each early learning coalition shall  
 930 cooperate with the Office of Early Learning and the Child Care  
 931 Services Program Office of the Department of Children and  
 932 Families to reduce paperwork and to avoid duplicating  
 933 interagency activities, health and safety monitoring, and  
 934 acquiring and composing data pertaining to child care training  
 935 and credentialing.

936 (2) Each school-year prekindergarten program delivered by a  
 937 private prekindergarten provider must comprise at least 540  
 938 instructional hours.

939 (3) To be eligible to deliver the prekindergarten program,  
 940 a private prekindergarten provider must meet each of the  
 941 following requirements:

942 ~~(a) The private prekindergarten provider must be a child~~  
 943 ~~care facility licensed under s. 402.305, family day care home~~  
 944 ~~licensed under s. 402.313, large family child care home licensed~~  
 945 ~~under s. 402.3131, nonpublic school exempt from licensure under~~  
 946 ~~s. 402.3025(2), or faith-based child care provider exempt from~~  
 947 ~~licensure under s. 402.316.~~

948 (a) ~~(b)~~ The private prekindergarten provider must:

949 1. Be accredited by an accrediting association that is a  
 950 member of the National Council for Private School Accreditation,  
 951 or the Florida Association of Academic Nonpublic Schools, or be  
 952 accredited by the Southern Association of Colleges and Schools,  
 953 or Western Association of Colleges and Schools, or North Central  
 954 Association of Colleges and Schools, or Middle States  
 955 Association of Colleges and Schools, or New England Association  
 956 of Colleges and Schools; and have written accreditation  
 957 standards that meet or exceed the state's licensing requirements

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958 under s. 402.305, s. 402.313, or s. 402.3131 and require at  
959 least one onsite visit to the provider or school before  
960 accreditation is granted;

961 2. Hold a current Gold Seal Quality Care designation under  
962 s. 402.281; ~~or~~

963 3. Be licensed under s. 402.305, s. 402.313, or s.  
964 402.3131; or

965 4. Be a child development center located on a military  
966 installation that is certified by the United States Department  
967 of Defense.

968 (b) The private prekindergarten provider must provide basic  
969 health and safety on its premises and in its facilities. For a  
970 public school, compliance with ss. 1003.22 and 1013.12 satisfies  
971 this requirement. For a nonpublic school, compliance with s.  
972 402.3025(2)(d) satisfies this requirement. For a child care  
973 facility, a licensed family child care home, or a large family  
974 child care home, compliance with s. 402.305, s. 402.313, or s.  
975 402.3131, respectively, satisfies this requirement. For a  
976 facility exempt from licensure, compliance with s. 402.316(4)  
977 satisfies this requirement and demonstrate, before delivering  
978 ~~the Voluntary Prekindergarten Education Program, as verified by~~  
979 ~~the early learning coalition, that the provider meets each of~~  
980 ~~the requirements of the program under this part, including, but~~  
981 ~~not limited to, the requirements for credentials and background~~  
982 ~~screenings of prekindergarten instructors under paragraphs (c)~~  
983 ~~and (d), minimum and maximum class sizes under paragraph (f),~~  
984 ~~prekindergarten director credentials under paragraph (g), and a~~  
985 ~~developmentally appropriate curriculum under s. 1002.67(2)(b).~~

986 (c) The private prekindergarten provider must have, for

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987 each prekindergarten class of 11 children or fewer, at least one  
988 prekindergarten instructor who meets each of the following  
989 requirements:

990 1. The prekindergarten instructor must hold, at a minimum,  
991 one of the following credentials:

992 a. A child development associate credential issued by the  
993 National Credentialing Program of the Council for Professional  
994 Recognition; ~~or~~

995 b. A credential approved by the Department of Children and  
996 Families, pursuant to s. 402.305(3)(c), as being equivalent to  
997 or greater than the credential described in sub-subparagraph a.;

998 c. An associate or higher degree in child development;

999 d. An associate or higher degree in an unrelated field, at  
1000 least 6 credit hours in early childhood education or child  
1001 development, and at least 480 hours of experience in teaching or  
1002 providing child care services for children of any age from birth  
1003 through 8 years of age;

1004 e. A baccalaureate or higher degree in early childhood  
1005 education, prekindergarten or primary education, preschool  
1006 education, or family and consumer science;

1007 f. A baccalaureate or higher degree in family and child  
1008 science and at least 480 hours of experience in teaching or  
1009 providing child care services for children of any age from birth  
1010 through 8 years of age;

1011 g. A baccalaureate or higher degree in elementary education  
1012 if the prekindergarten instructor has been certified to teach  
1013 children of any age from birth through grade 6, regardless of  
1014 whether the instructor's educator certificate is current, and if  
1015 the instructor is not ineligible to teach in a public school

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1016 because his or her educator certificate is suspended or revoked;  
1017 or

1018 h. A credential approved by the department as being  
1019 equivalent to or greater than a credential described in sub-  
1020 subparagraphs a.-f. The department may adopt criteria and  
1021 procedures for approving such equivalent credentials.

1022  
1023 ~~The Department of Children and Families may adopt rules under~~  
1024 ~~ss. 120.536(1) and 120.54 which provide criteria and procedures~~  
1025 ~~for approving equivalent credentials under sub-subparagraph b.~~

1026 2. The prekindergarten instructor must successfully  
1027 complete an emergent literacy training course and a student  
1028 performance standards training course approved by the office as  
1029 meeting or exceeding the minimum standards adopted under s.  
1030 1002.59. The requirement for completion of the standards  
1031 training course shall take effect July 1, 2016 ~~2014~~, and the  
1032 course shall be available online.

1033 (d) Each prekindergarten instructor employed by the private  
1034 prekindergarten provider must be of good moral character, must  
1035 undergo background screening pursuant to s. 402.305(2)(a) be  
1036 ~~screened using the level 2 screening standards in s. 435.04~~  
1037 before employment, must be ~~and~~ rescreened at least once every 5  
1038 years, must be denied employment or terminated if required under  
1039 s. 435.06, and must not be ineligible to teach in a public  
1040 school because his or her educator certificate is suspended or  
1041 revoked.

1042 (e) A private prekindergarten provider may assign a  
1043 substitute instructor to temporarily replace a credentialed  
1044 instructor if the credentialed instructor assigned to a

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1045 prekindergarten class is absent, as long as the substitute  
1046 instructor meets the requirements of paragraph (d) ~~is of good~~  
1047 ~~moral character and has been screened before employment in~~  
1048 ~~accordance with level 2 background screening requirements in~~  
1049 ~~chapter 435.~~ The Office of Early Learning shall adopt rules to  
1050 implement this paragraph which shall include required  
1051 qualifications of substitute instructors and the circumstances  
1052 and time limits for which a private prekindergarten provider may  
1053 assign a substitute instructor.

1054 (f) Each of the private prekindergarten provider's  
1055 prekindergarten classes must be composed of at least 4 students  
1056 but may not exceed 20 students. In order to protect the health  
1057 and safety of students, each private prekindergarten provider  
1058 must also provide appropriate adult supervision for students at  
1059 all times and, for each prekindergarten class composed of 12 or  
1060 more students, must have, in addition to a prekindergarten  
1061 instructor who meets the requirements of paragraph (c), at least  
1062 one adult prekindergarten instructor who is not required to meet  
1063 those requirements but who must meet each requirement of s.  
1064 402.305(2) ~~paragraph (d)~~. This paragraph does not supersede any  
1065 requirement imposed on a provider under ss. 402.301-402.319.

1066 (g) The private prekindergarten provider must have a  
1067 prekindergarten director who has a prekindergarten director  
1068 credential that is approved by the office as meeting or  
1069 exceeding the minimum standards adopted under s. 1002.57.  
1070 Successful completion of a child care facility director  
1071 credential under s. 402.305(2)(f) before the establishment of  
1072 the prekindergarten director credential under s. 1002.57 or July  
1073 1, 2006, whichever occurs later, satisfies the requirement for a

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1074 prekindergarten director credential under this paragraph.

1075 (h) The private prekindergarten provider must register with  
1076 the early learning coalition on forms prescribed by the Office  
1077 of Early Learning.

1078 (i) The private prekindergarten provider must execute the  
1079 statewide provider contract prescribed under s. 1002.75, except  
1080 that an individual who owns or operates multiple private  
1081 prekindergarten providers within a coalition's service area may  
1082 execute a single agreement with the coalition on behalf of each  
1083 provider.

1084 (j) The private prekindergarten provider must maintain  
1085 general liability insurance and provide the coalition with  
1086 written evidence of general liability insurance coverage,  
1087 including coverage for transportation of children if  
1088 prekindergarten students are transported by the provider. A  
1089 provider must obtain and retain an insurance policy that  
1090 provides a minimum of \$100,000 of coverage per occurrence and a  
1091 minimum of \$300,000 general aggregate coverage. The office may  
1092 authorize lower limits upon request, as appropriate. A provider  
1093 must add the coalition as a named certificateholder ~~and as an~~  
1094 ~~additional insured~~. A provider must provide the coalition with a  
1095 minimum of 10 calendar days' advance written notice of  
1096 cancellation of or changes to coverage. The general liability  
1097 insurance required by this paragraph must remain in full force  
1098 and effect for the entire period of the provider contract with  
1099 the coalition.

1100 (k) The private prekindergarten provider must obtain and  
1101 maintain any required workers' compensation insurance under  
1102 chapter 440 and any required reemployment assistance or

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1103 unemployment compensation coverage under chapter 443, unless  
1104 exempt under state or federal law.

1105 (l) Notwithstanding paragraph (j), for a private  
1106 prekindergarten provider that is a state agency or a subdivision  
1107 thereof, as defined in s. 768.28(2), the provider must agree to  
1108 notify the coalition of any additional liability coverage  
1109 maintained by the provider in addition to that otherwise  
1110 established under s. 768.28. The provider shall indemnify the  
1111 coalition to the extent permitted by s. 768.28.

1112 (m) The private prekindergarten provider shall be denied  
1113 initial eligibility to offer the program if the provider has  
1114 been cited for a Class I violation in the 12 months before  
1115 seeking eligibility. An existing provider that is cited for a  
1116 Class I violation may not have its eligibility renewed for 12  
1117 months. This paragraph does not apply if the Department of  
1118 Children and Families or local licensing agency upon final  
1119 disposition of a Class I violation has rescinded its initial  
1120 citation in accordance with the criteria for consideration  
1121 outlined in s. 1002.75(1)(b).

1122 (n)~~(m)~~ The private prekindergarten provider must deliver  
1123 the Voluntary Prekindergarten Education Program in accordance  
1124 with this part and have child disciplinary policies that  
1125 prohibit children from being subjected to discipline that is  
1126 severe, humiliating, frightening, or associated with food, rest,  
1127 toileting, spanking, or any other form of physical punishment as  
1128 provided in s. 402.305(12).

1129 (o) Beginning January 1, 2016, at least 50 percent of the  
1130 instructors employed by a prekindergarten provider at each  
1131 location, who are responsible for supervising children in care,

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1132 must be trained in first aid and infant and child  
1133 cardiopulmonary resuscitation, as evidenced by current  
1134 documentation of course completion. As a condition of  
1135 employment, instructors hired on or after January 1, 2016, must  
1136 complete this training within 60 days after employment.

1137 (p) Beginning January 1, 2017, the private prekindergarten  
1138 provider must employ child care personnel who hold a high school  
1139 diploma or its equivalent and are at least 18 years of age,  
1140 unless the personnel are not responsible for supervising  
1141 children in care or are under direct supervision.

1142 ~~(4) A prekindergarten instructor, in lieu of the minimum~~  
1143 ~~credentials and courses required under paragraph (3) (c), may~~  
1144 ~~hold one of the following educational credentials:~~

1145 ~~(a) A bachelor's or higher degree in early childhood~~  
1146 ~~education, prekindergarten or primary education, preschool~~  
1147 ~~education, or family and consumer science;~~

1148 ~~(b) A bachelor's or higher degree in elementary education,~~  
1149 ~~if the prekindergarten instructor has been certified to teach~~  
1150 ~~children any age from birth through 6th grade, regardless of~~  
1151 ~~whether the instructor's educator certificate is current, and if~~  
1152 ~~the instructor is not ineligible to teach in a public school~~  
1153 ~~because his or her educator certificate is suspended or revoked;~~

1154 ~~(c) An associate's or higher degree in child development;~~

1155 ~~(d) An associate's or higher degree in an unrelated field,~~  
1156 ~~at least 6 credit hours in early childhood education or child~~  
1157 ~~development, and at least 480 hours of experience in teaching or~~  
1158 ~~providing child care services for children any age from birth~~  
1159 ~~through 8 years of age; or~~

1160 ~~(e) An educational credential approved by the department as~~



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1161 ~~being equivalent to or greater than an educational credential~~  
1162 ~~described in this subsection. The department may adopt criteria~~  
1163 ~~and procedures for approving equivalent educational credentials~~  
1164 ~~under this paragraph.~~

1165 ~~(5) Notwithstanding paragraph (3) (b), a private~~  
1166 ~~prekindergarten provider may not participate in the Voluntary~~  
1167 ~~Prekindergarten Education Program if the provider has child~~  
1168 ~~disciplinary policies that do not prohibit children from being~~  
1169 ~~subjected to discipline that is severe, humiliating,~~  
1170 ~~frightening, or associated with food, rest, toileting, spanking,~~  
1171 ~~or any other form of physical punishment as provided in s.~~  
1172 ~~402.305(12).~~

1173 Section 17. Subsection (1) of section 1002.59, Florida  
1174 Statutes, is amended to read:

1175 1002.59 Emergent literacy and performance standards  
1176 training courses.—

1177 (1) The office shall adopt minimum standards for one or  
1178 more training courses in emergent literacy for prekindergarten  
1179 instructors. Each course must comprise 5 clock hours and provide  
1180 instruction in strategies and techniques to address the age-  
1181 appropriate progress of prekindergarten students in developing  
1182 emergent literacy skills, including oral communication,  
1183 knowledge of print and letters, phonemic and phonological  
1184 awareness, and vocabulary and comprehension development. Each  
1185 course must also provide resources containing strategies that  
1186 allow students with disabilities and other special needs to  
1187 derive maximum benefit from the Voluntary Prekindergarten  
1188 Education Program. Successful completion of an emergent literacy  
1189 training course approved under this section satisfies

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1190 requirements for approved training in early literacy and  
1191 language development under ss. 402.305(2)(d)5., 402.313(4)(a)2.  
1192 ~~402.313(6)~~, and 402.3131(5).

1193 Section 18. Subsections (4) through (7) of section 1002.61,  
1194 Florida Statutes, are amended to read:

1195 1002.61 Summer prekindergarten program delivered by public  
1196 schools and private prekindergarten providers.-

1197 (4) ~~Notwithstanding ss. 1002.55(3)(c)1. and 1002.63(4),~~  
1198 Each public school and private prekindergarten provider that  
1199 delivers the summer prekindergarten program must have, for each  
1200 prekindergarten class, at least one prekindergarten instructor  
1201 who is a certified teacher or holds one of the educational  
1202 credentials specified in s. 1002.55(3)(c)1.e.-h. ~~s.~~  
1203 ~~1002.55(4)(a) or (b).~~ As used in this subsection, the term  
1204 "certified teacher" means a teacher holding a valid Florida  
1205 educator certificate under s. 1012.56 who has the qualifications  
1206 required by the district school board to instruct students in  
1207 the summer prekindergarten program. In selecting instructional  
1208 staff for the summer prekindergarten program, each school  
1209 district shall give priority to teachers who have experience or  
1210 coursework in early childhood education.

1211 (5) Each prekindergarten instructor employed by a ~~public~~  
1212 ~~school or~~ private prekindergarten provider delivering the summer  
1213 prekindergarten program must be of good moral character, must  
1214 undergo background screening pursuant to s. 402.305(2)(a) be  
1215 ~~screened using the level 2 screening standards in s. 435.04~~  
1216 before employment, must be ~~and~~ rescreened at least once every 5  
1217 years, and must be denied employment or terminated if required  
1218 under s. 435.06. Each prekindergarten instructor employed by a

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1219 ~~public school delivering the summer prekindergarten program, and~~  
1220 ~~must satisfy the not be ineligible to teach in a public school~~  
1221 ~~because his or her educator certificate is suspended or revoked.~~  
1222 ~~This subsection does not supersede~~ employment requirements for  
1223 instructional personnel in public schools as provided in s.  
1224 1012.32 ~~which are more stringent than the requirements of this~~  
1225 ~~subsection.~~

1226 (6) A public school or private prekindergarten provider may  
1227 assign a substitute instructor to temporarily replace a  
1228 credentialed instructor if the credentialed instructor assigned  
1229 to a prekindergarten class is absent, as long as the substitute  
1230 instructor meets the requirements of subsection (5) ~~is of good~~  
1231 ~~moral character and has been screened before employment in~~  
1232 ~~accordance with level 2 background screening requirements in~~  
1233 ~~chapter 435. This subsection does not supersede employment~~  
1234 ~~requirements for instructional personnel in public schools which~~  
1235 ~~are more stringent than the requirements of this subsection.~~ The  
1236 Office of Early Learning shall adopt rules to implement this  
1237 subsection which must ~~shall~~ include required qualifications of  
1238 substitute instructors and the circumstances and time limits for  
1239 which a public school or private prekindergarten provider may  
1240 assign a substitute instructor.

1241 (7) Notwithstanding ss. 1002.55(3)(e) ~~ss. 1002.55(3)(f)~~ and  
1242 1002.63(7), each prekindergarten class in the summer  
1243 prekindergarten program, regardless of whether the class is a  
1244 public school's or private prekindergarten provider's class,  
1245 must be composed of at least 4 students but may not exceed 12  
1246 students ~~beginning with the 2009 summer session.~~ In order to  
1247 protect the health and safety of students, each public school or

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1248 private prekindergarten provider must also provide appropriate  
1249 adult supervision for students at all times. This subsection  
1250 does not supersede any requirement imposed on a provider under  
1251 ss. 402.301-402.319.

1252 Section 19. Subsections (5) and (6) of section 1002.63,  
1253 Florida Statutes, are amended to read:

1254 1002.63 School-year prekindergarten program delivered by  
1255 public schools.—

1256 (5) Each prekindergarten instructor employed by a public  
1257 school delivering the school-year prekindergarten program must  
1258 satisfy the ~~be of good moral character, must be screened using~~  
1259 ~~the level 2 screening standards in s. 435.04 before employment~~  
1260 ~~and rescreened at least once every 5 years, must be denied~~  
1261 ~~employment or terminated if required under s. 435.06, and must~~  
1262 ~~not be ineligible to teach in a public school because his or her~~  
1263 ~~educator certificate is suspended or revoked. This subsection~~  
1264 ~~does not supersede~~ employment requirements for instructional  
1265 personnel in public schools as provided in s. 1012.32 ~~which are~~  
1266 ~~more stringent than the requirements of this subsection.~~

1267 (6) A public school prekindergarten provider may assign a  
1268 substitute instructor to temporarily replace a credentialed  
1269 instructor if the credentialed instructor assigned to a  
1270 prekindergarten class is absent, as long as the substitute  
1271 instructor meets the requirements of subsection (5) ~~is of good~~  
1272 ~~moral character and has been screened before employment in~~  
1273 ~~accordance with level 2 background screening requirements in~~  
1274 ~~chapter 435. This subsection does not supersede employment~~  
1275 ~~requirements for instructional personnel in public schools which~~  
1276 ~~are more stringent than the requirements of this subsection. The~~

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1277 Office of Early Learning shall adopt rules to implement this  
1278 subsection which must ~~shall~~ include required qualifications of  
1279 substitute instructors and the circumstances and time limits for  
1280 which a public school prekindergarten provider may assign a  
1281 substitute instructor.

1282 Section 20. Paragraph (a) of subsection (6) of section  
1283 1002.71, Florida Statutes, is amended to read:

1284 1002.71 Funding; financial and attendance reporting.-

1285 (6) (a) Each parent enrolling his or her child in the  
1286 Voluntary Prekindergarten Education Program must agree to comply  
1287 with the attendance policy of the private prekindergarten  
1288 provider or district school board, as applicable. Upon  
1289 enrollment of the child, the private prekindergarten provider or  
1290 public school, as applicable, must provide the child's parent  
1291 with program information, including, but not limited to, child  
1292 development, expectations for parent engagement, the daily  
1293 schedule, and the a copy of the provider's or school district's  
1294 attendance policy, which must include procedures for contacting  
1295 a parent on the second consecutive day a child is absent for  
1296 which the reason is unknown as applicable.

1297 Section 21. Subsection (1) of section 1002.75, Florida  
1298 Statutes, is amended to read:

1299 1002.75 Office of Early Learning; powers and duties.-

1300 (1) The Office of Early Learning shall adopt by rule a  
1301 standard statewide provider contract to be used with each  
1302 Voluntary Prekindergarten Education Program provider, with  
1303 standardized attachments by provider type. The office shall  
1304 publish a copy of the standard statewide provider contract on  
1305 its website. The standard statewide contract must ~~shall~~ include,

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1306 at a minimum, provisions that:

1307 (a) Govern for provider probation, termination for cause,  
1308 and emergency termination for those actions or inactions of a  
1309 provider that pose an immediate and serious danger to the  
1310 health, safety, or welfare of children. The standard statewide  
1311 contract must ~~shall~~ also include appropriate due process  
1312 procedures. During the pendency of an appeal of a termination,  
1313 the provider may not continue to offer its services.

1314 (b) Require each private prekindergarten provider to notify  
1315 the parent of each child in care if it is cited for a Class I  
1316 violation as defined by rule of the Department of Children and  
1317 Families. Notice shall be initiated only upon final disposition  
1318 of a Class I violation. The provider shall notify the department  
1319 within 24 hours of its intent to appeal the Class I violation  
1320 issued, and final disposition shall occur within 15 calendar  
1321 days. In determining the final disposition, the department shall  
1322 consider the entire licensing history of the provider, whether  
1323 the provider promptly reported the incident upon actual notice,  
1324 and whether the employee responsible for the violation was  
1325 terminated or the violation was corrected by the provider. If a  
1326 provider does not file its intent to appeal the Class I  
1327 violation, the provider must provide notice of a Class I  
1328 violation electronically or in writing to the parent within 48  
1329 hours after receipt of the Class I violation. Such notice shall  
1330 describe each violation with specificity in simple language and  
1331 include a copy of the citation and the contact information of  
1332 the Department of Children and Families or local licensing  
1333 agency where the parent may obtain additional information  
1334 regarding the citation. Notice of a Class I violation by the

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1335 provider must be provided electronically or in writing to the  
1336 parent within 24 hours after receipt of the final disposition of  
1337 the Class I violation. A private prekindergarten provider must  
1338 conspicuously post each citation for a violation that results in  
1339 disciplinary action on the premises in an area visible to  
1340 parents pursuant to s. 402.3125(1) (b). Additionally, such a  
1341 provider must post each inspection report on the premises in an  
1342 area visible to parents, and such report must remain posted  
1343 until the next inspection report is available.

1344 (c) Specify that child care personnel employed by the  
1345 provider who are responsible for supervising children in care  
1346 must be trained in developmentally appropriate practices aligned  
1347 to the age and needs of children over which the personnel are  
1348 assigned supervision duties. This requirement is met by the  
1349 completion of developmentally appropriate practice courses  
1350 administered by the Department of Children and Families under s.  
1351 402.305(2) (d)1. within 30 days after being assigned such  
1352 children if the child care personnel has not previously  
1353 completed the training.

1354  
1355 Any provision imposed upon a provider that is inconsistent with,  
1356 or prohibited by, law is void and unenforceable.

1357 Section 22. Subsections (1), (3), and (5) of section  
1358 1002.77, Florida Statutes, are amended to read:

1359 1002.77 Florida Early Learning Advisory Council.—

1360 (1) There is created the Florida Early Learning Advisory  
1361 Council within the Office of Early Learning. The purpose of the  
1362 advisory council is to provide written input ~~submit~~  
1363 ~~recommendations~~ to the executive director ~~office~~ on early

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1364 learning best practices, including ~~recommendations relating to~~  
1365 ~~the most effective~~ program administration; ~~of the Voluntary~~  
1366 ~~Prekindergarten Education Program under this part and the school~~  
1367 ~~readiness program under part VI of this chapter. The advisory~~  
1368 ~~council shall periodically analyze and provide recommendations~~  
1369 ~~to the office on the effective and efficient use of local,~~  
1370 state, and federal funds; ~~the content of professional~~  
1371 development training programs; and ~~best practices for the~~  
1372 ~~development and implementation of coalition plans pursuant to s.~~  
1373 1002.85.

1374 (3) The advisory council shall meet at least quarterly upon  
1375 the call of the executive director ~~but may meet as often as~~  
1376 ~~necessary to carry out its duties and responsibilities. The~~  
1377 executive director is encouraged to ~~advisory council may use~~  
1378 communications media technology any method of telecommunications  
1379 to conduct meetings in accordance with s. 120.54(5)(b) ~~7~~  
1380 ~~including establishing a quorum through telecommunications, only~~  
1381 ~~if the public is given proper notice of a telecommunications~~  
1382 ~~meeting and reasonable access to observe and, when appropriate,~~  
1383 ~~participate.~~

1384 (5) The Office of Early Learning shall provide staff and  
1385 administrative support for the advisory council as determined by  
1386 the executive director.

1387 Section 23. Paragraph (f) of subsection (1) and subsections  
1388 (8) and (16) of section 1002.81, Florida Statutes, are amended  
1389 to read:

1390 1002.81 Definitions.—Consistent with the requirements of 45  
1391 C.F.R. parts 98 and 99 and as used in this part, the term:

1392 (1) "At-risk child" means:



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1393 (f) A child in the custody of a parent who is considered  
 1394 homeless as verified by a designated lead agency on the homeless  
 1395 assistance continuum of care established under ss. 420.622-  
 1396 420.624 Department of Children and Families certified homeless  
 1397 shelter.

1398 (8) "Family income" means the combined gross income,  
 1399 whether earned or unearned, that is derived from any source by  
 1400 all family or household members who are 18 years of age or older  
 1401 who are currently residing together in the same dwelling unit.  
 1402 The term does not include:

1403 (a) Income earned by a currently enrolled high school  
 1404 student who, since attaining the age of 18 years, or a student  
 1405 with a disability who, since attaining the age of 22 years, has  
 1406 not terminated school enrollment or received a high school  
 1407 diploma, high school equivalency diploma, special diploma, or  
 1408 certificate of high school completion.

1409 (b) Income earned by a teen parent residing in the same  
 1410 residence as a separate family unit.

1411 (c) Selected items from the state's Child Care and  
 1412 Development Fund Plan, such as ~~The term also does not include~~  
 1413 food stamp benefits, documented child support and alimony  
 1414 payments paid out of the home, or federal housing assistance  
 1415 payments issued directly to a landlord or the associated  
 1416 utilities expenses.

1417 (16) "Working family" means:

1418 (a) A single-parent family in which the parent with whom  
 1419 the child resides is employed or engaged in eligible work or  
 1420 education activities for at least 20 hours per week or is exempt  
 1421 from work requirements due to age or disability, as determined

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1422 and documented by a physician licensed under chapter 458 or  
1423 chapter 459;

1424 (b) A two-parent family in which both parents with whom the  
1425 child resides are employed or engaged in eligible work or  
1426 education activities for a combined total of at least 40 hours  
1427 per week; ~~or~~

1428 (c) A two-parent family in which one of the parents with  
1429 whom the child resides is exempt from work requirements due to  
1430 age or disability, as determined and documented by a physician  
1431 licensed under chapter 458 or chapter 459, and one parent is  
1432 employed or engaged in eligible work or education activities at  
1433 least 20 hours per week; or

1434 (d) A two-parent family in which both of the parents with  
1435 whom the child resides are exempt from work requirements due to  
1436 age or disability, as determined and documented by a physician  
1437 licensed under chapter 458 or chapter 459.

1438 Section 24. Paragraphs (b), (j), (m), and (p) of subsection  
1439 (2) of section 1002.82, Florida Statutes, are amended to read:

1440 1002.82 Office of Early Learning; powers and duties.—

1441 (2) The office shall:

1442 (b) Preserve parental choice by permitting parents to  
1443 choose from a variety of child care categories authorized in s.  
1444 1002.88(1)(a), including center-based care, family child care,  
1445 ~~and informal child care~~ to the extent authorized in the state's  
1446 Child Care and Development Fund Plan as approved by the United  
1447 States Department of Health and Human Services pursuant to 45  
1448 C.F.R. s. 98.18. Care and curriculum by a faith-based provider  
1449 may not be limited or excluded in any of these categories.

1450 (j) Develop and adopt standards and benchmarks that address

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1451 the age-appropriate progress of children in the development of  
1452 school readiness skills. The standards for children from birth  
1453 to 5 years of age in the school readiness program must be  
1454 aligned with the performance standards adopted for children in  
1455 the Voluntary Prekindergarten Education Program and must address  
1456 the following domains:

- 1457 1. Approaches to learning.
- 1458 2. Cognitive development and general knowledge.
- 1459 3. Numeracy, language, and communication.
- 1460 4. Physical development.
- 1461 5. Self-regulation.

1462

1463 By July 1, 2016, the office shall develop and implement an  
1464 online training course on the performance standards for school  
1465 readiness program provider personnel specified in this  
1466 paragraph.

1467 (m) Adopt by rule a standard statewide provider contract to  
1468 be used with each school readiness program provider, with  
1469 standardized attachments by provider type. The office shall  
1470 publish a copy of the standard statewide provider contract on  
1471 its website. The standard statewide contract must ~~shall~~ include,  
1472 at a minimum, provisions that:

- 1473 1. Govern ~~for~~ provider probation, termination for cause,  
1474 and emergency termination for those actions or inactions of a  
1475 provider that pose an immediate and serious danger to the  
1476 health, safety, or welfare of the children. The standard  
1477 statewide provider contract must ~~shall~~ also include appropriate  
1478 due process procedures. During the pendency of an appeal of a  
1479 termination, the provider may not continue to offer its

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1480 services.

1481 2. Require each provider that is eligible to provide the  
1482 program pursuant to s. 1002.88(1)(a) to notify the parent of  
1483 each child in care if it is cited for a Class I violation as  
1484 defined by rule of the Department of Children and Families.  
1485 Notice shall be initiated only upon final disposition of a Class  
1486 I violation. The provider shall notify the department within 24  
1487 hours of its intent to appeal the Class I violation issued, and  
1488 final disposition shall occur within 15 calendar days. In  
1489 determining the final disposition, the department shall consider  
1490 the entire licensing history of the provider, whether the  
1491 provider promptly reported the incident upon actual notice, and  
1492 whether the employee responsible for the violation was  
1493 terminated or the violation was corrected by the provider. If a  
1494 provider does not file its intent to appeal the Class I  
1495 violation, the provider must provide notice of a Class I  
1496 violation electronically or in writing to the parent within 48  
1497 hours after receipt of the Class I violation. Such notice shall  
1498 describe each violation with specificity in simple language and  
1499 include a copy of the citation and the contact information of  
1500 the Department of Children and Families or local licensing  
1501 agency where the parent may obtain additional information  
1502 regarding the citation. Notice of a Class I violation by the  
1503 provider must be provided electronically or in writing to the  
1504 parent within 24 hours after receipt of the final disposition of  
1505 the Class I violation. A provider must conspicuously post each  
1506 citation for a violation that results in disciplinary action on  
1507 the premises in an area visible to parents pursuant to s.  
1508 402.3125(1)(b). Additionally, such a provider must post each

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1509 inspection report on the premises in an area visible to parents,  
1510 and such report must remain posted until the next inspection  
1511 report is available.

1512 3. Specify that child care personnel employed by the  
1513 provider who are responsible for supervising children in care  
1514 must be trained in developmentally appropriate practices aligned  
1515 to the age and needs of children over which the personnel are  
1516 assigned supervision duties. This requirement is met by  
1517 completion of developmentally appropriate practice courses  
1518 administered by the Department of Children and Families under s.  
1519 402.305(2)(d)1. within 30 days after being assigned such  
1520 children if the child care personnel has not previously  
1521 completed the training.

1522 4. Require child care personnel who are employed by the  
1523 provider to complete an online training course on the  
1524 performance standards adopted pursuant to paragraph (j).

1525

1526 Any provision imposed upon a provider that is inconsistent with,  
1527 or prohibited by, law is void and unenforceable.

1528 (p) Monitor and evaluate the performance of each early  
1529 learning coalition in administering the school readiness program  
1530 and the Voluntary Prekindergarten Education Program, ensuring  
1531 proper payments for school readiness program and Voluntary  
1532 Prekindergarten Education Program services, and implementing the  
1533 coalition's school readiness program plan, ~~and administering the~~  
1534 ~~Voluntary Prekindergarten Education Program~~. These monitoring  
1535 and performance evaluations must include, at a minimum, onsite  
1536 monitoring of each coalition's finances, management, operations,  
1537 and programs.

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1538 Section 25. Subsections (8) and (20) of section 1002.84,  
1539 Florida Statutes, are amended to read:

1540 1002.84 Early learning coalitions; school readiness powers  
1541 and duties.—Each early learning coalition shall:

1542 (8) Establish a parent sliding fee scale that requires a  
1543 parent copayment to participate in the school readiness program.  
1544 Providers are required to collect the parent's copayment. A  
1545 coalition may, on a case-by-case basis, waive the copayment for  
1546 an at-risk child or temporarily waive the copayment for a child  
1547 whose family's income is at or below the federal poverty level  
1548 and family experiences a natural disaster or an event that  
1549 limits the parent's ability to pay, such as incarceration,  
1550 placement in residential treatment, ~~or becoming homeless,~~ or an  
1551 emergency situation such as a household fire or burglary, or  
1552 while the parent is participating in parenting classes. A parent  
1553 may not transfer school readiness program services to another  
1554 school readiness program provider until the parent has submitted  
1555 documentation from the current school readiness program provider  
1556 to the early learning coalition stating that the parent has  
1557 satisfactorily fulfilled the copayment obligation.

1558 (20) To increase transparency and accountability, comply  
1559 with ~~the requirements of~~ this section before contracting with a  
1560 member of the coalition, an employee of the coalition, or a  
1561 relative, as defined in s. 112.3143(1) ~~(e)~~, of a coalition member  
1562 or of an employee of the coalition. Such contracts may not be  
1563 executed without the approval of the office. Such contracts, as  
1564 well as documentation demonstrating adherence to this section by  
1565 the coalition, must be approved by a two-thirds vote of the  
1566 coalition, a quorum having been established; all conflicts of

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1567 interest must be disclosed before the vote; and any member who  
1568 may benefit from the contract, or whose relative may benefit  
1569 from the contract, must abstain from the vote. A contract under  
1570 \$25,000 between an early learning coalition and a member of that  
1571 coalition or between a relative, as defined in s.  
1572 112.3143(1)~~(e)~~, of a coalition member or of an employee of the  
1573 coalition is not required to have the prior approval of the  
1574 office but must be approved by a two-thirds vote of the  
1575 coalition, a quorum having been established, and must be  
1576 reported to the office within 30 days after approval. If a  
1577 contract cannot be approved by the office, a review of the  
1578 decision to disapprove the contract may be requested by the  
1579 early learning coalition or other parties to the disapproved  
1580 contract.

1581 Section 26. Paragraphs (c) and (h) of subsection (1) and  
1582 subsections (6) through (8) of section 1002.87, Florida  
1583 Statutes, are amended to read:

1584 1002.87 School readiness program; eligibility and  
1585 enrollment.—

1586 (1) Effective August 1, 2013, or upon reevaluation of  
1587 eligibility for children currently served, whichever is later,  
1588 each early learning coalition shall give priority for  
1589 participation in the school readiness program as follows:

1590 (c) Priority shall be given next to a child from birth to  
1591 the beginning of the school year for which the child is eligible  
1592 for admission to kindergarten in a public school under s.  
1593 1003.21(1)(a)2. who is from a working family that is  
1594 economically disadvantaged, and may include such child's  
1595 eligible siblings, beginning with the school year in which the

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1596 sibling is eligible for admission to kindergarten in a public  
1597 school under s. 1003.21(1)(a)2. until the beginning of the  
1598 school year in which the sibling enters ~~is eligible to begin~~ 6th  
1599 grade, provided that the first priority for funding an eligible  
1600 sibling is local revenues available to the coalition for funding  
1601 direct services. However, a child eligible under this paragraph  
1602 ceases to be eligible if his or her family income exceeds 200  
1603 percent of the federal poverty level.

1604 (h) Priority shall be given next to a child who ~~has special~~  
1605 ~~needs,~~ has been determined eligible as an infant or toddler from  
1606 birth to 3 years of age with an individualized family support  
1607 plan receiving early intervention services or to as a student  
1608 with a disability with, ~~has~~ a current individual education plan  
1609 with a Florida school district, ~~and is not younger than 3 years~~  
1610 ~~of age.~~ A ~~special-needs~~ child eligible under this paragraph  
1611 remains eligible until the child is eligible for admission to  
1612 kindergarten in a public school under s. 1003.21(1)(a)2.

1613 (6) Eligibility for each child must be reevaluated  
1614 annually. Upon reevaluation, a child may not continue to receive  
1615 school readiness program services if he or she has ceased to be  
1616 eligible under this section. If a child no longer meets  
1617 eligibility or program requirements, the coalition must  
1618 immediately notify the child's parent and the provider that  
1619 funding will end 2 weeks after the date on which the child was  
1620 determined to be ineligible or when the current child care  
1621 authorization expires, whichever occurs first.

1622 (7) If a coalition disenrolls children from the school  
1623 readiness program due to lack of funding or a change in  
1624 eligibility priorities, the coalition must disenroll the



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1625 children in reverse order of the eligibility priorities listed  
1626 in subsection (1) beginning with children from families with the  
1627 highest family incomes. A notice of disenrollment must be sent  
1628 to the parent and school readiness program provider at least 2  
1629 weeks before disenrollment or the expiration of the current  
1630 child care authorization, whichever occurs first, to provide  
1631 adequate time for the parent to arrange alternative care for the  
1632 child. However, an at-risk child receiving services from the  
1633 Child Welfare Program Office of the Department of Children and  
1634 Families may not be disenrolled from the program without the  
1635 written approval of the Child Welfare Program Office ~~of the~~  
1636 ~~Department of Children and Families~~ or the community-based lead  
1637 agency.

1638 (8) If a child is absent from the program for 2 consecutive  
1639 days without parental notification to the program of such  
1640 absence, the school readiness program provider shall contact the  
1641 parent and determine the cause for the absence and the expected  
1642 date of return. If a child is absent from the program for 5  
1643 consecutive days without parental notification to the program of  
1644 such absence, the school readiness program provider shall report  
1645 the absence to the early learning coalition for a determination  
1646 of the need for continued care.

1647 Section 27. Paragraphs (a) through (c) and (l) through (q)  
1648 of subsection (1) of section 1002.88, Florida Statutes, are  
1649 amended, present subsections (2) and (3) are redesignated as  
1650 subsections (4) and (5), respectively, present subsection (2) is  
1651 amended, and new subsections (2) and (3) are added to that  
1652 section, to read:

1653 1002.88 School readiness program provider standards;

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1654 eligibility to deliver the school readiness program.—

1655 (1) To be eligible to deliver the school readiness program,  
1656 a school readiness program provider must:

1657 (a) 1. Be a nonpublic school in substantial compliance with  
1658 s. 402.3025(2)(d), a child care facility licensed under s.  
1659 402.305, a family child ~~day~~ care home licensed ~~or registered~~  
1660 under s. 402.313, a large family child care home licensed under  
1661 s. 402.3131, or a child care facility exempt from licensure  
1662 operating under s. 402.316(4);

1663 2. Be an entity that is part of Florida's education system  
1664 identified in s. 1000.04(1); ~~a public school or nonpublic school~~  
1665 ~~exempt from licensure under s. 402.3025, a faith-based child~~  
1666 ~~care provider exempt from licensure under s. 402.316, a before-~~  
1667 ~~school or after school program described in s. 402.305(1)(c), or~~

1668 3. Be an informal child care provider to the extent  
1669 authorized in the state's Child Care and Development Fund Plan  
1670 as approved by the United States Department of Health and Human  
1671 Services pursuant to 45 C.F.R. s. 98.18.

1672 (b) Provide instruction and activities to enhance the age-  
1673 appropriate progress of each child in attaining the child  
1674 development standards adopted by the office pursuant to s.  
1675 1002.82(2)(j). A provider should include activities to foster  
1676 brain development in infants and toddlers; provide an  
1677 environment that is rich in language and music and filled with  
1678 objects of various colors, shapes, textures, and sizes to  
1679 stimulate visual, tactile, auditory, and linguistic senses; and  
1680 include 30 minutes of reading to children each day. A provider  
1681 must provide parents information on child development,  
1682 expectations for parent engagement, the daily schedule, and the

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1683 attendance policy.

1684 (c) Provide basic health and safety of its premises and  
1685 facilities in accordance with applicable licensing and  
1686 inspection requirements ~~and compliance with requirements for~~  
1687 ~~age-appropriate immunizations of children enrolled in the school~~  
1688 ~~readiness program.~~ For a child care facility, a large family  
1689 child care home, or a licensed family child day care home,  
1690 compliance with s. 402.305, s. 402.3131, or s. 402.313 satisfies  
1691 this requirement. For a public ~~or nonpublic~~ school, compliance  
1692 with ss. s. 402.3025 or s. 1003.22 and 1013.12 satisfies this  
1693 requirement. For a nonpublic school, compliance with s.  
1694 402.3025(2)(d) satisfies this requirement. For a facility exempt  
1695 from licensure, compliance with s. 402.316(4) satisfies this  
1696 requirement. For an informal provider, substantial compliance as  
1697 defined in s. 402.302(17) satisfies this requirement. A provider  
1698 shall be denied initial eligibility to offer the program if the  
1699 provider has been cited for a Class I violation in the 12 months  
1700 before seeking eligibility. An existing provider that is cited  
1701 for a Class I violation may not have its eligibility renewed for  
1702 12 months. A provider that is cited for a Class I violation may  
1703 remain eligible to deliver the program if the Department of  
1704 Children and Families or local licensing agency upon final  
1705 disposition of a Class I violation has rescinded its initial  
1706 citation in accordance with the criteria for consideration  
1707 outlined in s. 1002.82(2)(m)2 A ~~faith-based child care provider,~~  
1708 ~~an informal child care provider, or a nonpublic school, exempt~~  
1709 ~~from licensure under s. 402.316 or s. 402.3025, shall annually~~  
1710 ~~complete the health and safety checklist adopted by the office,~~  
1711 ~~post the checklist prominently on its premises in plain sight~~

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1712 ~~for visitors and parents, and submit it annually to its local~~  
1713 ~~early learning coalition.~~

1714 ~~(l) For a provider that is not an informal provider,~~  
1715 Maintain general liability insurance and provide the coalition  
1716 with written evidence of general liability insurance coverage,  
1717 including coverage for transportation of children if school  
1718 readiness program children are transported by the provider. A  
1719 private provider must obtain and retain an insurance policy that  
1720 provides a minimum of \$100,000 of coverage per occurrence and a  
1721 minimum of \$300,000 general aggregate coverage. The office may  
1722 authorize lower limits upon request, as appropriate. A provider  
1723 must add the coalition as a named certificateholder ~~and as an~~  
1724 ~~additional insured.~~ A private provider must provide the  
1725 coalition with a minimum of 10 calendar days' advance written  
1726 notice of cancellation of or changes to coverage. The general  
1727 liability insurance required by this paragraph must remain in  
1728 full force and effect for the entire period of the provider  
1729 contract with the coalition.

1730 ~~(m) For a provider that is an informal provider, comply~~  
1731 ~~with the provisions of paragraph (l) or maintain homeowner's~~  
1732 ~~liability insurance and, if applicable, a business rider. If an~~  
1733 ~~informal provider chooses to maintain a homeowner's policy, the~~  
1734 ~~provider must obtain and retain a homeowner's insurance policy~~  
1735 ~~that provides a minimum of \$100,000 of coverage per occurrence~~  
1736 ~~and a minimum of \$300,000 general aggregate coverage. The office~~  
1737 ~~may authorize lower limits upon request, as appropriate. An~~  
1738 ~~informal provider must add the coalition as a named~~  
1739 ~~certificateholder and as an additional insured. An informal~~  
1740 ~~provider must provide the coalition with a minimum of 10~~

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1741 ~~calendar days' advance written notice of cancellation of or~~  
1742 ~~changes to coverage. The general liability insurance required by~~  
1743 ~~this paragraph must remain in full force and effect for the~~  
1744 ~~entire period of the provider's contract with the coalition.~~

1745 (m) ~~(n)~~ Obtain and maintain any required workers'  
1746 compensation insurance under chapter 440 and any required  
1747 reemployment assistance or unemployment compensation coverage  
1748 under chapter 443, unless exempt under state or federal law.

1749 (n) ~~(o)~~ Notwithstanding paragraph (l), for a provider that  
1750 is a state agency or a subdivision thereof, as defined in s.  
1751 768.28(2), agree to notify the coalition of any additional  
1752 liability coverage maintained by the provider in addition to  
1753 that otherwise established under s. 768.28. The provider shall  
1754 indemnify the coalition to the extent permitted by s. 768.28.

1755 (o) ~~(p)~~ Execute the standard statewide provider contract  
1756 adopted by the office.

1757 (p) ~~(q)~~ Operate on a full-time and part-time basis and  
1758 provide extended-day and extended-year services to the maximum  
1759 extent possible without compromising the quality of the program  
1760 to meet the needs of parents who work.

1761 (2) Beginning January 1, 2016, at least 50 percent of the  
1762 child care personnel employed by a school readiness provider at  
1763 each location, who are responsible for supervising children in  
1764 care, must be trained in first aid and infant and child  
1765 cardiopulmonary resuscitation, as evidenced by current  
1766 documentation of course completion. As a condition of  
1767 employment, personnel hired on or after January 1, 2016, must  
1768 complete this training within 60 days after employment.

1769 (3) Beginning January 1, 2017, child care personnel

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1770 employed by a school readiness program provider must hold a high  
1771 school diploma or its equivalent and be at least 18 years of  
1772 age, unless the personnel are not responsible for supervising  
1773 children in care or are under direct supervision.

1774 (4)~~(2)~~ If a school readiness program provider fails or  
1775 refuses to comply with this part or any contractual obligation  
1776 of the statewide provider contract under s. 1002.82(2)(m), the  
1777 coalition may revoke the provider's eligibility to deliver the  
1778 school readiness program or receive state or federal funds under  
1779 this chapter for ~~a period of~~ 5 years.

1780 Section 28. Paragraph (b) of subsection (6) and subsection  
1781 (7) of Section 1002.89, Florida Statutes, are amended to read:

1782 1002.89 School readiness program; funding.—

1783 (6) Costs shall be kept to the minimum necessary for the  
1784 efficient and effective administration of the school readiness  
1785 program with the highest priority of expenditure being direct  
1786 services for eligible children. However, no more than 5 percent  
1787 of the funds described in subsection (5) may be used for  
1788 administrative costs and no more than 22 percent of the funds  
1789 described in subsection (5) may be used in any fiscal year for  
1790 any combination of administrative costs, quality activities, and  
1791 nondirect services as follows:

1792 (b) Activities to improve the quality of child care as  
1793 described in 45 C.F.R. s. 98.51, which must ~~shall~~ be limited to  
1794 the following:

1795 1. Developing, establishing, expanding, operating, and  
1796 coordinating resource and referral programs specifically related  
1797 to the provision of comprehensive consumer education to parents  
1798 and the public to promote informed child care choices specified

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1799 in 45 C.F.R. s. 98.33 ~~regarding participation in the school~~  
1800 ~~readiness program and parental choice.~~

1801       2. Awarding grants and providing financial support to  
1802 school readiness program providers and their staffs to assist  
1803 them in meeting applicable state requirements for child care  
1804 performance standards, implementing developmentally appropriate  
1805 curricula and related classroom resources that support  
1806 curricula, providing literacy supports, obtaining a license or  
1807 accreditation, and providing professional development, including  
1808 scholarships and other incentives. Any grants awarded pursuant  
1809 to this subparagraph shall comply with ~~the requirements of ss.~~  
1810 215.971 and 287.058.

1811       3. Providing training, ~~and~~ technical assistance, and  
1812 financial support for school readiness program providers, staff,  
1813 and parents on standards, child screenings, child assessments,  
1814 developmentally appropriate curricula, character development,  
1815 teacher-child interactions, age-appropriate discipline  
1816 practices, health and safety, nutrition, first aid,  
1817 cardiopulmonary resuscitation, the recognition of communicable  
1818 diseases, and child abuse detection and prevention.

1819       4. Providing from among the funds provided for the  
1820 activities described in subparagraphs 1.-3., adequate funding  
1821 for infants and toddlers as necessary to meet federal  
1822 requirements related to expenditures for quality activities for  
1823 infant and toddler care.

1824       5. Improving the monitoring of compliance with, and  
1825 enforcement of, applicable state and local requirements as  
1826 described in and limited by 45 C.F.R. s. 98.40.

1827       6. Responding to Warm-Line requests by providers and

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1828 parents ~~related to school readiness program children~~, including  
1829 providing developmental and health screenings to school  
1830 readiness program children.

1831 (7) Funds appropriated for the school readiness program may  
1832 not be expended for the purchase or improvement of land; for the  
1833 purchase, construction, or permanent improvement of any building  
1834 or facility; or for the purchase of buses. However, funds may be  
1835 expended for minor remodeling necessary for the administration  
1836 of the program and upgrading of child care facilities to ensure  
1837 that providers meet state and local child care standards,  
1838 including applicable health and safety requirements.

1839 Section 29. Subsection (7) of section 1002.91, Florida  
1840 Statutes, is amended to read:

1841 1002.91 Investigations of fraud or overpayment; penalties.—

1842 (7) The early learning coalition may not contract with a  
1843 school readiness program provider, ~~or~~ a Voluntary  
1844 Prekindergarten Education Program provider, or an individual who  
1845 is on the United States Department of Agriculture National  
1846 Disqualified List. In addition, the coalition may not contract  
1847 with any provider that shares an officer or director with a  
1848 provider that is on the United States Department of Agriculture  
1849 National Disqualified List.

1850 Section 30. Paragraph (d) of subsection (3) of section  
1851 1002.94, Florida Statutes, is amended to read:

1852 1002.94 Child Care Executive Partnership Program.—

1853 (3)

1854 (d) Each early learning coalition shall establish a  
1855 community child care task force ~~for each child care purchasing~~  
1856 ~~pool~~. The task force must be composed of employers, parents,



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1857 private child care providers, and one representative from the  
1858 local children's services council, if one exists in the area ~~of~~  
1859 ~~the purchasing pool~~. The early learning coalition is expected to  
1860 recruit the task force members from existing child care  
1861 councils, commissions, or task forces already operating in the  
1862 area ~~of a purchasing pool~~. A majority of the task force shall  
1863 consist of employers.

1864 Section 31. The Office of Early Learning shall conduct a 2-  
1865 year pilot project to study the impact of assessing the early  
1866 literacy skills of Voluntary Prekindergarten Education Program  
1867 participants who are English Language Learners, in both English  
1868 and Spanish. The assessments must include, at a minimum, the  
1869 first administration of the Florida Assessments for Instruction  
1870 in Reading in kindergarten and an appropriate alternative  
1871 assessment in Spanish. The study must include a review of the  
1872 kindergarten screening results for 2009-2010 and 2010-2011  
1873 program participants and their subsequent Florida Comprehensive  
1874 Assessment Test scores. The office shall report its findings to  
1875 the Governor, the President of the Senate, and the Speaker of  
1876 the House of Representatives by July 1, 2016, and July 1, 2017.

1877 Section 32. For the 2015-2016 fiscal year, the sums of  
1878 \$1,034,965 in recurring funds and \$11,319 in nonrecurring funds  
1879 from the General Revenue Fund, and \$70,800 in recurring funds  
1880 from the Operations and Maintenance Trust Fund are appropriated  
1881 to the Department of Children and Families, and 18 full-time  
1882 equivalent positions with associated salary rate of 608,446 are  
1883 authorized, for the purpose of implementing the regulatory  
1884 provisions of this act.

1885 Section 33. This act shall take effect July 1, 2015.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/17/2015

Meeting Date

Topic \_\_\_\_\_

Bill Number 7006  
*(if applicable)*

Name BRIAN PITTS

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH  
*Street*

Phone 727-897-9291

SAINT PETERSBURG      FLORIDA      33705  
*City*                                      *State*                                      *Zip*

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking:     For     Against     Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair:     Yes     No

Lobbyist registered with Legislature:     Yes     No

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

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

S-001 (10/20/11)



## THE FLORIDA SENATE

### SPECIAL MASTER ON CLAIM BILLS

**Location**  
402 Senate Office Building

**Mailing Address**  
404 South Monroe Street  
Tallahassee, Florida 32399-1100  
(850) 487-5237

DATE	COMM	ACTION
12/15/14	SM	Fav/1 amendment
2/3/15	JU	Fav/CS
2/17/15	CA	Favorable
	FP	

December 15, 2014

The Honorable Andy Gardiner  
President, The Florida Senate  
Suite 409, The Capitol  
Tallahassee, Florida 32399-1100

Re: **CS/SB 22** – Judiciary Committee and Senator Rob Bradley  
Relief of Joseph and Audrey Stewart on behalf of their son, Aubrey  
Stewart

### SPECIAL MASTER'S FINAL REPORT

THIS IS AN UNOPPOSED EQUITABLE CLAIM FOR LOCAL FUNDS IN THE AMOUNT OF \$3.3 MILLION AGAINST THE CITY OF JACKSONVILLE FOR NEGLIGENCE IN CONNECTION WITH FAILURE TO REMEDY A DANGEROUS CONDITION CAUSED BY A TREE LIMB WHICH, ON JUNE 27, 2011, FELL AND INJURED AUBREY STEWART CAUSING SERIOUS AND PERMANENT PARALYSIS AND BODILY INJURY.

#### FINDINGS OF FACT:

On June 27, 2011, Aubrey Stewart, son of Joseph and Audrey Stewart, was struck and injured by a falling tree limb after briefly leaving his home to retrieve luggage from his car. His home, where he lives with his parents, is located at 1512 Dyal Street in Jacksonville, Florida. The tree from which the limb fell was located on a city right-of-way and was owned by the City of Jacksonville.

Leading up to the incident, the City had received several complaints about the dangerous conditions of trees in the area. On September 7, 2010, the Stewart's next door neighbor complained about "several trees along [Dyal] street that need to be trimmed due to falling limbs" and on

September 10, 2010, Joseph Stewart complained about a “dead tree on the City’s right-of-way needing to be checked for removal due to dropping large limbs along with a second [tree] next to it.” On January 6, 2011, a tree limb from one of the reported trees fell and struck a car and the City paid on a claim for the damage to the car. Finally, on May 13, 2011, one of the reported trees fell into the road and blocked traffic. The City responded and removed the downed tree, however, the City did not trim or remove the second tree which injured Aubrey.

The falling tree limb dealt a severe blow to Aubrey causing serious injuries. He was transported via ambulance to Shand’s Jacksonville, spent five months in the Shand’s Pediatric I.C.U., and spent one month at Brooks Rehabilitation Center. During that time, he underwent more than 10 surgeries and procedures. Presently, he is paralyzed from the waist down and confined to a wheel chair. He has permanent scars on his back, permanent hardware installed in his body, and requires the use of a catheter and colostomy bag.

At the time of the accident Aubrey Stewart was 15 years of age and a minor. He has since turned 19 years of age and still lives with his parents who care for him full time. Currently, Aubrey also requires the assistance of a home health aide who the family has hired for four hours a day, seven days a week.

Some other difficulties faced by the Stewart family include necessary and extensive modifications to their home to allow for Aubrey’s wheelchair to fit through doorways and to give Aubrey enough room to maneuver in his bedroom, the bathroom, and the kitchen. Some of these modifications have been completed, including modifications to Aubrey’s bedroom and the home’s kitchen. However some are still pending including a wheelchair ramp in the backyard.

It is also very difficult for Aubrey to travel since the family does not have a van with a wheelchair lift. This leaves Aubrey homebound most of the time and, when he is required to travel for doctor visits and other necessary trips, the family relies on public transportation that can have long wait times.

Total medical bills for Aubrey from Shands Jacksonville and Brooks Rehabilitation were \$1,647,937.57. Medicaid has paid

a portion of these medical bills and retains a lien. The parties involved in the litigation also hired Lawrence S. Forman, M.Ed., J.D., to create a continuum of care plan and Frederick A. Raffa, Ph.D., an economist, to create a life care plan for Aubrey. Dr. Raffa estimates that Aubrey's future life care needs will range from \$9,052,435 to \$10,763,383 above and beyond his current medical bills. To date, the city of Jacksonville has paid the statutory maximum amount of \$200,000. Of this amount, \$94,761.12 was used to pay for attorney's fees and case costs, \$27,000 is held in trust for the Medicaid lean pending the resolution of the claim, and \$78,238.88 was paid to the Stewarts.

The Stewarts have set up a special needs trust for Aubrey.

LITIGATION HISTORY:

On February 15, 2012, Joseph and Audrey Stewart filed a complaint against the City of Jacksonville on behalf of their son Aubrey Stewart. The complaint alleged that Aubrey's injuries were caused when a limb from a tree in a city owned right-of-way fell on him. The complaint also alleged that the City knew or should have known that the dangerous tree posed a hazard to the residents on Dyal Street and that the City breached its duty of care by failing to act.

The City and the Stewarts entered into a settlement agreement on June 28, 2013, which the Jacksonville City Council unanimously approved. The stipulated final judgment required the City to pay installment payments totaling a sum of \$3,500,000 to the Stewarts. On July 23, 2013, the City passed ordinance 2013-515-E, which stipulated to the City's responsibility for Aubrey Stewarts injuries. The ordinance also authorized an immediate payment of the statutory maximum of \$200,000 and to support a claim bill for the remaining amount to be paid in installments of \$1.2 million in year one, \$1 million in year two, \$600,000 in year three, and \$500,000 in year four after a claims bill is passed. These funds will be paid from the City's Risk Management Fund.

On March 26, 2014, the Jacksonville City Council passed emergency resolution 2014-231-A. The resolution fully supported and urged the passage of SB 30 (2014) and HB 3513 (2014). Senate Bill 30 is substantively identical to SB 22.

CONCLUSIONS OF LAW:

The City of Jacksonville had a duty of care to maintain city owned trees on Dyal street in a safe condition and to remedy any dangerous conditions that it knew or should have known existed. *City of Jacksonville v. Foster*, 41 So.2d 548, 549. The City was informed of the dangerous condition over a period of several months through multiple complaints by residents on Dyal Street. The City demonstrated knowledge of the dangerous condition by removing one of the two dangerous trees named in the complaints when that tree fell onto the road and by paying a claim for damage to an automobile which was caused by falling tree limbs. The City breached this duty by failing to remedy the second dangerous tree located on the city owned right-of-way on Dyal Street. This breach was the proximate cause of Aubrey's injuries.

ATTORNEYS FEES AND LOBBYIST'S FEES:

The Claimant's attorneys have agreed to limit their fees to 25 percent of any amount awarded by the Legislature in compliance with s. 768.28(8), F.S. Lobbyist's fees are included with the attorney's fees.

RECOMMENDATIONS:

The undersigned recommends that Senate Bill 22 be amended to direct payment of the funds, after deduction of costs and liens, to the special needs trust established for Aubrey Stewart. Otherwise, the undersigned recommends that Senate Bill 22 (2015) be reported FAVORABLY.

Respectfully submitted,

Daniel Looke  
Senate Special Master

cc: Debbie Brown, Secretary of the Senate

**CS by Judiciary**

Under the bill, the City of Jacksonville must pay compensation to the parents of the injured child. Under the committee substitute, the compensation must instead be used to pay any Medicaid liens. Then, the remaining funds must be paid into the injured child's special needs trust. A special needs trust will allow the trust beneficiary to remain eligible for means-tested government benefits, but upon the beneficiary's death, any remaining funds in the trust first

must be used to reimburse the government for the benefits provided during the beneficiary's life.

**By** the Committee on Judiciary; and Senators Bradley, Galvano, Bean, and Gibson

590-01488-15

201522c1

1 A bill to be entitled

2 An act for the relief of Joseph Stewart and Audrey  
3 Stewart on behalf of their son, Aubrey Stewart, by the  
4 City of Jacksonville; providing for an appropriation  
5 to compensate Aubrey Stewart for injuries and damages  
6 sustained as a result of the negligence of the City of  
7 Jacksonville; providing a limitation on the payment of  
8 fees and costs; providing for repayment of Medicaid  
9 liens; providing an effective date.

10  
11 WHEREAS, on June 27, 2011, Aubrey Stewart, who was 15 years  
12 of age, briefly left his home at 1512 Dyal Street in  
13 Jacksonville, and

14 WHEREAS, the tree across the street from Aubrey Stewart's  
15 home, where he lives with his parents, Joseph and Audrey  
16 Stewart, was owned by the City of Jacksonville, and

17 WHEREAS, a large tree limb, extending across Dyal Street,  
18 fell from the tree and crushed Aubrey Stewart, resulting in  
19 life-threatening injuries and leaving him paralyzed, and

20 WHEREAS, the City of Jacksonville had received four  
21 complaints about the dangerous condition of the tree before the  
22 tree limb crushed Aubrey Stewart, yet failed to act, and

23 WHEREAS, the City of Jacksonville's records confirm that 9  
24 months before the accident, on September 7, 2010, the Stewarts'  
25 neighbor complained to the city about several trees along Dyal  
26 Street which needed to be trimmed due to falling tree limbs, and

27 WHEREAS, the City of Jacksonville's records confirm that a  
28 few days later, Joseph Stewart also filed a complaint with the  
29 city about two trees in dangerous condition on Dyal Street, and



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201522c1

30 WHEREAS, the City of Jacksonville's records confirm that  
31 the city received an additional complaint on January 6, 2011,  
32 about a falling tree limb that struck a car, and the city's Risk  
33 Management Division investigated the claim and subsequently paid  
34 for the damage to the car, but failed to address the dangerous  
35 trees, and

36 WHEREAS, the City of Jacksonville's records confirm that on  
37 May 13, 2011, a neighbor called the city and reported that one  
38 of the trees that was the subject of previous complaints had  
39 fallen in the road and was blocking traffic, and the city  
40 responded by removing only the fallen debris, failing to remedy  
41 the continued and known dangerous condition, and

42 WHEREAS, despite these four complaints, the City of  
43 Jacksonville took no action to address the dangerous tree on  
44 Dyal Street until almost a month after a limb from that tree  
45 crushed and critically injured Aubrey Stewart, and

46 WHEREAS, as a result of the foregoing incident, Aubrey  
47 Stewart sustained multiple injuries, including, but not limited  
48 to, multiple spinal fractures with a complete spinal cord  
49 injury, an open pelvic fracture wound, a complex anal  
50 laceration, a left lateral buttocks wound, a large perineal  
51 wound, and multiple abscesses, and

52 WHEREAS, Aubrey Stewart spent 5 months in the Shands'  
53 Pediatric Intensive Care Unit, where he underwent approximately  
54 a dozen surgeries to stabilize his condition, and spent an  
55 additional month at Brooks Rehabilitation, and

56 WHEREAS, Aubrey Stewart is now paralyzed and confined to a  
57 wheelchair, depends on others for many daily life activities,  
58 and must wear diapers and use a catheter and colostomy bag, and

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201522c1

59 WHEREAS, the City of Jacksonville recognizes the potential  
60 for a sizeable jury verdict in favor of Aubrey Stewart, given  
61 the liability and damages stemming from the city's negligence,  
62 and

63 WHEREAS, during court-ordered mediation on May 8, 2013, the  
64 City of Jacksonville agreed to pay \$200,000 under the statutory  
65 limits of liability set forth in s. 768.28, Florida Statutes,  
66 within 60 days and then \$3.3 million, to be paid in installments  
67 in order to minimize any potential financial impact on the city,  
68 and

69 WHEREAS, the negotiated settlement agreement was designed  
70 with the claim bill process specifically in mind, is in the best  
71 interest of all parties involved, and was passed unanimously by  
72 the Jacksonville City Council on July 23, 2013, and

73 WHEREAS, the City of Jacksonville fully supports the  
74 passage of this claim bill, NOW, THEREFORE,

75  
76 Be It Enacted by the Legislature of the State of Florida:

77  
78 Section 1. The facts stated in the preamble to this act are  
79 found and declared to be true.

80 Section 2. The City of Jacksonville is authorized and  
81 directed to appropriate from funds of the city not otherwise  
82 appropriated and to draw a warrant in the sum of \$1.2 million,  
83 less the amount paid for repayment of Medicaid liens, payable to  
84 the Aubrey Javaris Stewart Special Needs Trust, by the first  
85 November 1 after the passage of this act as compensation for  
86 injuries and damages sustained as a result of the negligence of  
87 the City of Jacksonville. In addition, the City of Jacksonville

590-01488-15

201522c1

88 is further authorized and directed to appropriate from funds of  
89 the city not otherwise appropriated and to draw a warrant in the  
90 sum of \$1 million payable to the Aubrey Javaris Stewart Special  
91 Needs Trust, 1 year from the first payment; the sum of \$600,000,  
92 1 year from the second payment; and the sum of \$500,000, 1 year  
93 from the third payment, for a total of \$3.3 million as  
94 compensation for injuries and damages sustained as a result of  
95 the negligence of the City of Jacksonville.

96 Section 3. The amount paid by the City of Jacksonville  
97 pursuant to s. 768.28, Florida Statutes, and the amount awarded  
98 under this act are intended to provide the sole compensation for  
99 all present and future claims arising out of the factual  
100 situation described in the preamble to this act which resulted  
101 in the injuries and damages to Aubrey Stewart, and to release  
102 the city from any further liability. The total amount paid for  
103 attorney fees, lobbying fees, costs, and other similar expenses  
104 relating to this claim may not exceed 25 percent of the amount  
105 awarded under this act.

106 Section 4. The City of Jacksonville shall pay to the Agency  
107 for Health Care Administration the amount due under s. 409.910,  
108 Florida Statutes, before disbursing any funds to the claimant.  
109 The amount due to the agency shall be equal to all unreimbursed  
110 medical payments paid by Medicaid up to the date that this bill  
111 becomes a law.

112 Section 5. 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)

2-17-2015

Meeting Date

Topic \_\_\_\_\_

Bill Number 22  
*(if applicable)*

Name BRIAN PITTS

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Trustee

Address 1119 Newton Ave S  
*Street*

Phone 727/897-9291

St Petersburg FL 33705  
*City State Zip*

E-mail justice2jesus@yahoo.com

Speaking:  For  Against  Information

Representing Justice-2-Jesus

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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



The Florida Senate

## Committee Agenda Request

**To:** Senator Wilton Simpson, Chair  
Committee on Community Affairs

**Subject:** Committee Agenda Request

**Date:** February 6, 2015

---

I respectfully request that **Senate Bill # 22**, relating to Relief of Joseph Stewart and Aubrey Stewart by the City of Jacksonville, be placed on the:

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

A handwritten signature in black ink, appearing to read "Rob Bradley".

---

Senator Rob Bradley  
Florida Senate, District 7

**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 Community Affairs

---

BILL: SB 404

INTRODUCER: Senator Simpson

SUBJECT: Improvements to Real Property Damaged by Sinkhole Activity

DATE: February 17, 2015

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	White	Yeatman	CA	<b>Favorable</b>
2.			BI	
3.			FT	
4.			RC	

---

**I. Summary:**

SB 404 authorizes local governments to enter into financing agreements with property owners to finance qualified improvements to property damaged by sinkhole activity. Additionally, the bill expands the definition of “blighted area,” enabling community redevelopment areas to enter into voluntary contracts to redevelop properties damaged by sinkhole activity.

The effective date of the bill is July 1, 2015.

**II. Present Situation:**

**The Property Assessed Clean Energy Model**

The Property Assessed Clean Energy (PACE) Program enables local governments to encourage property owners to reduce energy consumption and increase energy efficiency. The PACE model allows individual residential, commercial, or industrial property owners to contract directly with qualified contractors for energy efficiency and renewable energy projects. The local government provides the upfront funding for the project through proceeds of a revenue bond issuance, which is repaid through an assessment on participating property owners’ tax bills.<sup>1</sup>

**Voluntary Energy and Wind Resistant Real Property Improvements**

The 2010 Legislature passed an expanded form of the PACE model.<sup>2</sup> Section 163.08, F.S., provides supplemental authority to local governments regarding qualified improvements to real property. The law provides that if a local government passes an ordinance or adopts a resolution to create a program to provide up-front financing for energy conservation and efficiency,

---

<sup>1</sup> For more information, see <http://www.pacenow.org>, and <http://floridapace.gov/> (last visited Feb. 10, 2015).

<sup>2</sup> CS/HB 7179, chapter 2010-139, L.O.F.

renewable energy, or wind resistance improvements, a property owner within the jurisdiction of that local government may apply to the local government for funding to finance a qualifying improvement and voluntarily enter into a financing agreement with the local government. “Qualifying improvements” include energy conservation and efficiency improvements; renewable energy improvements; and wind resistance improvements.

At least 30 days before entering into the financing agreement, the property owner must provide notice to the mortgage holder or loan servicer of the intent to enter into the agreement, the maximum amount to be financed, and the maximum annual assessment that will be required to repay the amount.<sup>3</sup> The law provides that an acceleration clause for “payment of the mortgage, note, or lien or other unilateral modification solely as a result of entering into a financing agreement as provided for in this section is not enforceable.”<sup>4</sup> However, the mortgage holder or loan servicer may increase the required monthly escrow by an amount necessary to annually pay the qualifying improvement assessment.

The law authorizes a local government to: partner with one or more local governments for the purpose of providing and financing qualifying improvements; levy a non-ad valorem assessment to fund a qualifying improvement; incur debt to provide financing for qualifying improvements; and collect costs incurred from financing qualifying improvements through a non-ad valorem assessment. These non-ad valorem assessments would be senior to existing mortgage debt, so if the homeowner defaults or goes into foreclosure, the delinquent payments would be recovered before the mortgage. In 2012, the Legislature clarified that a partnership of local governments may enter into a financing agreement and that the separate legal entity may impose the voluntary special assessments for purposes of the program.<sup>5</sup>

Specific qualifying improvements are locally determined in the 12 Florida counties where programs exist.<sup>6</sup> To participate in a program, property owners must have paid property taxes and not been delinquent for the previous three years.<sup>7</sup> The total assessment cannot be for an amount greater than 20 percent of the just value of the property as determined by the county property appraiser, unless consent is obtained from the mortgage holders.<sup>8</sup> In 2010, the Federal Housing Finance Agency (FHFA), directed mortgage underwriters Fannie Mae and Freddie Mac against purchasing mortgages of homes with a PACE lien due to its senior status above a mortgage.<sup>9</sup> Although residential PACE activity subsided following this directive, some residential PACE programs are now operating with loan loss reserve funds, appropriate disclosures, or other protections meant to address FHFA's concerns.<sup>10</sup>

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<sup>3</sup> Section 163.08(13), F.S.

<sup>4</sup> *Id.*, Section 163.08(15), F.S.

<sup>5</sup> Chapter 2012-117, L.O.F.

<sup>6</sup> Database of State Incentives for Renewables & Efficiency, *Florida PACE Financing*, available at [http://dsireusa.org/incentives/incentive.cfm?Incentive\\_Code=FL93F&re=1&ee=1](http://dsireusa.org/incentives/incentive.cfm?Incentive_Code=FL93F&re=1&ee=1) (last visited Feb. 10, 2015).

<sup>7</sup> Section 163.08(9), F.S.

<sup>8</sup> Section 163.08(12)(a), F.S.

<sup>9</sup> Federal Housing Finance Agency, *FHFA Statement on Certain Energy Retrofit Loan Programs* (July, 6, 2010), available at <http://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Statement-on-Certain-Energy-Retrofit-Loan-Programs.aspx> (last visited Feb. 10, 2015).

<sup>10</sup> Commercial PACE programs were not directly affected by FHFA's actions. Database of State Incentives for Renewables & Efficiency, *supra* note 6.

## Community Redevelopment Act

The Community Redevelopment Act of 1969,<sup>11</sup> authorizes a county or municipality to create community redevelopment areas (CRAs) as a means of redeveloping slums and blighted areas. In accordance with a community redevelopment plan,<sup>12</sup> CRAs can:

- 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.<sup>13</sup>

CRAs are not permitted to levy or collect taxes; however, the local governing body is permitted to establish a community redevelopment trust fund that is funded through tax increment financing (TIF).<sup>14</sup> Taxing authorities must annually appropriate an amount representing the calculated increment revenue to the redevelopment trust fund. This revenue is used to back bonds issued to finance redevelopment projects. School district revenues are not subject to the tax increment mechanism.

Counties and municipalities are prohibited from exercising the community redevelopment authority provided by the Community Redevelopment Act until they adopt an ordinance that declares an area to be a slum or a blighted area.<sup>15</sup>

Section 163.340(8), F.S., defines “blighted area” as follows:

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:

- (a) Predominance of defective or inadequate street layout, parking facilities, roadways, bridges, or public transportation facilities;
- (b) Aggregate assessed values of real property in the area for ad valorem tax purposes have failed to show any appreciable increase over the 5 years prior to the finding of such conditions;
- (c) Faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
- (d) Unsanitary or unsafe conditions;
- (e) Deterioration of site or other improvements;
- (f) Inadequate and outdated building density patterns;
- (g) Falling lease rates per square foot of office, commercial, or industrial space compared to the remainder of the county or municipality;
- (h) Tax or special assessment delinquency exceeding the fair value of the land;

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<sup>11</sup> Chapter 163, F.S., part III.

<sup>12</sup> Section 163.360, F.S.

<sup>13</sup> Section 163.370, F.S.

<sup>14</sup> Through tax increment financing, a baseline tax amount is chosen, and then in future years, any taxes generated above that baseline amount are transferred into the trust fund. Section 163.387, F.S.

<sup>15</sup> Sections 163.355(1) and 163.360(1), F.S.



- (i) Residential and commercial vacancy rates higher in the area than in the remainder of the county or municipality;
- (j) Incidence of crime in the area higher than in the remainder of the county or municipality;
- (k) Fire and emergency medical service calls to the area proportionately higher than in the remainder of the county or municipality;
- (l) 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;
- (m) Diversity of ownership or defective or unusual conditions of title which prevent the free alienability of land within the deteriorated or hazardous area; or
- (n) Governmentally owned property with adverse environmental conditions caused by a public or private entity.

However, the term “blighted area” also means any area in which at least one of the factors identified in paragraphs (a) through (n) are present and all taxing authorities subject to s. 163.387(2)(a), F.S., agree, either by inter-local agreement or agreements with the agency or by resolution, that the area is blighted.

### **Subsidence and Sinkholes**

Ground subsidence refers to a downward motion in the surface of the Earth, and may be caused by the dissolution of carbonate rocks, mining, earthquakes, extraction of natural gas, and changes to groundwater levels. A sinkhole has been defined as a “closed topographic depression or basin, generally draining underground.”<sup>16</sup> Sinkholes are a common feature in Florida’s landscape, due to erosional processes associated with the chemical weathering and dissolution of carbonate rocks.<sup>17</sup> Over geologic periods of time, persistent erosion created extensive underground voids and drainage systems throughout Florida.<sup>18</sup> A sinkhole forms when sediments overlying such a void collapse. Because “groundwater that feeds springs is recharged . . . through direct conduits such as sinkholes,” the Florida Legislature has expressed a desire to promote good stewardship, effective planning strategies, and best management practices with respect to sinkholes and the springs they recharge, which may be “threatened by actual and potential flow reductions and declining water quality.”<sup>19</sup>

### **III. Effect of Proposed Changes:**

**Section 1** amends s. 163.08, F.S., to allow supplemental authority for financing sinkhole-related improvements to real property. The bill establishes a finding of compelling state interest in providing local government assistance that enables property owners to finance qualified improvements to property damaged by sinkhole activity. The bill expands the definition of “qualifying improvement” to include stabilization or other repairs to property damaged by sinkhole activity. The bill provides that a sinkhole-related qualifying improvement is deemed

<sup>16</sup> Examples include dolines, limesinks, and sinks. Section 810.13(f), F.S.

<sup>17</sup> Such as limestone and dolomite. See, Florida Dep’t of Environmental Protection, *Sinkholes*, available at <http://www.dep.state.fl.us/geology/geologictopics/sinkhole.htm> (last visited Feb. 6, 2015).

<sup>18</sup> *Id.*

<sup>19</sup> Section 369.315, F.S.

affixed to a building or facility; and provides that a disclosure statement to that effect be given to a prospective purchaser of the property.

**Section 2** amends s 163.340, F.S., to add certain sinkhole activity to the list of factors that define a “blighted area.” Specifically, the definition is expanded to account for land that has a “substantial number or percentage of properties” that have been damaged by sinkhole activity and have not been adequately repaired or stabilized. Thus, the bill would enable a CRA focused on redeveloping land with properties damaged by sinkholes to establish a community redevelopment trust fund that is funded through tax increment financing.

**Section 3** amends s. 163.524, F.S., to conform a cross-reference.

**Section 4** provides an effective date of July 1, 2015.

#### **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:

Owners of property damaged by sinkhole activity will be able to enter into financing agreements with a local government that passes an ordinance or adopts a resolution to participate in the program established in s. 163.08, F.S.

Community redevelopment agencies will be able to develop a community redevelopment plan utilizing the expanded definition of “blighted area” to include land that has been “damaged by sinkhole activity which have not been adequately repaired or stabilized.” As a result, these areas may receive TIF revenues under the Community Redevelopment Act, and property values in the area may increase as a result of any improvements using TIF. Redevelopment of these areas can contribute to increased economic interest in a region and an overall improved economic condition.

Counties and municipalities are required by s. 163.345, F.S., to prioritize private enterprise in the rehabilitation and redevelopment of blighted areas. The increase in ad valorem taxation could be used to finance private development projects within this new category of “blighted area.” Overall property values in the surrounding area may also increase as a result, affecting current homeowners’ resale values and ad valorem taxation.

**C. Government Sector Impact:**

Local governments will be authorized to establish a PACE program that finances qualifying improvements for property damaged by sinkhole activity. A local government that creates such a program will be able to provide upfront funding for stabilization or other repairs to property damaged by sinkhole activity through proceeds of a revenue bond issuance, which is repaid through an assessment on participating property owners’ tax bills.

A municipality or county would be able to develop a community redevelopment plan utilizing the expanded definition of “blighted area” to include land that has a “substantial number or percentage of properties damaged by sinkhole activity which have not been adequately repaired or stabilized.” This could result in a portion of the ad valorem taxes from those lands being used for TIF. County and municipal governments would then receive the benefit of the ad valorem tax revenue on the increase in property value within the CRA, but could see an increase in other aspects of the local economy.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 163.08, 163.340, and 163.524.

**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

18-00303-15

2015404\_\_

1                   A bill to be entitled  
2       An act relating to improvements to real property  
3       damaged by sinkhole activity; amending s. 163.08,  
4       F.S.; declaring that there is a compelling state  
5       interest in enabling property owners to voluntarily  
6       finance certain improvements to property damaged by  
7       sinkhole activity with local government assistance;  
8       expanding the definition of the term "qualifying  
9       improvement" to include stabilization or other repairs  
10      to property damaged by sinkhole activity; providing  
11      that stabilization or other repairs to property  
12      damaged by sinkhole activity are qualifying  
13      improvements considered affixed to a building or  
14      facility; revising the form of a specified written  
15      disclosure statement to include an assessment for a  
16      qualifying improvement relating to stabilization or  
17      repair of property damaged by sinkhole activity;  
18      amending s. 163.340, F.S.; expanding the definition of  
19      "blighted area" to include a substantial number or  
20      percentage of properties damaged by sinkhole activity  
21      which are not adequately repaired or stabilized;  
22      conforming a cross-reference; amending s. 163.524,  
23      F.S.; conforming a cross-reference; providing an  
24      effective date.

25  
26   Be It Enacted by the Legislature of the State of Florida:

27  
28       Section 1. Present paragraph (c) of subsection (1) of  
29      section 163.08, Florida Statutes, is redesignated as paragraph

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30 (d), a new paragraph (c) is added to that subsection, and  
31 paragraph (b) of subsection (2) and subsections (10) and (14) of  
32 that section are amended, to read:

33 163.08 Supplemental authority for improvements to real  
34 property.—

35 (1)

36 (c) The Legislature finds that properties damaged by  
37 sinkhole activity which are not adequately repaired may  
38 negatively affect the market valuation of surrounding  
39 properties, resulting in the loss of property tax revenues to  
40 local communities. The Legislature finds that there is a  
41 compelling state interest in providing local government  
42 assistance to enable property owners to voluntarily finance  
43 qualified improvements to property damaged by sinkhole activity.

44 (2) As used in this section, the term:

45 (b) "Qualifying improvement" includes any:

46 1. Energy conservation and efficiency improvement, which is  
47 a measure to reduce consumption through conservation or a more  
48 efficient use of electricity, natural gas, propane, or other  
49 forms of energy on the property, including, but not limited to,  
50 air sealing; installation of insulation; installation of energy-  
51 efficient heating, cooling, or ventilation systems; building  
52 modifications to increase the use of daylight; replacement of  
53 windows; installation of energy controls or energy recovery  
54 systems; installation of electric vehicle charging equipment;  
55 and installation of efficient lighting equipment.

56 2. Renewable energy improvement, which is the installation  
57 of any system in which the electrical, mechanical, or thermal  
58 energy is produced from a method that uses one or more of the

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59 following fuels or energy sources: hydrogen, solar energy,  
60 geothermal energy, bioenergy, and wind energy.

61 3. Wind resistance improvement, which includes, but is not  
62 limited to:

63 a. Improving the strength of the roof deck attachment;

64 b. Creating a secondary water barrier to prevent water  
65 intrusion;

66 c. Installing wind-resistant shingles;

67 d. Installing gable-end bracing;

68 e. Reinforcing roof-to-wall connections;

69 f. Installing storm shutters; or

70 g. Installing opening protections.

71 4. Stabilization or other repairs to property damaged by  
72 sinkhole activity.

73 (10) A qualifying improvement shall be affixed to a  
74 building or facility that is part of the property and shall  
75 constitute an improvement to the building or facility or a  
76 fixture attached to the building or facility. For the purposes  
77 of stabilization or other repairs to property damaged by  
78 sinkhole activity, a qualifying improvement is deemed affixed to  
79 a building or facility. An agreement between a local government  
80 and a qualifying property owner may not cover wind-resistance  
81 improvements in buildings or facilities under new construction  
82 or construction for which a certificate of occupancy or similar  
83 evidence of substantial completion of new construction or  
84 improvement has not been issued.

85 (14) At or before the time a purchaser executes a contract  
86 for the sale and purchase of any property for which a non-ad  
87 valorem assessment has been levied under this section and has an

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88 unpaid balance due, the seller shall give the prospective  
 89 purchaser a written disclosure statement in the following form,  
 90 which shall be set forth in the contract or in a separate  
 91 writing:

92  
 93 QUALIFYING IMPROVEMENTS FOR ENERGY EFFICIENCY,  
 94 RENEWABLE ENERGY, ~~OR~~ WIND RESISTANCE, OR SINKHOLE  
 95 STABILIZATION OR REPAIR.—The property being purchased  
 96 is located within the jurisdiction of a local  
 97 government that has placed an assessment on the  
 98 property pursuant to s. 163.08, Florida Statutes. The  
 99 assessment is for a qualifying improvement to the  
 100 property relating to energy efficiency, renewable  
 101 energy, ~~or~~ wind resistance, or stabilization or repair  
 102 of property damaged by sinkhole activity, and is not  
 103 based on the value of property. You are encouraged to  
 104 contact the county property appraiser's office to  
 105 learn more about this and other assessments that may  
 106 be provided by law.

107 Section 2. Subsection (8) of section 163.340, Florida  
 108 Statutes, is amended to read:

109 163.340 Definitions.—The following terms, wherever used or  
 110 referred to in this part, have the following meanings:

111 (8) "Blighted area" means an area in which there are a  
 112 substantial number of deteriorated~~;~~ or deteriorating  
 113 structures;; in which conditions, as indicated by government-  
 114 maintained statistics or other studies, endanger life or  
 115 property or are leading to economic distress; ~~or endanger life~~  
 116 ~~or property~~, and in which two or more of the following factors

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117 are present:

118 (a) Predominance of defective or inadequate street layout,  
119 parking facilities, roadways, bridges, or public transportation  
120 facilities.†

121 (b) Aggregate assessed values of real property in the area  
122 for ad valorem tax purposes have failed to show any appreciable  
123 increase over the 5 years prior to the finding of such  
124 conditions.†

125 (c) Faulty lot layout in relation to size, adequacy,  
126 accessibility, or usefulness.†

127 (d) Unsanitary or unsafe conditions.†

128 (e) Deterioration of site or other improvements.†

129 (f) Inadequate and outdated building density patterns.†

130 (g) Falling lease rates per square foot of office,  
131 commercial, or industrial space compared to the remainder of the  
132 county or municipality.†

133 (h) Tax or special assessment delinquency exceeding the  
134 fair value of the land.†

135 (i) Residential and commercial vacancy rates higher in the  
136 area than in the remainder of the county or municipality.†

137 (j) Incidence of crime in the area higher than in the  
138 remainder of the county or municipality.†

139 (k) Fire and emergency medical service calls to the area  
140 proportionately higher than in the remainder of the county or  
141 municipality.†

142 (l) A greater number of violations of the Florida Building  
143 Code in the area than the number of violations recorded in the  
144 remainder of the county or municipality.†

145 (m) Diversity of ownership or defective or unusual



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146 conditions of title which prevent the free alienability of land  
147 within the deteriorated or hazardous area.~~7~~~~or~~

148 (n) Governmentally owned property with adverse  
149 environmental conditions caused by a public or private entity.

150 (o) A substantial number or percentage of properties  
151 damaged by sinkhole activity which have not been adequately  
152 repaired or stabilized.

153

154 However, the term "blighted area" also means any area in which  
155 at least one of the factors identified in paragraphs (a) through  
156 (o) is ~~(n) are~~ present and all taxing authorities subject to s.

157 163.387(2) (a) agree, either by interlocal agreement ~~or~~  
158 ~~agreements~~ with the agency or by resolution, that the area is  
159 blighted. Such agreement or resolution must be limited to a  
160 determination ~~shall only determine~~ that the area is blighted.

161 For purposes of qualifying for the tax credits authorized in  
162 chapter 220, "blighted area" means an area as defined in this  
163 subsection.

164 Section 3. Subsection (3) of section 163.524, Florida  
165 Statutes, is amended to read:

166 163.524 Neighborhood Preservation and Enhancement Program;  
167 participation; creation of Neighborhood Preservation and  
168 Enhancement Districts; creation of Neighborhood Councils and  
169 Neighborhood Enhancement Plans.—

170 (3) After the boundaries and size of the Neighborhood  
171 Preservation and Enhancement District have been defined, the  
172 local government shall pass an ordinance authorizing the  
173 creation of the Neighborhood Preservation and Enhancement  
174 District. The ordinance shall contain a finding that the

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175 boundaries of the Neighborhood Preservation and Enhancement  
176 District comply with ~~meet the provisions of~~ s. 163.340(7) or s.  
177 (8)(a)-(o) ~~(8)(a)-(n)~~ or do not contain properties that are  
178 protected by deed restrictions. Such ordinance may be amended or  
179 repealed in the same manner as other local ordinances.

180 Section 4. This act shall take effect July 1, 2015.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2-17-2015

Meeting Date

Topic \_\_\_\_\_

Bill Number 404  
*(if applicable)*

Name BRIAN PITTS

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Trustee

Address 1119 Newton Ave S  
*Street*

Phone 727/897-9291

St Petersburg FL 33705  
*City State Zip*

E-mail justice2jesus@yahoo.com

Speaking:  For  Against  Information

Representing Justice-2-Jesus

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/17/15  
Meeting Date

404  
Bill Number (if applicable)

Topic Sinkhole Bill

Amendment Barcode (if applicable)

Name Anthony DiMarco

Job Title EMP of Govt - Affairs

Address 1001 Thomasville Road

Phone 224-2265

Street

Tallahassee

FL

City

State

Email adimarco@firstbankers.com

Speaking:  For  Against  Information

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

Representing Florida Bankers Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

# CourtSmart Tag Report

**Room:** SB 301  
**Caption:** Senate Committee on Community Affairs

**Case:**

**Type:**  
**Judge:**

**Started:** 2/17/2015 9:03:13 AM  
**Ends:** 2/17/2015 10:04:14 AM      **Length:** 01:01:02

9:03:20 AM Call to order  
9:04:27 AM Tab 6 SB 7006 Senator Legg  
9:05:19 AM Amendment 1 Barcode 735670  
9:05:22 AM Senator Legg  
9:06:20 AM Amendment adopted  
9:06:39 AM Brian Pitts, Justice-2-Jesus  
9:11:02 AM Roll call on SB 7006  
9:11:13 AM Bill reported favorably  
9:11:24 AM Tab 2 SB 130 Senator Hays  
9:13:12 AM Roll call on SB 130  
9:13:23 AM Bill reported favorably  
9:13:49 AM Tab 1 SB 52 Senator Negron  
9:14:14 AM Roll call on SB 52  
9:14:25 AM Bill reported favorably  
9:15:06 AM Tab 8 SB 404 Senator Simpson  
9:16:07 AM Anthony DiMarco, Florida Bankers Association  
9:17:12 AM Senator Dean  
9:18:20 AM Roll call on SB 404  
9:18:41 AM Bill reported favorably  
9:19:33 AM Tab 4 SB 590  
9:19:37 AM Speaker Devon West  
9:20:07 AM Speaker Charles Withers  
9:21:44 AM Brian Pitts, Justice-2-Jesus  
9:24:19 AM Roll call on SB 590  
9:24:30 AM Bill reported favorably  
9:24:48 AM Tab 7 SB 22 Senator Bradley  
9:27:26 AM Roll call on SB 22  
9:27:36 AM Bill reported favorably  
9:27:53 AM Tab 5 SB 172 Senator Bradley  
9:33:06 AM Kraig Conn, Florida League of Cities  
9:41:52 AM Senator Diaz de la Portilla  
9:46:31 AM Senator Dean  
9:47:12 AM Matt Puckett, Florida Police Benevolent Association  
9:49:38 AM Skylar Zander, Americans for Prosperity  
9:50:10 AM Morgan McCord, Florida TaxWatch  
9:51:55 AM Lisa Henning, Fraternal Order of Police  
9:52:39 AM Rocco Salvatori, Florida Professional Firefighters  
9:56:14 AM David Hart, Florida Chamber of Commerce  
9:58:39 AM Senator Brandes  
9:59:45 AM Senator Bradley  
10:03:12 AM Roll call on SB 172  
10:03:28 AM Bill reported favorably  
10:04:03 AM Adjourned



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Finance and Tax, *Vice Chair*  
Appropriations Subcommittee on Health and Human  
Services  
Communications, Energy, and Public Utilities  
Community Affairs  
Fiscal Policy  
Regulated Industries

### JOINT COMMITTEE:

Joint Legislative Auditing Committee, *Chair*

### SENATOR JOSEPH ABRUZZO

Minority Whip  
25th District

February 16<sup>th</sup>, 2015

The Honorable Wilton Simpson  
The Florida Senate  
322 Senate Office Building  
404 South Monroe Street  
Tallahassee, FL 32399

Dear Chairman Simpson:

Please accept this letter as a formal request to excuse myself from the Committee on Community Affairs on Tuesday, February 17<sup>th</sup>. Due to the very recent birth of my first child I am unable to attend this week's committee meetings.

Please let me know if I can provide you with any further information related to this matter. Thank you in advance for your understanding.

Sincerely,

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

Joseph Abruzzo

Cc: Tom Yeatman, Staff Director

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

#### REPLY TO:

- 12300 Forest Hill Boulevard, Suite 200, Wellington, Florida 33414-5785 (561) 791-4774 FAX: (888) 284-6495
- 110 Dr. Martin Luther King, Jr. Boulevard, Belle Glade, Florida 33430-3900 (561) 829-1410
- 222 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

ANDY GARDINER  
President of the Senate

GARRETT RICHTER  
President Pro Tempore