

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

COMMUNITY AFFAIRS
Senator Simpson, Chair
Senator Brandes, Vice Chair

MEETING DATE: Tuesday, November 17, 2015

TIME: 1:00—3:00 p.m.

PLACE: 301 Senate Office Building

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

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 488 Flores (Compare CS/HJR 275, CS/H 277, Linked SJR 492)	County and Municipality Homestead Tax Exemption; Revising the homestead tax exemption that may be adopted by a county or municipality by ordinance for the assessed value of property with a just value less than \$250,000 which is owned by persons age 65 or older who meet certain residence and income requirements; specifying that just value shall be determined at the time of the owner's initial application for the exemption, etc. CA 11/17/2015 Fav/CS FT AP	Fav/CS Yeas 7 Nays 0
2	SJR 492 Flores (Compare CS/HJR 275, CS/H 277, Linked S 488)	Homestead Tax Exemption; Proposing an amendment to the State Constitution to revise the homestead tax exemption that may be granted by counties or municipalities, if authorized by general law, for the assessed value of property with a just value less than \$250,000 and owned by persons age 65 or older who meet certain residence and income requirements to specify that just value shall be determined at the time of the owner's initial application for the exemption, etc. CA 11/17/2015 Favorable FT AP	Favorable Yeas 7 Nays 0
3	SB 530 Sobel (Identical H 295, Compare H 535, S 704)	Calder Sloan Swimming Pool Electrical-Safety Task Force; Creating the "Calder Sloan Act"; creating the Calder Sloan Swimming Pool Electrical-Safety Task Force within the Florida Building Commission; specifying the purpose of the task force; requiring a report to the Governor and the Legislature by a specified date, etc. CA 11/17/2015 Favorable FP	Favorable Yeas 6 Nays 1

COMMITTEE MEETING EXPANDED AGENDA

Community Affairs

Tuesday, November 17, 2015, 1:00—3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 456 Latvala (Similar H 345)	Firefighters; Establishing a presumption as to a firefighter's condition or impairment of health caused by cancer while in the line of duty; prescribing requirements for the physical examination; authorizing specified governmental entities to negotiate policy contracts for life and disability insurance, etc. CA 11/17/2015 Favorable GO AP	Favorable Yeas 7 Nays 1
5	SB 304 Stargel (Compare CS/H 59)	Agritourism; Prohibiting a local government from enforcing any local ordinance, regulation, rule, or policy that prohibits, restricts, regulates, or otherwise limits an agritourism activity on land classified as agricultural land, etc. AG 11/02/2015 Favorable CA 11/17/2015 Fav/CS RC	Fav/CS Yeas 7 Nays 0
6	SB 124 Evers (Similar H 95, Compare H 97, Linked S 126)	Public Procurement Practices; Deleting provisions creating the Partnership for Public Facilities and Infrastructure Act Guidelines Task Force; requiring a private entity that submits an unsolicited proposal to pay an initial application fee and additional amounts if the fee does not cover certain costs; deleting provisions relating to notice to affected local jurisdictions; increasing the dollar threshold for a contract amount of a project for which a person, the state, or a political subdivision is prohibited from refusing a surety bond issued by a surety company that meets certain requirements, etc. CA 11/17/2015 Favorable GO FP	Favorable Yeas 7 Nays 0
7	SB 126 Evers (Similar H 97, Compare H 95, Linked S 124)	Public Records and Public Meetings/Public-private Partnerships; Transferring, renumbering, and amending provisions relating to public-private partnerships for public facilities and infrastructure; providing an exemption from public records requirements for a specified period for unsolicited proposals received by a responsible public entity; providing an exemption from public records requirements for a specified period for the recording of, and any records generated during, a closed meeting; providing for future legislative review and repeal of the exemptions; providing a statement of public necessity, etc. CA 11/17/2015 Favorable GO FP	Favorable Yeas 7 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Community Affairs

Tuesday, November 17, 2015, 1:00—3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	SB 516 Ring / Gaetz (Compare H 479)	Special Districts; Requiring each special district to operate an official website; requiring each special district's official website to include specified budget information, etc. CA 11/17/2015 Fav/CS ATD FP	Fav/CS Yeas 7 Nays 1
9	SB 7014 Governmental Oversight and Accountability	Florida Retirement System; Authorizing renewed membership in the retirement system for retirees who are reemployed in a position eligible for the Special Risk Class and Elected Officers' Class under certain circumstances; providing for renewed membership in the retirement system for retirees of the Senior Management Service Optional Annuity Program who are employed on or after a specified date; requiring an employer to make employer and employee contributions toward credit for military service for service credit earned on or after a specified date, etc. CA 11/17/2015 Favorable AP	Favorable Yeas 8 Nays 0

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 488

INTRODUCER: Community Affairs Committee and Senator Flores

SUBJECT: County and Municipality Homestead Tax Exemption

DATE: October 29, 2015 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	Fav/CS
2.			FT	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 488 specifies the timeframe for determining the just value of real estate under one of the two additional homestead tax exemptions that exist for certain low-income senior citizens. If SJR 492, or similar legislation, is passed by the Legislature and approved by the voters, the additional homestead exemption in s. 196.075(2)(b), F.S., may be granted by a municipality or county to anyone 65 or older who owns real estate with a just value less than \$250,000, as determined at the time the property owner first applies for the exemption.¹

The provisions of this bill would require an amendment to the Florida Constitution prior to implementation, as anticipated by SJR 492.

II. Present Situation:

Property Valuation in Florida

Florida law provides a number of options to reduce property tax liability. Article VII, section 2 of the Florida Constitution provides for uniform ad valorem taxation, stating that “all ad valorem taxation shall be at a uniform rate within each taxing unit.”² The property tax burden for an owner of any particular piece of real estate will depend on the property’s just value, its assessed value, and whether the property benefits from any tax exemptions or assessment limitations.

¹ Other requirements include permanent residence on the property for at least 25 years and a household income threshold.

² FLA. CONST. art. VII, s. 2.

Just Value

Article VII, section 4 of the Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes. “Just value” has been interpreted by the courts to mean fair market value, or what a willing buyer would pay a willing seller for the property in an arms-length transaction.³

Assessed Value

The Florida Constitution authorizes certain alternatives to the just valuation standard for specific types of property.⁴ Agricultural land, land producing high water recharge to Florida’s aquifers, and land used exclusively for noncommercial recreational purposes may be assessed solely on the basis of their character or use.⁵ Land used for conservation purposes must be assessed solely on the basis of character or use.⁶ Counties and municipalities may authorize historic properties to be assessed solely on the basis of character or use.⁷ Counties may also provide a reduction in the assessed value of property improvements on existing homesteads made to accommodate parents or grandparents who are 62 years of age or older.⁸ The Legislature is authorized to prohibit the consideration of improvements to residential real property for purposes of improving the property’s wind resistance or the installation of renewable energy source devices in the assessment of the property.⁹ Certain working waterfront property is assessed based upon the property’s current use.¹⁰

Taxable Value

The taxable value of real and tangible personal property is the assessed value minus any exemptions provided by the Florida Constitution or by Florida Statutes. Such exemptions include, but are not limited to, homestead exemptions and exemptions for property used for educational, religious, or charitable purposes.¹¹

Assessment Limitations

Save Our Homes

The Save Our Homes assessment limitation was amended into the Florida Constitution in 1992. Article VII, section 4(d) of the Florida Constitution limits the amount that a homestead’s assessed value can increase annually to the lesser of 3 percent or the percentage increase in the Consumer Price Index (CPI).¹² In addition, an assessment may not exceed just value.

³ See *Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

⁴ The constitutional provisions in Art. VII, section 4 of the Florida Constitution, are implemented in Part II of ch. 193, F.S.

⁵ FLA. CONST. art. VII, s. 4(a).

⁶ FLA. CONST. art. VII, s. 4(b).

⁷ FLA. CONST. art. VII, s. 4(e).

⁸ FLA. CONST. art. VII, s. 4(f).

⁹ FLA. CONST. art. VII, s. 4(i).

¹⁰ FLA. CONST. art. VII, s. 4(j).

¹¹ FLA. CONST. art. VII, ss. 3 and 6.

¹² FLA. CONST. art. VII, s. 4(d).

In 2008, Florida voters approved an additional amendment to Article VII, section 4(d) of the Florida Constitution to provide for the portability of the accrued benefit under the Save Our Homes assessment limitation. This amendment allows homestead property owners who relocate to a new homestead to transfer up to \$500,000 of the accrued benefit to the new homestead.

Property Tax Exemptions for Homesteads

The Legislature may only grant property tax exemptions that are authorized in the Florida Constitution, and any modifications to existing property tax exemptions must be consistent with the constitutional provision authorizing the exemption.¹³

Homestead Exemption

Article VII, section 6 of the Florida Constitution provides that every person having legal and equitable title to real estate and who maintains a permanent residence on the real estate is eligible for a \$25,000 homestead tax exemption applicable to all ad valorem tax levies including levies by school districts. An additional \$25,000 homestead exemption applies to homesteads that have an assessed value greater than \$50,000 and up to \$75,000, excluding ad valorem taxes levied by school districts.

Additional Homestead Exemptions for Qualified Senior Citizens

Since 1999, cities and counties have been authorized to offer an additional homestead exemption of up to \$50,000 to persons who are 65 or older and who satisfy certain low-income requirements. Section 196.075(2)(a), F.S., is the general law enacted to allow counties and municipalities to grant this additional homestead exemption.¹⁴ This additional exemption applies to any person who has legal and equitable title to real estate, maintains a property as a permanent residence, has attained the age of 65, and has a household income, as defined by general law, which does not exceed \$20,000. In the implementing legislation for the exemption, the Legislature indexed the \$20,000 figure to inflation. Adjusted each year on January 1 according to changes in the consumer price index, the current household income threshold for the senior low income exemption is \$28,448.¹⁵

In November 2012, the voters approved a constitutional amendment that authorized the Legislature to allow cities and counties to grant an additional homestead exemption for persons 65 or older.¹⁶ Amendment 11 allowed for an exemption equal to the assessed value of homestead property when the just value is less than \$250,000. The owner is still required to be 65 or older and maintain a permanent residence on the property; however, the owner must have maintained a permanent residence on the property for a minimum of 25 years. The same income limitations apply to both exemptions.

¹³*Sebring Airport Auth. v. McIntyre*, 783 So. 2d 238, 248 (Fla. 2001); *Archer v. Marshall*, 355 So. 2d 781, 784. (Fla. 1978); *Am Fi Inv. Corp. v. Kinney*, 360 So. 2d 415 (Fla. 1978); *See also Sparkman v. State*, 58 So. 2d 431, 432 (Fla. 1952).

¹⁴ Article VII, section 6(d)(1) of the Florida Constitution allows the Legislature to adopt a general law allowing counties and municipalities to grant an additional homestead exemption of up to \$50,000.

¹⁵ Florida Department of Revenue, *Florida Property Tax Valuation and Income Limitation Rates*, available at <http://dor.myflorida.com/dor/property/resources/limitations.html> (last visited Oct. 29, 2015).

¹⁶ Amendment 11, 2012 General Election. The amendment originated as CS/HJR 169 (2012). The text of the amendment can be found on the website of the Florida Department of State at <http://election.dos.state.fl.us/initiatives/fulltext/pdf/10-89.pdf>.

The county or municipality can grant either or both of the additional exemptions and must do so by ordinance, adopted by a supermajority vote of the county or municipal governing body pursuant to the procedures prescribed in ch. 125 or 166, F.S. The county or municipality must specify that the exemption applies only to taxes levied by the unit of government granting the exemption.¹⁷ For purposes of the exemption, “household income” means “the adjusted gross income, as defined in s. 62 of the United States Internal Revenue Code, of all members of a household.”¹⁸ The term “household” means “a person or group of persons living together in a room or group of rooms as a housing unit, but the term does not include persons boarding in or renting a portion of the dwelling.”¹⁹ The Florida Revenue Estimating Conference estimates that the 2015-2016 revenue impact to be \$59.8 million for the s. 196.075(2)(a), F.S., exemption and \$4.4 million for the s. 196.075(2)(b), F.S., exemption.²⁰

For 2015, there are 21 counties that grant the low income, long-time resident assessed value exemption, totaling \$451,574,217 in exempt taxable value; in addition, 13 counties contain at least one municipality that grant the exemption for 2015, totaling \$179,894,174 in exempt taxable value.²¹ The table below illustrates the number of exemptions and exempt taxable value.

County	County Exemption		Municipal Exemptions ²²	
	Count	Value	Count	Value
Bay	162	\$ 9,280,441	16	\$ 905,558
Broward		not authorized	475	\$ 19,337,090
Clay		not authorized	25	\$ 1,749,144
Columbia	35	\$ 1,868,732		
Miami-Dade	7,834	\$ 225,040,488	9,552	\$ 110,750,383
Escambia	426	\$ 13,377,459	57	\$ 1,971,205
Flagler	100	\$ 6,838,060		
Gilchrist	91	\$ 3,375,107		
Gulf	11	\$ 347,459		
Hernando	208	\$ 8,114,775		
Hillsborough	3,338	\$ 107,063,281	1,228	\$ 31,333,626
Jackson	5	\$ 445,624		
Lake	128	\$ 4,145,690		
Lee	233	\$ 7,302,100		
Leon	347	\$ 12,899,214	406	\$ 6,336,193
Madison	18	\$ 1,028,706		
Manatee	0	\$0	1	\$ 109,302
Monroe	33	\$ 1,056,766	8	\$ 115,872
Nassau	37	\$ 3,838,427		

¹⁷ Because the exemption applies only to tax millage levied by the county or city that enacts the exemption, it does not apply to millage of school districts or other taxing authorities. *See* s. 196.075, F.S.

¹⁸ Section 196.075(1)(b), F.S.

¹⁹ Section 196.075(1)(a), F.S.

²⁰ These figures represent revenue lost, not the taxable value. Florida Revenue Estimating Conference, *2015 Florida Tax Handbook*, at 205 (2015).

²¹ Revenue Estimating Conference, Impact Conference, Homestead Exemption up to \$250,000: HJR 275/HB 277 (October 16, 2015).

²² The municipal exemption column is incomplete because some municipalities did not report the information; also, certain municipalities grant the exemption but no one has applied or is eligible.

Orange	171	\$ 10,612,072		
Putnam	716	\$ 18,442,634	121	\$ 2,203,715
Santa Rosa	31	\$ 2,398,682	5	\$ 427,564
Volusia	576	\$ 14,098,500	144	\$ 4,092,780
Walton		not authorized	14	\$561,742
Total	14,539	\$ 451,574,217	12,052	\$ 179,894,174

III. Effect of Proposed Changes:

Section 1 of the bill proposes to amend Article VII, section 6 of the Florida Constitution to further specify a condition of the additional homestead tax exemption for persons 65 and older, found in s. 196.075(2)(b), F.S. Upon consideration of a given application for the homestead exemption, the county or municipal tax authority would be required to consider the just value of the real estate at the time the property owner first applies for the exemption. If the just value of the real estate is less than \$250,000 at the time the property owner first applied for the exemption, and all other statutory conditions are met, then the homestead exemption would equal the assessed value of the property. Presumably, by specifying that the determination be made in this timeframe, the tax benefits of the exemption may confer to applicants who otherwise would have lost or been denied the exemption due to a quickly appreciating or volatile real estate market.

Section 2 of the bill provides that it be implemented after an amendment has been made to the Florida Constitution, which will require 60 percent voter approval.²³

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill clarifies a condition of the optional homestead exemption found in s. 196.075(2)(b), F.S., and, as such, does not fall within the mandate provisions of Article VII, section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill clarifies the criteria of the homestead exemption for low-income seniors, found in s. 196.075(2)(b), F.S. By establishing the time for determining the just value of the real estate as “at the time of the owner’s initial application for exemption,” the tax benefits of

²³ See SJR 492 (2016).

the exemption may confer to applicants who would otherwise have been denied the exemption due to a quickly appreciating or volatile real estate market.

B. Private Sector Impact:

If local governments grant the exemption, low-income seniors may receive property tax relief.

C. Government Sector Impact:

If the bill passes, the Department of Revenue would need to amend Rule 12D-7.0143, F.A.C., to include a provision that the property appraiser determined the just value of a property to be less than \$250,000 at the time of the initial application.²⁴ The department would also need to amend forms DR-501 and DR-501SC to add the new information.²⁵

On October 16, 2015, the Revenue Estimating Conference determined that an identical bill, HB 277, has an indeterminate fiscal impact due to the requirement for a statewide referendum to approve HJR 275, and the ability of local governments to choose whether or not to allow the exemption in their jurisdiction.

However, the conference estimated that, if approved in the referendum, and if all counties and municipalities currently allowing the exemption continue to do so, the impact on local government revenues would be -\$0.5 million in Fiscal Year 2017-18, growing to -\$1.2 million Fiscal Year 2020-21. If all counties and municipalities in the state were to adopt the exemption as amended by this legislation, the estimated statewide impact (excluding school and special district levies, which are not authorized to grant this exemption) is -\$1.6 million in 2017-18, growing to -\$4.2 million in 2020-21.

VI. Technical Deficiencies:

None.

VII. Related Issues:

As noted by the Department of Revenue,²⁶ the bill does not address any future changes, additions, or improvements made to the homestead property. It is unclear whether an increase in just value of the homestead, due to improvements made to the property by the owner or someone acting on the owner's behalf, would affect the exemption.²⁷

Additionally, the Department of Revenue recommends that the language that established the time for determining the real estate's just value as "at the time of the owner's initial application for exemption" be replaced with, "as determined in the first year that the owner applies for and is eligible for the exemption." County property appraisers determine just value as of January 1 each

²⁴ Dep't of Revenue, Legislative Bill Analysis of SB 488, at 2 (2016).

²⁵ *Id.*

²⁶ *Id.* at 4.

²⁷ For examples of how changes, additions, or improvements have been addressed, see ss. 193.155, 193.1554, and 193.1555, F.S.

year. County property appraisers do not determine just value on any other day. In a related issue, an owner may have filed and been denied the exemption for not meeting other criteria, prior to receiving the exemption for a subsequent application. In this case, it is unclear why the just value of the property should be taken at the time of first application.

VIII. Statutes Affected:

This bill substantially amends section 196.075 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 November 17, 2015:

Inserts the linked bill, SJR 492, into the effective date of the bill.

- B. **Amendments:**

None.



929898

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
11/17/2015	.	
	.	
	.	
	.	

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

Senate Amendment

Delete line 37
and insert:
SJR 492 or a similar joint resolution having substantially
the

By Senator Flores

37-00699-16

2016488__

1 A bill to be entitled
 2 An act relating to a county and municipality homestead
 3 tax exemption; amending s. 196.075, F.S.; revising the
 4 homestead tax exemption that may be adopted by a
 5 county or municipality by ordinance for the assessed
 6 value of property with a just value less than \$250,000
 7 which is owned by persons age 65 or older who meet
 8 certain residence and income requirements; specifying
 9 that just value shall be determined at the time of the
 10 owner's initial application for the exemption;
 11 providing a contingent effective date.

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

14
 15 Section 1. Subsection (2) of section 196.075, Florida
 16 Statutes, is amended to read:

17 196.075 Additional homestead exemption for persons 65 and
 18 older.—

19 (2) In accordance with s. 6(d), Art. VII of the State
 20 Constitution, the board of county commissioners of any county or
 21 the governing authority of any municipality may adopt an
 22 ordinance to allow either or both of the following additional
 23 homestead exemptions:

24 (a) Up to \$50,000 for a ~~any~~ person who has the legal or
 25 equitable title to real estate and maintains thereon the
 26 permanent residence of the owner, who has attained age 65, and
 27 whose household income does not exceed \$20,000. ~~† or~~

28 (b) The amount of the assessed value of the property for a
 29 ~~any~~ person who has the legal or equitable title to real estate

37-00699-16

2016488__

30 with a just value less than \$250,000, as determined at the time
31 of the owner's initial application for the exemption, and who
32 has maintained thereon the permanent residence of the owner for
33 at least 25 years, who has attained age 65, and whose household
34 income does not exceed the income limitation prescribed in
35 paragraph (a), as calculated in subsection (3).

36 Section 2. This act shall take effect on the same date that
37 SJR ____ or a similar joint resolution having substantially the
38 same specific intent and purpose takes effect, if such joint
39 resolution is approved by the electors at the general election
40 to be held in November 2016 or at an earlier special election
41 specifically authorized by law for that purpose.



The Florida Senate

Committee Agenda Request

To: Senator Wilton Simpson, Chair
Committee on Community Affairs

Subject: Committee Agenda Request

Date: November 2, 2015

I respectfully request that **Senate Bill #488**, relating to County and Municipality Homestead Tax Exemption, be placed on the:

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

A handwritten signature in cursive script that reads "Anitere Flores".

Senator Anitere Flores
Florida Senate, District 37

THE FLORIDA SENATE
APPEARANCE RECORD

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

11/17/15
Meeting Date

SB 488 / SB 492
Bill Number (if applicable)

Topic Homestead Tax Exemption

Amendment Barcode (if applicable)

Name Carey Baker

Job Title Lake County Property Appraiser

Address 320 Main Street, Suite A

Phone 352/253-2149

Tavares, FL
City State

32778-3814
Zip

Email cbaker@lcpaf.org

Speaking: For Against Information

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

Representing Florida Assoc. of Property Appraisers, Inc.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

**The Florida Senate
COMMITTEE VOTE RECORD**

COMMITTEE: Community Affairs
ITEM: SB 488
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Tuesday, November 17, 2015
TIME: 1:00—3:00 p.m.
PLACE: 301 Senate Office Building

FINAL VOTE		SENATORS	11/17/2015 1 Amendment 929898					
Yea	Nay		Brandes		Yea	Nay	Yea	Nay
			Yea	Nay	Yea	Nay	Yea	Nay
X		Abruzzo						
		Bradley						
X		Dean						
X		Diaz de la Portilla						
X		Hutson						
X		Thompson						
X		Brandes, VICE CHAIR						
X		Simpson, CHAIR						
7	0		RCS	-				
Yea	Nay	TOTALS	Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting

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: SJR 492

INTRODUCER: Senator Flores

SUBJECT: Homestead Tax Exemption

DATE: October 29, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	Favorable
2.			FT	
3.			AP	

I. Summary:

SJR 492 resolves to amend Article VII, section 6 of the Florida Constitution to clarify the timeframe for determining the just value of real estate under one of the two additional homestead tax exemptions that exist for certain low-income senior citizens. If approved by the voters and implemented by the Legislature, the additional homestead exemption in s. 196.075(2)(b), F.S., may be granted to anyone 65 or older who owns real estate with a just value less than \$250,000, as determined at the time the property owner first applies for the exemption.¹

This joint resolution will require approval by a three-fifths vote of the membership of each house of the Legislature for passage.

II. Present Situation:

Property Valuation in Florida

Florida law provides a number of options to reduce property tax liability. Article VII, section 2 of the Florida Constitution provides for uniform ad valorem taxation, stating that “all ad valorem taxation shall be at a uniform rate within each taxing unit.”² The property tax burden for an owner of any particular piece of real estate will depend on the property’s just value, its assessed value, and whether the property benefits from any tax exemptions or assessment limitations.

Just Value

Article VII, section 4 of the Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes. “Just value” has been interpreted by the courts to mean fair

¹ Other requirements include permanent residence on the property for at least 25 years and a household income threshold.

² FLA. CONST. art. VII, s. 2.

market value, or what a willing buyer would pay a willing seller for the property in an arms-length transaction.³

Assessed Value

The Florida Constitution authorizes certain alternatives to the just valuation standard for specific types of property.⁴ Agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes may be assessed solely on the basis of their character or use.⁵ Land used for conservation purposes must be assessed solely on the basis of character or use.⁶ Counties and municipalities may authorize historic properties to be assessed solely on the basis of character or use.⁷ Counties may also provide a reduction in the assessed value of property improvements on existing homesteads made to accommodate parents or grandparents that are 62 or older.⁸ The Legislature is authorized to prohibit the consideration of improvements to residential real property for purposes of improving the property's wind resistance or the installation of renewable energy source devices in the assessment of the property.⁹ Certain working waterfront property is assessed based upon the property's current use.¹⁰

Taxable Value

The taxable value of real and tangible personal property is the assessed value minus any exemptions provided by the Florida Constitution or by Florida Statutes. Such exemptions include, but are not limited to, homestead exemptions and exemptions for property used for educational, religious, or charitable purposes.¹¹

Assessment Limitations

Save Our Homes

The Save Our Homes assessment limitation was amended into the Florida Constitution in 1992. Article VII, section 4(d) of the Florida Constitution limits the amount that a homestead's assessed value can increase annually to the lesser of 3 percent or the percentage increase in the Consumer Price Index (CPI).¹² In addition, an assessment may not exceed just value.

In 2008, Florida voters approved an additional amendment to Article VII, section 4(d) of the Florida Constitution to provide for the portability of the accrued benefit under the Save Our Homes assessment limitation. This amendment allows homestead property owners who relocate to a new homestead to transfer up to \$500,000 of the accrued benefit to the new homestead.

³ See *Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

⁴ The constitutional provisions in Art. VII, section 4 of the Florida Constitution are implemented in Part II of ch. 193, F.S.

⁵ FLA. CONST. art. VII, s. 4(a).

⁶ FLA. CONST. art. VII, s. 4(b).

⁷ FLA. CONST. art. VII, s. 4(e).

⁸ FLA. CONST. art. VII, s. 4(f).

⁹ FLA. CONST. art. VII, s. 4(i).

¹⁰ FLA. CONST. art. VII, s. 4(j).

¹¹ FLA. CONST. art. VII, ss. 3 and 6.

¹² FLA. CONST. art. VII, s. 4(d).

Property Tax Exemptions for Homesteads

The Legislature may only grant property tax exemptions that are authorized in the Florida Constitution, and any modifications to existing property tax exemptions must be consistent with the constitutional provision authorizing the exemption.¹³

Homestead Exemption

Article VII, section 6 of the Florida Constitution provides that every person having legal and equitable title to real estate and who maintains a permanent residence on the real estate is eligible for a \$25,000 homestead tax exemption applicable to all ad valorem tax levies including levies by school districts. An additional \$25,000 homestead exemption applies to homesteads that have an assessed value greater than \$50,000 and up to \$75,000, excluding ad valorem taxes levied by school districts.

Additional Homestead Exemptions for Qualified Senior Citizens

Since 1999, cities and counties have been authorized to offer an additional homestead exemption of up to \$50,000 to persons who are 65 or older and who satisfy certain low-income requirements. Section 196.075(2)(a), F.S., is the general law enacted to allow counties and municipalities to grant this additional homestead exemption.¹⁴ This additional exemption applies to any person who has legal and equitable title to real estate, maintains a property as a permanent residence, has attained the age of 65, and has a household income, as defined by general law, which does not exceed \$20,000. In the implementing legislation for the exemption, the Legislature indexed the \$20,000 figure to inflation. Adjusted each year on January 1 according to changes in the consumer price index, the current household income threshold for the senior low income exemption is \$28,448.¹⁵

In November 2012, the voters approved a constitutional amendment that authorized the Legislature to allow cities and counties to grant an additional homestead exemption for persons 65 or older.¹⁶ Amendment 11 allowed for an exemption equal to the assessed value of homestead property when the just value is less than \$250,000. The owner is still required to be 65 or older and maintain a permanent residence on the property. However, the owner must have maintained a permanent residence on the property for a minimum of 25 years. The same income limitations apply to both exemptions.

The county or municipality can grant either or both of the additional exemptions and must do so by ordinance, adopted by a supermajority vote of the county or municipal governing body pursuant to the procedures prescribed in ch. 125 or 166, F.S. The county or municipality must specify that the exemption applies only to taxes levied by the unit of government granting the

¹³*Sebring Airport Auth. v. McIntyre*, 783 So. 2d 238, 248 (Fla. 2001); *Archer v. Marshall*, 355 So. 2d 781, 784. (Fla. 1978); *Am Fi Inv. Corp. v. Kinney*, 360 So. 2d 415 (Fla. 1978); *See also Sparkman v. State*, 58 So. 2d 431, 432 (Fla. 1952).

¹⁴ Article VII, section 6(d)(1) of the Florida Constitution, allows the Legislature to adopt a general law allowing counties and municipalities to grant an additional homestead exemption of up to \$50,000.

¹⁵ Florida Department of Revenue, *Florida Property Tax Valuation and Income Limitation Rates*, available at <http://dor.myflorida.com/dor/property/resources/limitations.html> (last visited Oct. 29, 2015).

¹⁶ Amendment 11, 2012 General Election. The amendment originated as CS/HJR 169 (2012). The text of the amendment can be found on the website of the Florida Department of State at <http://election.dos.state.fl.us/initiatives/fulltext/pdf/10-89.pdf>.

exemption.¹⁷ For purposes of the exemption, “household income” means “the adjusted gross income, as defined in s. 62 of the United States Internal Revenue Code, of all members of a household.”¹⁸ The term “household” means “a person or group of persons living together in a room or group of rooms as a housing unit, but the term does not include persons boarding in or renting a portion of the dwelling.”¹⁹ The Florida Revenue Estimating Conference estimates that the 2015-2016 revenue impact to be \$59.8 million for the s. 196.075(2)(a), F.S., exemption and \$4.4 million for the s. 196.075(2)(b), F.S., exemption.²⁰

For 2015, there are 21 counties that grant the low income, long-time resident assessed value exemption, totaling \$451,574,217 in exempt taxable value; in addition, 13 counties contain at least one municipality that grant the exemption for 2015, totaling \$179,894,174 in exempt taxable value.²¹ The table below illustrates the number of exemptions and exempt taxable value.

County	County Exemption		Municipal Exemptions ²²	
	Count	Value	Count	Value
Bay	162	\$ 9,280,441	16	\$ 905,558
Broward		not authorized	475	\$ 19,337,090
Clay		not authorized	25	\$ 1,749,144
Columbia	35	\$ 1,868,732		
Miami-Dade	7,834	\$ 225,040,488	9,552	\$ 110,750,383
Escambia	426	\$ 13,377,459	57	\$ 1,971,205
Flagler	100	\$ 6,838,060		
Gilchrist	91	\$ 3,375,107		
Gulf	11	\$ 347,459		
Hernando	208	\$ 8,114,775		
Hillsborough	3,338	\$ 107,063,281	1,228	\$ 31,333,626
Jackson	5	\$ 445,624		
Lake	128	\$ 4,145,690		
Lee	233	\$ 7,302,100		
Leon	347	\$ 12,899,214	406	\$ 6,336,193
Madison	18	\$ 1,028,706		
Manatee	0	\$0	1	\$ 109,302
Monroe	33	\$ 1,056,766	8	\$ 115,872
Nassau	37	\$ 3,838,427		
Orange	171	\$ 10,612,072		
Putnam	716	\$ 18,442,634	121	\$ 2,203,715
Santa Rosa	31	\$ 2,398,682	5	\$ 427,564
Volusia	576	\$ 14,098,500	144	\$ 4,092,780
Walton		not authorized	14	\$561,742

¹⁷ Because the exemption applies only to tax millage levied by the county or city that enacts the exemption, it does not apply to millage of school districts or other taxing authorities. *See* s. 196.075, F.S.

¹⁸ Section 196.075(1)(b), F.S.

¹⁹ Section 196.075(1)(a), F.S.

²⁰ These figures represent revenue lost, not the taxable value. Florida Revenue Estimating Conference, *2015 Florida Tax Handbook*, at 205 (2015).

²¹ Revenue Estimating Conference, Impact Conference, Homestead Exemption up to \$250,000: HJR 275/HB 277 (October 16, 2015).

²² The municipal exemption column is incomplete because some municipalities did not report the information; also, certain municipalities grant the exemption but no one has applied or is eligible.

Total	14,539	\$ 451,574,217	12,052	\$ 179,894,174
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III. Effect of Proposed Changes:

The joint resolution proposes to amend Article VII, section 6 of the Florida Constitution to further specify a condition of the additional homestead tax exemption for persons 65 and older, found in s. 196.075(2)(b), F.S. Upon consideration of a given application for the homestead exemption, the county or municipal tax authority would be required to consider the just value of the real estate at the time the property owner first applies for the exemption. If the just value of the real estate is less than \$250,000 at the time the property owner first applied for the exemption, and all other statutory conditions are met, then the homestead exemption would equal the assessed value of the property. Presumably, by specifying that the determination be made in this timeframe, the tax benefits of the exemption may confer to applicants who otherwise would have lost or been denied the exemption due to a quickly appreciating or volatile real estate market.

If approved by 60 percent of voters, the proposed constitutional amendment will be effective “on the first Tuesday after the first Monday in January,”²³ after the next general election, or at an earlier special election specifically authorized by law for this purpose.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate provisions in Article VII, section 18 of the Florida Constitution do not apply to joint resolutions.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Article XI, section 1 of the Florida Constitution authorizes the Legislature to propose amendments to the Florida Constitution by joint resolution approved by a three-fifths vote of the membership of each house. The amendment must be placed before the electorate at the next general election held more than 90 days after the proposal has been filed with the Secretary of State or at a special election held for that purpose.

Article XI, section 5(a) of the Florida Constitution and s. 101.161(1), F.S., require constitutional amendments submitted to the electors to be printed in clear and unambiguous language on the ballot. In determining whether a ballot title and summary

²³ FLA. CONST. art. XI, s. 5(e).

are in compliance with the accuracy requirement, Florida courts utilize a two-prong test, asking “first, whether the ballot title and summary ‘fairly inform the voter of the chief purpose of the amendment,’ and second, ‘whether the language of the title and summary, as written, misleads the public.’”²⁴

Article XI, section 5(d) of the Florida Constitution requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the 10th week and again in the 6th week immediately preceding the week the election is held. The Department of State estimated that the costs for advertising the proposed constitutional amendment will be approximately \$136 per word with a minimum total publishing cost of \$132,570.²⁵

Article XI, section 5(e) of the Florida Constitution requires approval by 60 percent of voters for a constitutional amendment to take effect. The amendment, if approved, becomes effective after the next general election or at an earlier special election specifically authorized by law for that purpose.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The proposed amendment, if approved by the voters, and implemented by the Legislature, would clarify the criteria of the homestead exemption for low-income seniors, found in s. 196.075(2)(b), F.S. By establishing the time for determining the just value of real estate as “at the time of the owner’s initial application for exemption,” the tax benefits of the exemption may confer to applicants who would otherwise have been denied the exemption due to a quickly appreciating or volatile real estate market.

B. Private Sector Impact:

If the proposed amendment is approved by the electorate and implemented by the Legislature, and local governments grant the exemption, low-income seniors could receive property tax relief.

C. Government Sector Impact:

Article XI, section 5(d) of the Florida Constitution requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the 10th week and again in the 6th week immediately preceding the week the election is held. The Department of State estimated that the costs for advertising the

²⁴ *Roberts v. Doyle*, 43 So. 3d 654, 659 (Fla. 2010), citing *Florida Dep’t of State v. Slough*, 992 So. 2d 142, 147 (Fla. 2008).

²⁵ The Department of State made this determination based on the cost to advertise a constitutional amendment during the 2014 general election. E-mail from Christie Burrus, Director of Legislative Affairs, Florida Department of State (Oct. 29, 2015).

proposed constitutional amendment will be approximately \$136 per word with a minimum total publishing cost of \$132,570.²⁶

If the bill and the amendment pass, the Department of Revenue would need to amend Rule 12D-7.0143, F.A.C., to include a provision that the property appraiser determined the just value of a property to be less than \$250,000 at the time of the initial application.²⁷ The department would also need to amend forms DR-501 and DR-501SC to add the new information.²⁸

On October 16, 2015, the Revenue Estimating Conference determined that the proposed constitutional amendment has an indeterminate fiscal impact due to the requirement for a statewide referendum and the ability of local governments to choose whether or not to allow the exemption in their jurisdiction.

However, the conference estimated that, if approved in the referendum, and if all counties and municipalities currently allowing the exemption continue to do so, the impact on local government revenues would be -\$0.5 million in Fiscal Year 2017-18, growing to -\$1.2 million Fiscal Year 2020-21. If all counties and municipalities in the state were to adopt the exemption as amended by this legislation, the estimated statewide impact (excluding school and special district levies, which are not authorized to grant this exemption) is -\$1.6 million in 2017-18, growing to -\$4.2 million in 2020-21.

VI. Technical Deficiencies:

None.

VII. Related Issues:

As noted by the Department of Revenue,²⁹ the joint resolution does not address any future changes, additions, or improvements made to the homestead property. It is unclear whether an increase in just value of the homestead, due to improvements made to the property by the owner or someone acting on the owner's behalf, would affect the exemption.³⁰

Additionally, the Department of Revenue recommends that the language that established the time for determining the real estate's just value as "at the time of the owner's initial application for exemption" be replaced with, "as determined in the first year that the owner applies for and is eligible for the exemption." County property appraisers determine just value as of January 1 each year. County property appraisers do not determine just value on any other day. In a related issue, an owner may have filed and been denied the exemption for not meeting other criteria, prior to receiving the exemption for a subsequent application. In this case, it is unclear why the just value of the property should be taken at the time of first application.

²⁶ *Id.*

²⁷ Dep't of Revenue, Legislative Bill Analysis of SB 488, at 2 (2016).

²⁸ *Id.*

²⁹ *Id.* at 4.

³⁰ For examples of how changes, additions, or improvements have been addressed, see ss. 193.155, 193.1554, and 193.1555, F.S.

VIII. Statutes Affected:

No statutes are affected. However, the amendment proposed by this joint resolution, if approved by the electorate and implemented by the Legislature, would amend Article VII, section 6 of the Florida Constitution.

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.

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

By Senator Flores

37-00700-16

2016492__

Senate Joint Resolution

A joint resolution proposing an amendment to Section 6 of Article VII of the State Constitution to revise the homestead tax exemption that may be granted by counties or municipalities, if authorized by general law, for the assessed value of property with a just value less than \$250,000 and owned by persons age 65 or older who meet certain residence and income requirements to specify that just value shall be determined at the time of the owner's initial application for the exemption.

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

That the following amendment to Section 6 of Article VII of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE VII

FINANCE AND TAXATION

SECTION 6. Homestead exemptions.—

(a) Every person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, or another legally or naturally dependent upon the owner, shall be exempt from taxation thereon, except assessments for special benefits, up to the assessed valuation of twenty-five thousand dollars and, for all levies other than school district levies, on the assessed valuation greater than fifty thousand

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30 dollars and up to seventy-five thousand dollars, upon
31 establishment of right thereto in the manner prescribed by law.
32 The real estate may be held by legal or equitable title, by the
33 entireties, jointly, in common, as a condominium, or indirectly
34 by stock ownership or membership representing the owner's or
35 member's proprietary interest in a corporation owning a fee or a
36 leasehold initially in excess of ninety-eight years. The
37 exemption shall not apply with respect to any assessment roll
38 until such roll is first determined to be in compliance with the
39 provisions of section 4 by a state agency designated by general
40 law. This exemption is repealed on the effective date of any
41 amendment to this Article which provides for the assessment of
42 homestead property at less than just value.

43 (b) Not more than one exemption shall be allowed any
44 individual or family unit or with respect to any residential
45 unit. No exemption shall exceed the value of the real estate
46 assessable to the owner or, in case of ownership through stock
47 or membership in a corporation, the value of the proportion
48 which the interest in the corporation bears to the assessed
49 value of the property.

50 (c) By general law and subject to conditions specified
51 therein, the Legislature may provide to renters, who are
52 permanent residents, ad valorem tax relief on all ad valorem tax
53 levies. Such ad valorem tax relief shall be in the form and
54 amount established by general law.

55 (d) The legislature may, by general law, allow counties or
56 municipalities, for the purpose of their respective tax levies
57 and subject to the provisions of general law, to grant either or
58 both of the following additional homestead tax exemptions:

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59 (1) An exemption not exceeding fifty thousand dollars to a
60 ~~any~~ person who has the legal or equitable title to real estate
61 and maintains thereon the permanent residence of the owner, and
62 who has attained age sixty-five, and whose household income, as
63 defined by general law, does not exceed twenty thousand dollars;
64 or

65 (2) An exemption equal to the assessed value of the
66 property to a ~~any~~ person who has the legal or equitable title to
67 real estate with a just value less than two hundred and fifty
68 thousand dollars, as determined at the time of the owner's
69 initial application for the exemption, and who has maintained
70 thereon the permanent residence of the owner for not less than
71 twenty-five years, and who has attained age sixty-five, and
72 whose household income does not exceed the income limitation
73 prescribed in paragraph (1).

74
75 The general law must allow counties and municipalities to grant
76 these additional exemptions, within the limits prescribed in
77 this subsection, by ordinance adopted in the manner prescribed
78 by general law, and must provide for the periodic adjustment of
79 the income limitation prescribed in this subsection for changes
80 in the cost of living.

81 (e) Each veteran who is age 65 or older who is partially or
82 totally permanently disabled shall receive a discount from the
83 amount of the ad valorem tax otherwise owed on homestead
84 property the veteran owns and resides in if the disability was
85 combat related and the veteran was honorably discharged upon
86 separation from military service. The discount shall be in a
87 percentage equal to the percentage of the veteran's permanent,

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88 service-connected disability as determined by the United States
89 Department of Veterans Affairs. To qualify for the discount
90 granted by this subsection, an applicant must submit to the
91 county property appraiser, by March 1, an official letter from
92 the United States Department of Veterans Affairs stating the
93 percentage of the veteran's service-connected disability and
94 such evidence that reasonably identifies the disability as
95 combat related and a copy of the veteran's honorable discharge.
96 If the property appraiser denies the request for a discount, the
97 appraiser must notify the applicant in writing of the reasons
98 for the denial, and the veteran may reapply. The Legislature
99 may, by general law, waive the annual application requirement in
100 subsequent years. This subsection is self-executing and does not
101 require implementing legislation.

102 (f) By general law and subject to conditions and
103 limitations specified therein, the Legislature may provide ad
104 valorem tax relief equal to the total amount or a portion of the
105 ad valorem tax otherwise owed on homestead property to the:

106 (1) Surviving spouse of a veteran who died from service-
107 connected causes while on active duty as a member of the United
108 States Armed Forces.

109 (2) Surviving spouse of a first responder who died in the
110 line of duty.

111 (3) As used in this subsection and as further defined by
112 general law, the term:

113 a. "First responder" means a law enforcement officer, a
114 correctional officer, a firefighter, an emergency medical
115 technician, or a paramedic.

116 b. "In the line of duty" means arising out of and in the

37-00700-16

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117 actual performance of duty required by employment as a first
118 responder.

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

121 CONSTITUTIONAL AMENDMENT

122 ARTICLE VII, SECTION 6

123 HOMESTEAD TAX EXEMPTION FOR CERTAIN SENIOR, LOW-INCOME,
124 LONG-TERM RESIDENTS; DETERMINATION OF JUST VALUE.—Proposing an
125 amendment to the State Constitution to revise the homestead tax
126 exemption that may be granted by counties or municipalities, if
127 authorized by general law, for the assessed value of property
128 with a just value less than \$250,000 and owned by a person age
129 65 or older who meets certain residence and income requirements
130 to specify that just value shall be determined at the time of
131 the owner's initial application for the exemption.



The Florida Senate

Committee Agenda Request

To: Senator Wilton Simpson, Chair
Committee on Community Affairs

Subject: Committee Agenda Request

Date: November 2, 2015

I respectfully request that **Senate Bill #492**, relating to Homestead Tax Exemption, be placed on the:

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

A handwritten signature in cursive script that reads "Anitere Flores".

Senator Anitere Flores
Florida Senate, District 37

THE FLORIDA SENATE
APPEARANCE RECORD

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

11/17/15
Meeting Date

SB 488 / SB 492
Bill Number (if applicable)

Topic Homestead Tax Exemption

Amendment Barcode (if applicable)

Name Carey Baker

Job Title Lake County Property Appraiser

Address 320 Main Street, Suite A

Phone 352/253-2149

Tavares, FL
City State

32778-3814
Zip

Email cbaker@lcpaf.org

Speaking: For Against Information

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

Representing Florida Assoc. of Property Appraisers, Inc.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
COMMITTEE VOTE RECORD

COMMITTEE: Community Affairs
ITEM: SJR 492
FINAL ACTION: Favorable
MEETING DATE: Tuesday, November 17, 2015
TIME: 1:00—3:00 p.m.
PLACE: 301 Senate Office Building

FINAL VOTE		SENATORS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Abruzzo						
		Bradley						
X		Dean						
X		Diaz de la Portilla						
X		Hutson						
X		Thompson						
X		Brandes, VICE CHAIR						
X		Simpson, CHAIR						
7	0	TOTALS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting

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 530

INTRODUCER: Senator Sobel

SUBJECT: Calder Sloan Swimming Pool Electrical-Safety Task Force

DATE: October 22, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cochran	Yeatman	CA	Favorable
2.			FP	

I. Summary:

SB 530 creates the Calder Sloan Swimming Pool Electrical-Safety Task Force within the Florida Building Commission. The task force will make recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives for statutory revisions relating to grounding, bonding, lighting, wiring, and all electrical aspects for safety in and around public and private pools.

The task force report is due by November 1, 2016, and the task force will dissolve on December 31, 2016.

II. Present Situation:

The Department of Health (department) is responsible for the oversight and regulation of water quality and safety of certain swimming pools in Florida under ch. 514, F.S. Inspections and permitting for swimming pools are conducted by the county health departments. Sanitation and safety standards for public pools have been adopted by rule under Chapter 64E-9 of the Florida Administrative Code.

Current construction rules for public pools require that written approval must be received from the department before construction can begin.¹ Plans are required that show the pool layout, tile markings, size of the pool ladder, gutter heights and if night swimming is permitted. An engineer in Florida must provide certification that the underwater lighting meets the requirements of Rule 64E-9.006(2)(c)3 of the Florida Administrative Code, which sets the maximum lighting at 15 volts. The rule also permits all underwater lighting requirements to be waived if overhead lighting provides at least 15 foot candles of illumination at the pool water surface and wet pool deck.²

¹ Rule 64E-9.005, F.A.C.

² Rule 64E-0.006(2)(c)(3), F.A.C.

Electrical equipment and wiring must meet national standards relating to the grounding of pool components. The standards that are incorporated into the rule as those of the National Fire Protection Association 70, National Electrical Code (NEC), 2008 Edition, and with any applicable local code. Finally, as part of the plan approval, the electrical contractor or electrical inspector must certify as to a pool's compliance, on the form designated by the department.³

The United States Consumer Product Union issued a Safety Alert in August 2012 recommending the installation of ground-fault circuit interrupter (GFCI) protections for pools, spas, and hot tubs for protection against electrocution hazards involving electrical circuits and underwater lighting circuits in and around pools, spas, and hot tubs.⁴

The Safety Alert noted that pools older than 30 years may not have the proper GFCI protection as the NEC provisions for spas only became effective in 1981. Underwater pool lighting electrical incidents happened more frequently than any other consumer product used in or around pools, spas, or hot tubs.

Several news stories in South Florida in the past year have also highlighted the issue. Three children were shocked in a Hialeah condominium community pool in April 2014. The building inspector's report found that the pool pump was not properly grounded.⁵ During the same month in North Miami, a 7-year-old boy, Calder Sloan, was electrocuted in his family's North Miami swimming pool from faulty wiring.⁶

III. Effect of Proposed Changes:

The Calder Sloan Swimming Pool Electrical-Safety Task is created within the Florida Building Commission (commission) as an undesignated section of law. The task force is required to provide a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by November 1, 2016, with statutory recommendations relating to grounding, bonding, lighting, and all electrical aspects for safety in and around public and private pools.

The bill provides the task force shall be chaired by the swimming pool contractor appointed to the commission, and shall consist of the Swimming Pool and Electrical Technical Advisory Committees of the commission.

Staff, information and other assistance that is reasonably necessary for the task force to perform its responsibilities shall be provided by the commission. No compensation is provided to task force members.

³ Rule 64E-906(2)(d), F.A.C.

⁴ U.S. Product Safety Commission, *Safety Alert, CPSC Document #5059* (August 14, 2012) available at <http://www.cpsc.gov/PageFiles/118868/5039.pdf> (last visited: October 22, 2015).

⁵ Roger Lohse, *Shoddy Electrical Work Lead to 3 Kids' Injuries at a Pool in Hialeah*, Policy Say, LOCAL 10.COM, May 8, 2014 available at <http://www.local10.com/news/police-photos-show-shoddy-electrical-work-at-pool-that-caused-three-kids-to-be-shocked/25861796>. (last visited October 22, 2015).

⁶ Roger Lohse, *South Fla. Boy Electrocuted by Pool Light While Swimming*, LOCAL10.COM, April 17, 2014, available at <http://www.local10.com/news/south-fla-boy-electrocuted-by-pool-light-while-swimming/25538944> (last visited October 22, 2015).

SB 530 directs the task force to meet as often as necessary to fulfill its responsibilities and permits meetings via conference call, teleconference or similar technology.

The task force will expire on December 31, 2016.

The act is effective July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Members of the private sector may participate on the task force and provide input on the recommendations for statutory changes pertaining to grounding, bonding, lighting, wiring, and any other electrical aspect relating to safety in and around public and private pools. Final action on any recommendations would be the decision of the Legislature.

C. Government Sector Impact:

Members of the public sector may participate on the task force and provide input on the recommendations for statutory changes pertaining to grounding, bonding, lighting, wiring, and any other electrical aspect relating to safety in and around public and private pools. Final action on any recommendations would be the decision of the Legislature.

The bill may also cause an indeterminate negative fiscal impact on the Florida Building Commission due to the creation of the Calder Sloan Swimming Pool Electrical-Safety Task Force and the requirement that the commission assist the task force.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates an undesignated section 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.

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

By Senator Sobel

33-00223B-16

2016530__

1 A bill to be entitled
2 An act relating to the Calder Sloan Swimming Pool
3 Electrical-Safety Task Force; providing a short title;
4 creating the Calder Sloan Swimming Pool Electrical-
5 Safety Task Force within the Florida Building
6 Commission; specifying the purpose of the task force;
7 requiring a report to the Governor and the Legislature
8 by a specified date; providing for membership;
9 requiring the Florida Building Commission to provide
10 staff, information, and other assistance to the task
11 force; providing that members of the task force serve
12 without compensation; providing for future repeal of
13 the task force; providing an effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

16
17 Section 1. The Calder Sloan Swimming Pool Electrical-Safety
18 Task Force.—

19 (1) This section may be cited as the "Calder Sloan Act."

20 (2) The Calder Sloan Swimming Pool Electrical-Safety Task
21 Force is established within the Florida Building Commission.

22 (3) The purpose of the task force is to study the need for
23 the adoption of standards for grounding, bonding, lighting,
24 wiring, and all other electrical aspects in and around public
25 and private swimming pools. The task force shall focus its study
26 on minimizing the risk of electrocutions at swimming pools. The
27 task force shall submit a report by November 1, 2016, to the
28 Governor, the President of the Senate, and the Speaker of the
29 House of Representatives which states the findings of the task

33-00223B-16

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30 force, including any recommended revisions to the Florida
31 Statutes by the task force.

32 (4) The task force shall consist of the Swimming Pool and
33 Electrical Technical Advisory Committees of the Florida Building
34 Commission.

35 (5) The task force shall be chaired by the swimming pool
36 contractor appointed to the Florida Building Commission pursuant
37 to s. 553.74, Florida Statutes.

38 (6) The Florida Building Commission shall provide staffing,
39 information, and other assistance necessary to assist the task
40 force in carrying out its responsibilities.

41 (7) Members of the task force shall serve without
42 compensation.

43 (8) The task force shall meet as often as necessary to
44 fulfill its responsibilities, and meetings may be conducted by
45 conference call, teleconferencing, or similar technology.

46 (9) This section expires December 31, 2016.

47 Section 2. This act shall take effect July 1, 2016.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Children, Families, and Elder Affairs, *Chair*
Health Policy, *Vice Chair*
Agriculture
Education Pre-K-12
Appropriations Subcommittee on Health
and Human Services

SENATOR ELEANOR SOBEL

33rd District

October 29, 2015

Senator Wilton Simpson, Chair
Community Affairs
322 Senate Office Building
404 South Monroe Street
Tallahassee, Florida 32399

Dear Chair Simpson,

This letter is to request that **SB 530** relating to the Calder Sloan Swimming Pool Electrical Safety Task Force be placed on the agenda of the next scheduled meeting of the Community Affairs Committee.

The proposed legislation will create the "Calder Sloan Act" to study the need for the adoption of standards for grounding, bonding, lighting, wiring, and all other electrical aspects in and around public and private swimming pools. The task force shall focus its study on minimizing the risk of electrocutions at swimming pools. The task force shall also submit a report indicating its findings on recommended revisions to the Florida Statutes.

Thank you for your consideration of this request.

With Best Regards,



Eleanor Sobel
State Senator, 33rd District

REPLY TO:

- The "Old" Library, First Floor, 2600 Hollywood Blvd., Hollywood, Florida 33020 (954) 924-3693 FAX: (954) 924-3695
- 410 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5033

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

11/17/15
Meeting Date

SB 530
Bill Number (if applicable)

Topic Calder Sloan Swimming Pool Electric Task Force Amendment Barcode (if applicable)

Name Bruce Kershner

Job Title _____

Address 231 West Bay Ave
Street

Phone 407 830 1882

Longwood FL 32750
City State Zip

Email RBKershner@att.net

Speaking: For Against Information

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

Representing United Pool & Spa 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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

11/17/15

Meeting Date

SB 530

Bill Number (if applicable)

Topic Swimming Pools

Amendment Barcode (if applicable)

Name Jennifer Hatfield

Job Title ~~Assistant~~

Address 411 Lenore Ct.

Phone 941-345-3243

Street

Rockledge

FL

32955

Email jen@hatfieldandassociates.com

City

State

Zip

Speaking: For Against Information

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

Representing FL Swimming Pool 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.

The Florida Senate
COMMITTEE VOTE RECORD

COMMITTEE: Community Affairs
ITEM: SB 530
FINAL ACTION: Favorable
MEETING DATE: Tuesday, November 17, 2015
TIME: 1:00—3:00 p.m.
PLACE: 301 Senate Office Building

FINAL VOTE		SENATORS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Abruzzo						
X		Bradley						
	X	Dean						
X		Diaz de la Portilla						
X		Hutson						
X		Thompson						
		Brandes, VICE CHAIR						
X		Simpson, CHAIR						
6	1	TOTALS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting

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 456

INTRODUCER: Senator Latvala and others

SUBJECT: Firefighters

DATE: November 3, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	Favorable
2.			GO	
3.			AP	

I. Summary:

SB 456 provides that any condition or impairment of the health of a firefighter employed full-time by a state or local government which is caused by cancer and results in total or partial disability or death is presumed to have been accidental and to have been suffered “in the line of duty” unless the contrary is shown by competent evidence. In the line of duty retirement compensates an employee whose disability or death arises out of and in the actual performance of employment. In the line of duty retirement provides greater compensation to the firefighter or his or her dependents than would otherwise be available.

In order to be entitled to the presumption, a firefighter hired after July 1, 2016, must successfully pass a pre-employment physical examination. If the employing agency fails to provide a pre-employment physical examination, the firefighter must successfully pass a physical examination after he or she enters into service in order to be entitled to the presumption. A firefighter employed on July 1, 2016, is not required to meet the physical examination requirement in order to be entitled to the presumption.

The bill provides that state and local governments may negotiate policy contracts for life and disability insurance which include accidental death benefits or double indemnity coverage and which recognize the presumption created by this bill.

The bill requires a state or local government agency that employs a firefighter to maintain a record of any reported exposure of a firefighter to a known carcinogen. The agency must notify the firefighter of the exposure within 48 hours after the exposure is reported.

The fiscal cost of this additional employment benefit is unknown and cannot be determined without an actuarial study.

II. Present Situation:

The Florida Retirement System (FRS)

The FRS is the fifth largest public retirement system in the United States. It is a multi-employer, contributory plan, governed by the Florida Retirement System Act in ch. 121, F.S., and administered by the Department of Management Services (DMS).¹ The FRS was established in 1970 when the Legislature consolidated the Teachers' Retirement System, the State and County Officers and Employees' Retirement System, and the Highway Patrol Pension Fund. In 1972, the Judicial Retirement System was consolidated into the Pension Plan. In 2007, the Institute of Food and Agricultural Sciences Supplemental Retirement Program was consolidated under the Regular Class of the FRS as a closed group.²

The FRS consists of 1,014 total employers. It is the primary retirement plan for the employees and officers of state and county government agencies, district school boards, Florida College institutions, and state universities, as well as the employees and officers of the 186 cities and 262 special districts that have elected to join the system.³ Members of the FRS are required to make employee contributions of 3 percent of their salary.⁴ As of June 30, 2014, the FRS had 622,089 active members, 362,216 retired members and beneficiaries, and 38,058 active members of the Deferred Retirement Option Program (DROP).⁵

The membership of the FRS is divided into five membership classes:

- Regular Class⁶ consists of 537,993 active members, plus 5,402 in renewed membership;
- Special Risk Class⁷ includes 68,593 active members;
- Special Risk Administrative Support Class⁸ has 84 active members;
- Elected Officers' Class⁹ has 2,040 active members, plus 147 in renewed membership; and
- Senior Management Service Class¹⁰ has 7,607 members, plus 184 in renewed membership.¹¹

Each class is funded separately based upon the costs attributable to the members of that class.

¹ Section 121.021(5), F.S.

² The Florida Retirement System Annual Report, July 1, 2013 – June 30, 2014, at 29, *available at* https://www.rol.frs.state.fl.us/forms/2013-14_CAFR.pdf (last visited October 26, 2015).

³ *Id.*, at 146.

⁴ Prior to 1975, members of the FRS were required to make employee contributions of either 4 percent for Regular Class employees or 6 percent for Special Risk Class members. Employees were again required to contribute to the system after July 1, 2011.

⁵ Florida Retirement System 2013-2014 Annual Report, at 6.

⁶ The Regular Class is for all members who are not assigned to another class. Section 121.021(12), F.S.

⁷ The Special Risk Class is for members employed as: law enforcement officers, firefighters, correctional officers, probation officers, paramedics and emergency technicians, among others. Section 121.0515, F.S.

⁸ The Special Risk Administrative Support Class is for a special risk member who moved or was reassigned to a nonspecial risk law enforcement, firefighting, correctional, or emergency medical care administrative support position with the same agency, or who is subsequently employed in such a position under the Florida Retirement System. Section 121.0515(8), F.S.

⁹ The Elected Officers' Class is for elected state and county officers, and for those elected municipal or special district officers whose governing body has chosen Elected Officers' Class participation for its elected officers. Section 121.052, F.S.

¹⁰ The Senior Management Service Class is for members who fill senior management level positions assigned by law to the Senior Management Service Class or authorized by law as eligible for Senior Management Service designation. Section 121.055, F.S.

¹¹ All figures from Florida Retirement System 2013-2014 Annual Report, at 115.

Members of the FRS have two primary plan options available for participation:

- The defined contribution plan, also known as the Investment Plan; and
- The defined benefit plan, also known as the Pension Plan.

The Special Risk Class of the Florida Retirement System (FRS)

The Special Risk Class of the FRS consists of state and local government employees who meet the criteria for special risk membership. The class covers persons employed in law enforcement, firefighting, criminal detention, and emergency and forensic medical care who meet statutory criteria for membership as set forth in s. 121.0515, F.S. As of June 30, 2014, there were 68,593 active members¹² in the Special Risk Class of the FRS.

In originally establishing the Special Risk Class of membership in the FRS, the Legislature recognized that persons employed in certain categories of positions:

are required to perform work that is physically demanding or arduous, or work that requires extraordinary agility and mental acuity, and that such persons, because of diminishing physical and mental faculties, may find that they are not able, without risk to the health and safety of themselves, the public, or their coworkers, to continue performing such duties and thus enjoy the full career and retirement benefits enjoyed by persons employed in other membership classes and that, if they find it necessary, due to the physical and mental limitations of their age, to retire at an earlier age and usually with less service, they will suffer an economic deprivation therefrom.¹³

A person who is a member in the Special Risk Class may retire at an earlier age and is eligible to receive higher disability and death benefits than regular class members.

Disability Retirement Benefits for Special Risk Members

There are two types of disability retirement available under the Florida Retirement System: in the line of duty disability retirement and regular disability retirement. To qualify for either type of disability retirement, members must be totally and permanently disabled to the extent that they are unable to work. An employee who is physically or mentally unable to continue performing in his or her present occupation, but is able to perform another type of work, will not qualify for disability benefits.¹⁴ To be eligible for regular disability retirement, members must complete 8 years of creditable service.¹⁵ The minimum Option 1 benefit under regular disability retirement is 25 percent of the employee's average final compensation.¹⁶ In contrast, in the line of duty disability benefits are available to members on their first day of employment. There is no vesting

¹² *Id.*

¹³ Section 121.0515(1), F.S.

¹⁴ Florida Retirement System Employer Handbook, Disability Retirement, ch. 10-2, *available at* https://www.rol.frs.state.fl.us/forms/EH_ch10.pdf (last visited Nov. 6, 2015).

¹⁵ Section 121.091(4)(a), F.S.

¹⁶ Section 121.091(4)(f), F.S.

period. Special Risk Class members receive a minimum Option 1 in line of duty disability benefit of 65 percent of their average final compensation.¹⁷

FRS Death Benefits

Regular Death Benefits

Section 121.091(7), F.S., provides death benefits for active members of the FRS who die before retirement. If an employee dies before vesting, the employee's spouse receives only the accumulated FRS contributions that were made on the employee's behalf. For vested employees, the employee will be assumed to have retired on the date of death, and the spouse may elect one of the annuity options that provide payment to survivors. Because those annuity options are based on the number of years of services and are discounted based on the age of the annuity recipient, the beneficiary of younger employees with few years of service receive a relatively small monthly amount.

In the Line of Duty Death Benefits

The FRS currently provides death benefits for surviving spouses and/or eligible dependents of active members of the pension plan.¹⁸ Death benefits may be paid for an active member of the FRS pension plan who dies before retirement due to an injury or illness.¹⁹ Certain health conditions for firefighters, law enforcement, correctional and correctional probation officers are deemed accidental and suffered in the line of duty.²⁰ If the injury or illness arises out of and in the actual performance of duty required by his or her job, the member's surviving spouse and/or eligible dependent(s) are entitled to in the line of duty death benefits.

If an active FRS member (regardless of vested status) dies in the line of duty, the surviving spouse receives a monthly benefit for his or her lifetime equal to one-half the member's monthly salary at death.²¹ If the spouse dies, the benefit continues until the member's youngest child reaches 18 or is married, whichever occurs first.²² If the deceased member is entitled to a higher normal retirement benefit based on service credit, the normal retirement benefit is payable to the joint annuitant.²³

For in the line of duty deaths, the surviving spouse or eligible dependent(s) may purchase credit for any service which could have been claimed by the member at the time of member's death.²⁴ If a member dies within one year of vesting, the surviving spouse or other eligible dependent may use the member's annual, sick, or compensatory leave, or purchasable service, to purchase enough service credit to vest the member posthumously.²⁵

¹⁷ *Id.*

¹⁸ Under the investment plan, no minimum death benefit is payable to a surviving spouse or children. Accumulations in the member's account are payable to the designated beneficiary. Section 121.591, F.S.

¹⁹ Section 121.091(7), F.S.

²⁰ Section 112.18(1)(a), F.S., provides any condition of health caused by tuberculosis, heart disease or hypertension resulting in the total or partial disability or death shall be presumed to have been accidental and suffered in the line of duty.

²¹ Section 121.091(7)(d), F.S. If vested posthumously, the surviving spouse or dependent would be entitled to a death benefit.

²² *Id.*

²³ Section 121.091(7)(b) and (d), F.S.

²⁴ Section 121.091(7)(e), F.S.

²⁵ Section 121.091(7)(f), F.S.

Death benefits available under Chapter 175, F.S.

Chapter 175, F.S., governs firefighter pensions. If a firefighter dies before being eligible to retire, the firefighter's beneficiaries will receive:²⁶

- A refund of all contributions made by the firefighter to the pension trust fund;²⁷
- Death benefits from life insurance or annuity contract if purchased for firefighter, subject to limitations;²⁸ and
- Benefits payable to firefighter at early or normal retirement age (if officer had at least 10 years of service).²⁹

Death benefits provided in accordance with s. 112.191, F.S., are not included in the calculation of death or retirement benefits under this chapter.

Existing In the Line of Duty Presumptions for Firefighters

Section 112.18, F.S., provides a presumption applicable to any state, municipal, port authority, special tax district, or fire control district firefighter or any law enforcement officer, correctional officer, or correctional probation officer that any such employee qualifies for in the line of duty disability or death benefits if such disability or death is the result of tuberculosis, heart disease, or hypertension.

Section 175.231, F.S., provides a similar presumption for the firefighters in any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under ch. 175 whose death or disability is the result of tuberculosis, heart disease, or hypertension.

Section 112.181, F.S., provides a presumption applicable to any emergency rescue or public safety worker, including firefighters, that such employees qualify for in line of duty disability or death if such disability or death is due to hepatitis, meningococcal meningitis, or tuberculosis.

Successful passage of a pre-employment physical examination is required for these presumptions.

Burden of Proof for In the Line of Duty Benefits

Absent one of the existing presumptions, the FRS member employee has the burden of proof when claiming in the line of duty disability or death benefits. The employee must show by competent evidence that the death or disability occurred in the line of duty in order to receive the higher benefits.³⁰ If the employee or the employee's survivors cannot meet the burden of proof, the employee or the employee's survivors are entitled only to the lesser benefits available under regular death or disability benefits.

²⁶ Section 175.201, F.S., for firefighters employed by any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan.

²⁷ Section 175.201(1), F.S.

²⁸ *Id.*

²⁹ Section 175.201(2), F.S.

³⁰ Sections 121.091(4)(c) and (7)(d), F.S.

Under existing law, a firefighter that is disabled or dies as a result of cancer must show that the cancer was contracted due to some factor directly related to the employment as a firefighter. Due to latency periods,³¹ it may be difficult for an employee to meet this burden.

Pensions for Municipalities and Special Districts

Chapters 175 and 185, F.S., provide funding mechanisms for municipal firefighters' and police officers' pension plans. Both chapters provide a uniform retirement system for firefighters and police officers and set standards for operating and funding of pension systems through a trust fund supported by a tax on insurance premiums. Most Florida firefighters and local law enforcement officers participate in these plans. Two types of plans are governed by each of these chapters—charter plans and local law plans. To be considered totally and permanently disabled, charter plan employees must only be found disabled from rendering useful and efficient service as a firefighter or police officer.³² Under local law plans, the standards may vary for determining eligibility for disability retirement, death benefits, and the benefits paid, although all plans must abide by minimum standards established under ss. 175.351 and 185.35, F.S., respectively.

III. Effect of Proposed Changes:

Section 1 creates s. 112.1816, F.S., to provide a presumption that any condition or impairment of the health of a firefighter employed full time by the state or a local government which is caused by cancer and results in total or partial disability or death was accidental and was suffered in the line of duty. The presumption can be overcome by competent evidence to the contrary. This presumption shifts the burden of proof from the employee or the survivors of the employee to the employer.

The bill provides that in order to be entitled to the presumption, a new employee must successfully pass a pre-employment physical examination that does not reveal any evidence of a cancer-causing health condition. If the employing agency fails to provide a pre-employment physical examination, the firefighter must successfully pass such an examination after he or she enters into service in order to be entitled to the presumption. This physical examination requirement does not apply to existing firefighters. In addition, the presumption does not apply to benefits payable under or granted in a life insurance or disability insurance policy unless the insurer and insured have negotiated for the additional benefits to be included in the policy contract.

The bill provides that, at a minimum, the physical examination must include the following tests, as appropriate to the examinee's gender:

- Physical breast examination and mammogram for female breast cancer;

³¹ “The time between first exposure to a cancer-causing agent and clinical recognition of the disease is called the latency period. Latency periods vary by cancer type, but usually are 15 to 20 years, or longer. Because of this, past exposures are more relevant than current exposures as potential causes of cancers occurring in workers today. Often, these exposures are hard to document.” The National Institute for Occupational Safety and Health (NIOSH), *available at* <http://www.cdc.gov/niosh/topics/cancer/clusters.html> (last visited October 27, 2015).

³² Sections 175.191 and 185.18, F.S.

- Digital rectal examination, proctosigmoidoscopy, and blood stool test for colon and rectal cancer;
- Rectal examination for prostate cancer;
- Pap test for cervical or uterine cancer;
- Pelvic examination for ovarian cancer; and
- Radiographic examination for lung cancer.

The bill also provides that state and local governments may negotiate policy contracts for life and disability insurance which include accidental death benefits or double indemnity coverage and which recognize the presumption created by this bill.

The bill also requires a state and local government agency that employs a firefighter to maintain a record of any reported exposure of a firefighter to a known carcinogen as defined by the International Agency for Research on Cancer. The agency must notify the firefighter of the exposure within 48 hours after the exposure is reported.

The bill also states that a firefighter employed on July 1, 2016, is not required to meet the physical examination requirement in order to be entitled to the presumption.

Section 2 provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, Section 18, Florida Constitution, excuses local governments from complying with state mandates which impose negative fiscal consequences. Subsection (a) provides, “[n]o county or municipality shall be bound by any general law requiring such county or municipality to spend funds or to take an action requiring the expenditure of funds” unless certain requirements are met. However, several exemptions and exceptions exist. Subsection (a) of Art. VII, Sec. 18, Florida Constitution, contains an exception for laws which apply to all persons similarly situated.

The bill appears to require municipalities that maintain their own pension plans (non FRS plans) to expend an unknown amount of funds for higher in line of duty amounts for affected employees who become disabled or die as the result of cancer. However, the bill appears to apply to all persons similarly situated; therefore an exception may apply which would then make the provisions of this bill enforceable against local governments. The bill does not explicitly state that there is an important state interest.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues

Article X, section 14 of the Florida Constitution provides:

A governmental unit responsible for any retirement or pension system supported in whole or in part by public funds shall not after January 1, 1977, provide any increase in the benefits to the members or beneficiaries of such system unless such unit has made or concurrently makes provision for the funding of the increase in benefits on a sound actuarial basis.

Although an actuarial special study is not required within this bill, one has been requested to determine the impact on the FRS Pension Plan.³³ Actuarial impact statements for local government pension plans are also required.³⁴

Article X, section 14 of the Florida Constitution is implemented by statute under part VII of chapter 112, Florida Statutes, the “Florida Protection of Public Employee Retirement Benefits Act,” which establishes minimum standards for the operation and funding of public employee retirement systems and plans in the State of Florida. The key provision of this act states the legislative intent to “...prohibit the use of any procedure, methodology, or assumptions the effect of which is to transfer to future taxpayers any portion of the costs which may reasonably have been expected to be paid by the current taxpayers.”

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The impact of the presumption on workers’ compensation claims determinations may be similar to the impact on the FRS.³⁵ However, the presumption could have a greater impact because the threshold eligibility test for workers’ compensation is whether the disability arose “out of and in the course of employment.” If the disability did not arise “out of and in the course of employment,” the employee is not eligible to receive workers’ compensation benefits. There is no provision under ch. 440, F.S., for a non-duty related disability as may be found in many retirement plans.

³³ Department of Management Services, *Senate Bill 456 Legislative Bill Analysis*, 5 (Oct. 29, 2016).

³⁴ *Id.*

³⁵ *Id.* at 4.

If successful workers' compensation claims increase due to the presumption afforded by the bill, assessments paid by carriers and employers of the Special Disability Trust Fund may increase.³⁶

VI. Technical Deficiencies:

None.

VII. Related Issues:

The reference to “a known carcinogen as defined by the International Agency for Research on Cancer” may be unclear. There is no definition or listing entitled “known carcinogens” published by the International Agency for Research on Cancer. The reference probably would include the list entitled: “Group 1: Carcinogenic to humans” (117 items); but it is unclear whether “Group 2A: Probably carcinogenic to humans” (74 items) and perhaps even “Group 2B: Possibly carcinogenic to humans” (287 items) would be included.³⁷ In contrast, the 13th Report on Carcinogens (2014), published by the National Toxicology Program of the United States Department of Health and Human Services, has identified 56 substances or exposures occurring in the workplace that are classified as “known” to be human carcinogens and 187 substances or exposures that are “reasonably anticipated” to be human carcinogens.³⁸

VIII. Statutes Affected:

This bill substantially amends section 112.1816 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.

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

³⁶ *Id.* at 5.

³⁷ International Agency for Research on Cancer, *Agents Classified by the IARC Monographs, Volumes 1-114*, available at <http://monographs.iarc.fr/ENG/Classification/index.php> (last visited October 27, 2015).

³⁸ United States Department of Health and Human Services, *13th Report on Carcinogens (2014)*, available at http://ntp.niehs.nih.gov/ntp/roc/content/introduction_508.pdf (last visited October 27, 2015).

By Senator Latvala

20-00037-16

2016456__

1 A bill to be entitled
2 An act relating to firefighters; creating s. 112.1816,
3 F.S.; establishing a presumption as to a firefighter's
4 condition or impairment of health caused by cancer
5 while in the line of duty; requiring that a
6 firefighter successfully pass a physical examination
7 in order to be entitled to the presumption; specifying
8 nonapplicability; prescribing requirements for the
9 physical examination; authorizing specified
10 governmental entities to negotiate policy contracts
11 for life and disability insurance; requiring an
12 employing agency to maintain records and provide
13 notification regarding exposure to known carcinogens;
14 providing for applicability; providing an effective
15 date.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Section 112.1816, Florida Statutes, is created
20 to read:

21 112.1816 Firefighter disability or death from cancer
22 presumed incurred in the line of duty.-

23 (1) PRESUMPTION; ELIGIBILITY CONDITIONS.-Any condition or
24 impairment of the health of a firefighter employed full time by
25 the state or any municipality, county, port authority, special
26 tax district, or fire control district which is caused by cancer
27 and results in total or partial disability or death is presumed
28 to have been accidental and to have been suffered in the line of
29 duty unless the contrary is shown by competent evidence. In

20-00037-16

2016456__

30 order to be entitled to this presumption, the firefighter must
31 have successfully passed a physical examination administered
32 before the individual entered into service as a firefighter and
33 which failed to reveal any evidence of such a health condition.
34 If the employing agency fails to provide a physical examination
35 before the firefighter enters into service, the firefighter must
36 successfully pass a physical examination given after he or she
37 enters into service. The presumption does not apply to benefits
38 payable under or granted in a life insurance or disability
39 insurance policy unless the insurer and insured have negotiated
40 for the additional benefits to be included in the policy
41 contract.

42 (2) PHYSICAL EXAMINATION REQUIREMENTS.—At a minimum, a
43 physical examination administered pursuant to subsection (1)
44 must include the following tests, as appropriate to the
45 examinee's gender:

46 (a) Physical breast examination and mammogram for female
47 breast cancer.

48 (b) Digital rectal examination, proctosigmoidoscopy, and
49 blood stool test for colon and rectal cancer.

50 (c) Rectal examination for prostate cancer.

51 (d) Pap test for cervical or uterine cancer.

52 (e) Pelvic examination for ovarian cancer.

53 (f) Radiographic examination for lung cancer.

54 (3) LIFE AND DISABILITY INSURANCE COVERAGE.—A governmental
55 entity specified in subsection (1) may negotiate policy
56 contracts for life and disability insurance which include
57 accidental death benefits or double indemnity coverage and which
58 include the presumption that any condition or impairment of

20-00037-16

2016456__

59 health of any firefighter caused by cancer resulting in total or
60 partial disability or death was accidental and suffered in the
61 line of duty unless the contrary is shown by competent evidence.

62 (4) RECORDKEEPING AND REPORTING REQUIREMENTS.—The employing
63 agency shall maintain a record of any reported exposure of a
64 firefighter to a known carcinogen as defined by the
65 International Agency for Research on Cancer and must notify the
66 firefighter of the exposure within 48 hours after the exposure
67 is reported.

68 (5) APPLICABILITY.—A firefighter employed on July 1, 2016,
69 is not required to meet the physical examination requirement in
70 subsection (1) in order to be entitled to the presumption set
71 forth in this section.

72 Section 2. This act shall take effect July 1, 2016.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on
Transportation, Tourism, and Economic
Development, *Chair*
Appropriations
Commerce and Tourism
Governmental Oversight and Accountability
Regulated Industries
Rules

SENATOR JACK LATVALA
20th District

October 21, 2015

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

Dear Chairman Simpson:

I respectfully request consideration of Senate Bill 456/Firefighters by the Senate Committee on Community Affairs at your earliest convenience.

This bill will establish a presumption as to a firefighter's condition or impairment of health caused by cancer while in the line of duty.

If you have any questions regarding this legislation, please contact me. Thank you in advance for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Jack Latvala".

Jack Latvala
State Senator
District 20

Cc: Tom Yeatman, Staff Director; Ann Whittaker, Administrative Assistant

REPLY TO:

☐ 26133 U.S. Highway 19 North, Suite 201, Clearwater, Florida 33763 (727) 793-2797 FAX: (727) 793-2799
☐ 408 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5020

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

APPEARANCE RECORD

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

11/17/15

Meeting Date

456

Bill Number (if applicable)

Topic Firefighter Cancer Disability Presumption

Amendment Barcode (if applicable)

Name Kraig Conn

Job Title

Address 301 S. Branch

Street

Phone 222 9684

Tall FL

32301

Email Kconn@flatics.com

City

State

Zip

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)

11/17/15

Meeting Date

SB 456

Bill Number (if applicable)

Topic Firefighter Cancer

Amendment Barcode (if applicable)

Name Jim Tolley

Job Title President FPF

Address 345 west madison st.

Phone _____

Street

Tallahassee FL 32301

Email _____

City

State

Zip

Speaking: For Against Information

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

Representing Florida Prof Fire Fighters

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 COMMITTEE VOTE RECORD

COMMITTEE: Community Affairs
ITEM: SB 456
FINAL ACTION: Favorable
MEETING DATE: Tuesday, November 17, 2015
TIME: 1:00—3:00 p.m.
PLACE: 301 Senate Office Building

FINAL VOTE		SENATORS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Abruzzo						
X		Bradley						
X		Dean						
X		Diaz de la Portilla						
X		Hutson						
X		Thompson						
	X	Brandes, VICE CHAIR						
X		Simpson, CHAIR						
7	1	TOTALS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting

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: CS/SB 304

INTRODUCER: Community Affairs Committee and Senator Stargel

SUBJECT: Agritourism

DATE: November 17, 2015 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Becker</u>	<u>Becker</u>	<u>AG</u>	Favorable
2.	<u>Cochran</u>	<u>Yeatman</u>	<u>CA</u>	Fav/CS
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 304 adds language of legislative intent to s. 570.85, F.S., to promote agritourism and remove duplicative regulatory authority over it. The bill prohibits a local government from enforcing any local ordinance, regulation, rule, or policy that prohibits, restricts, regulates, or otherwise limits an agritourism activity on land classified as agricultural under s. 193.461(3)(b), F.S., in an unincorporated area.

The bill also adds “civic” and “ceremonial” activities to the enumerated list of agritourism activities under s. 570.86, F.S.

The bill amends s. 570.87, F.S., adding that lands classified as agricultural under s. 193.461, F.S., cannot be divested of that classification as long as the land remains used primarily for bona fide agricultural purposes.

II. Present Situation:

Agricultural Property Classification

Section 193.461, F.S., provides that each county’s property appraiser shall, for assessment purposes on an annual basis, classify all lands within a county as agricultural or nonagricultural. For property to be classified as agricultural land, it must be used “primarily for bona fide agricultural purposes.”¹ Agricultural purposes include, but are not limited to: horticulture;

¹ Section 193.461(3)(b), F.S.

floriculture; viticulture; forestry; dairy; livestock; poultry; bee; pisciculture, when the land is used primarily for the production of tropical fish; aquaculture; sod farming; and all forms of farm products and farm production.²

Property appraisers are required to reclassify land as nonagricultural when:

- The land is diverted from an agricultural to a nonagricultural use; or
- The land is no longer being utilized for agricultural purposes.³

Agritourism

When farmers open their lands to the general public for the purposes of agricultural related education and entertainment, they put their lands to a new beneficial use that may increase their farms' economic viability.⁴ Responding to concerns over local regulation and burdensome liability, the Florida Legislature enacted legislation in 2013 to define and encourage agritourism.⁵ Section 570.86(1), F.S., defines "agritourism activity" as:

any agricultural related activity consistent with a bona fide farm or ranch or in a working forest which allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy activities, including farming, ranching, historical, cultural, or harvest-your-own activities and attractions.

Following this legislation, local governments may not enact a regulation, rule, or policy that would limit an agritourism activity on land classified as agricultural land under s. 193.461, F.S.⁶ However, this does not preclude local governments from enforcing such regulations that were adopted prior to the passage of SB 1106 in 2013.

Protection from Liability

So long as an agritourism operator⁷ complies with the posting and notification requirements of s. 570.89, F.S., the owner of the land, the agritourism operator, and employer or employees are provided limited liability protection against injury, death, or damage to participants.⁸ Liability is not limited or prevented if the owner, operator, employer, or employees:⁹

- Commit an act that constitutes gross negligence or willful or wanton disregard for the safety of the participant; or
- Intentionally injure the participant.

² Section 193.461(5), F.S.

³ Section 193.461(4), F.S.

⁴ Florida Farm Bureau, Agritourism, *available at* <http://www.floridafarmbureau.org/files/resources/AgritourismBookletPrint.pdf> (last visited November 4, 2015).

⁵ Chapter 2013-179, Laws of Fla.; SB 1106 (2013).

⁶ Section 570.85, F.S.

⁷ Section 570.86(2), F.S.

⁸ Section 570.88(1), F.S.

⁹ Section 570.88(2), F.S.

Protection from Local Government Regulation

Section 570.85, F.S., provides that in accordance with the legislative intent to “eliminate duplication of regulatory authority over agritourism,” a local government may not adopt an ordinance, regulation, rule, or policy that prohibits, restricts, regulates, or otherwise limits an agritourism activity. This prohibition on local governments primarily pertains to ordinances to restrict hours of operation, number of participants, or parking for agritourism activities. The statutory prohibition addresses adoption of ordinances existing at the time of enactment.

The prohibition does not extend to enactment of new local government ordinances related to construction of new or additional structures intended primarily to accommodate members of the general public, which would still be subject to all building and zoning laws.¹⁰ Furthermore, the prohibition does not limit the powers and duties of a local government to address an emergency as provided in ch. 252, F.S.¹¹

III. Effect of Proposed Changes:

Section 1 adds language of intent to promote agritourism and to eliminate duplicative regulatory authority over it. Additionally, it prohibits a local government from enforcing any local ordinance, regulation, rule, or policy that prohibits, restricts, regulates, or otherwise limits an agritourism activity on land classified as agricultural land in an unincorporated area.

Section 2 adds “civic” and “ceremonial” activities to the enumerated list of agritourism activities under s. 570.86, F.S.

Section 3 adds to s. 570.87, F.S., that lands classified as agricultural may not be divested of that classification as long as they remain used primarily for bona fide agricultural purposes.

Section 4 provides that this act shall take effect July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹⁰ Section 570.86(1), F.S.

¹¹ Section 570.85(1), F.S.

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

None.

B. Private Sector Impact:

To the extent that the bill prevents local governments from enforcing any ordinances which would limit agritourism activity in unincorporated areas, farms may be able to supplement their revenues with additional revenue from agritourism.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 570.85, 570.86, and 570.87.

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

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

CS by Community Affairs on November 17, 2015:

Adds agritourism intent language to s. 570.85, F.S.; adds civic and ceremonial activities to the enumerated types of agritourism activities under s. 570.86, F.S.; specifies that lands classified as agricultural under s. 193.461, F.S., cannot be divested of that classification as long as the land remains used primarily for bona fide agricultural purposes; and specifies that the bill exempts agritourism activities from local regulations in unincorporated areas.

B. Amendments:

None.



408522

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
11/17/2015	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (1) of section 570.85, Florida
Statutes, is amended to read:

570.85 Agritourism.—

(1) It is the intent of the Legislature to promote
agritourism as a way to support bona fide agricultural
production by providing a secondary stream of revenue for and by



408522

11 educating the general public about the agricultural industry. It
12 is also the intent of the Legislature to eliminate duplication
13 of regulatory authority over agritourism as expressed in this
14 section. Except as otherwise provided for in this section, and
15 notwithstanding any other provision of law, a local government
16 may not adopt or enforce a local ~~an~~ ordinance, regulation, rule,
17 or policy that prohibits, restricts, regulates, or otherwise
18 limits an agritourism activity on land classified as
19 agricultural land under s. 193.461. This subsection does not
20 limit the powers and duties of a local government to address an
21 emergency as provided in chapter 252.

22 Section 2. Subsection (1) of section 570.86, Florida
23 Statutes, is amended to read:

24 570.86 Definitions.—As used in ss. 570.85-570.89, the term:

25 (1) "Agritourism activity" means any agricultural related
26 activity consistent with a bona fide farm or ranch or in a
27 working forest which allows members of the general public, for
28 recreational, entertainment, or educational purposes, to view or
29 enjoy activities, including farming, ranching, historical,
30 cultural, civic, ceremonial, or harvest-your-own activities and
31 attractions. An agritourism activity does not include the
32 construction of new or additional structures or facilities
33 intended primarily to house, shelter, transport, or otherwise
34 accommodate members of the general public. An activity is an
35 agritourism activity regardless of whether the participant paid
36 to participate in the activity.

37 Section 3. Subsection (1) of section 570.87, Florida
38 Statutes, is amended to read:

39 570.87 Agritourism participation impact on land



408522

40 classification.-

41 (1) In order to promote and perpetuate agriculture
42 throughout the state, farm operations are encouraged to engage
43 in agritourism. The conduct of agritourism activity on a bona
44 fide farm or on agricultural lands classified as such pursuant
45 to s. 193.461 may ~~shall~~ not limit, restrict, or divest the land
46 of that classification as long as such lands classified as
47 agricultural remain used primarily for bona fide agricultural
48 purposes.

49 Section 4. This act shall take effect July 1, 2016.

50

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

52 And the title is amended as follows:

53 Delete everything before the enacting clause
54 and insert:

55 A bill to be entitled

56 An act relating to agritourism; amending s. 570.85,
57 F.S.; providing additional legislative intent;
58 prohibiting a local government from enforcing a local
59 ordinance, regulation, rule, or policy that prohibits,
60 restricts, regulates, or otherwise limits an
61 agritourism activity on lands classified as
62 agricultural; amending s. 570.86, F.S.; revising the
63 definition of the term "agritourism activity" to
64 include civic and ceremonial activities; amending s.
65 570.87, F.S.; specifying that the conduct of
66 agritourism activity on a bona fide farm or on
67 agricultural lands may not limit, restrict, or divest
68 the land of that classification, provided that such



69
70

lands remain used primarily for bona fide agricultural
purposes; providing an effective date.



652776

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
11/17/2015	.	
	.	
	.	
	.	

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

1 **Senate Amendment to Amendment (408522) (with title**
2 **amendment)**

3
4 Delete line 19
5 and insert:
6 agricultural land under s. 193.461 in an unincorporated area.
7 This subsection does not

8
9 ===== T I T L E A M E N D M E N T =====

10 And the title is amended as follows:



652776

11 Delete line 62
12 and insert:
13 agricultural in an unincorporated area; amending s.
14 570.86, F.S.; revising the

By Senator Stargel

15-00277-16

2016304__

1 A bill to be entitled
2 An act relating to agritourism; amending s. 570.85,
3 F.S.; prohibiting a local government from enforcing
4 any local ordinance, regulation, rule, or policy that
5 prohibits, restricts, regulates, or otherwise limits
6 an agritourism activity on land classified as
7 agricultural land; providing an effective date.
8

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

11 Section 1. Subsection (1) of section 570.85, Florida
12 Statutes, is amended to read:

13 570.85 Agritourism.—

14 (1) It is the intent of the Legislature to eliminate
15 duplication of regulatory authority over agritourism as
16 expressed in this section. Except as otherwise provided for in
17 this section, and notwithstanding any other provision of law, a
18 local government may not adopt or enforce any local ~~an~~
19 ordinance, regulation, rule, or policy that prohibits,
20 restricts, regulates, or otherwise limits an agritourism
21 activity on land classified as agricultural land under s.
22 193.461. This subsection does not limit the powers and duties of
23 a local government to address an emergency as provided in
24 chapter 252.

25 Section 2. This act shall take effect July 1, 2016.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Higher Education, *Chair*
Appropriations Subcommittee on Education
Fiscal Policy
Judiciary
Military and Veterans Affairs, Space, and Domestic
Security
Regulated Industries

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR KELLI STARGEL

15th District

November 2, 2015

The Honorable Wilton Simpson
Senate Community Affairs Committee, Chair
322 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399

Dear Chair Simpson:

I respectfully request that SB 304, related to *Agritourism*, 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 cursive script that reads "Kelli Stargel".

Kelli Stargel
State Senator, District 15

Cc: Tom Yeatman/ Staff Director
Ann Whittaker/ AA

REPLY TO:

- 2033 East Edgewood Drive, Suite 1, Lakeland, Florida 33803
- 324 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5015

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Higher Education, *Chair*
Appropriations Subcommittee on Education
Fiscal Policy
Judiciary
Military and Veterans Affairs, Space, and Domestic
Security
Regulated Industries

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR KELLI STARGEL

15th District

November 16, 2015

Chairman Simpson
315 Knott Building

Dear Chair Simpson:

I am requesting permission for my LA, Rachel Barnes, to present SB 304 which is dealing with Agritourism. During the Community Affairs committee timeframe, I will be in the Military and Veterans Affairs and Space Committee.

Thank you for this consideration,

Sincerely,

A handwritten signature in cursive script that reads "Kelli Stargel".

Kelli Stargel
State Senator, District 15

Cc: John Phelps / Rules Staff Director
Tom Yeatman / Staff Director
Ann Whittaker / CAA

REPLY TO:

- 2033 East Edgewood Drive, Suite 1, Lakeland, Florida 33803
- 324 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5015

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

11/17/15

Meeting Date

304

Bill Number (if applicable)

408522

Amendment Barcode (if applicable)

Topic Agribusiness

Name Adam Basford

Job Title Director, Legislative Affairs

Address 315 S Calhoun St #850

Street

Tallahassee

City

FL

State

32301

Zip

Phone 222-2537

Email adam.basford@SFB.org

Speaking: For Against Information

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

Representing Florida Farm Bureau

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)

11/17/15

Meeting Date

SB 304

Bill Number (if applicable)

#408522

Amendment Barcode (if applicable)

Topic Agritourism

Name David Cruz

Job Title Assistant General Counsel

Address P.O. Box 1757

Phone 701-3676

Street

Tallahassee

FL

32302

City

State

Zip

Email _____

Speaking: For Against Information

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

Representing FL. League of Cities

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

11/17/15
Meeting Date

304
Bill Number (if applicable)

Topic Agri-tourism

Amendment Barcode (if applicable)

Name Lena Juarez

Job Title _____

Address P.O. Box 10390
Street

Phone 850 212 8330

Tallahassee FL 32301
City State Zip

Email lenajejassoc.com

Speaking: For Against Information

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

Representing Florida Agri-tourism 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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

11-17-15
Meeting Date

SB 304
Bill Number (if applicable)

Topic Agri Tourism

Amendment Barcode (if applicable)

Name Doug Mann

Job Title _____

Address 310 West College Ave.

Phone 222-7535

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 A.I.F.

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)

11/17/2015
~~2014~~
Meeting Date

304
Bill Number (if applicable)

Topic Agritourism

Amendment Barcode (if applicable)

Name Trent Mathews

Job Title Farmer

Address 2260 Horn Rd
Street

Phone (850) 686-5511

Milton, FL 32570
City State Zip

Email ssfcornmaze@aol.com

Speaking: For Against Information

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

Representing sweet season Farms

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 VOTE RECORD

COMMITTEE: Community Affairs
ITEM: SB 304
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Tuesday, November 17, 2015
TIME: 1:00—3:00 p.m.
PLACE: 301 Senate Office Building

FINAL VOTE		SENATORS	11/17/2015 ¹ Amendment 408522		11/17/2015 ² Amendment 652776			
			Bradley		Abruzzo		Yea	Nay
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Abruzzo						
		Bradley						
X		Dean						
X		Diaz de la Portilla						
X		Hutson						
X		Thompson						
X		Brandes, VICE CHAIR						
X		Simpson, CHAIR						
7	0	TOTALS	RCS	-	RCS	-		
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting

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 124

INTRODUCER: Senator Evers

SUBJECT: Public Procurement Practices

DATE: September 11, 2015 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cochran	Yeatman	CA	Favorable
2.			GO	
3.			FP	

I. Summary:

SB 124 implements many of the recommendations of the statutorily created Partnership for Public Facilities and Infrastructure Act Guidelines Task Force to create a uniform, improved process for engaging in public-private partnerships (P3s) across the state. The bill clarifies that the P3 process must be construed as cumulative and supplemental to any other authority or power vested in the governing body of a county, municipality, district, or municipal hospital or health care system. It also provides that the P3 process is an alternative method that may be used.

The bill clarifies the list of entities authorized to conduct P3s includes special districts, school districts (rather than school boards), and Florida College System institutions.

The bill provides increased flexibility to the responsible public entity by permitting a responsible public entity to deviate from the provided procurement timeframes if approved by majority vote of the entity's governing body.

The bill provides that an unsolicited proposal must be submitted concurrently with an initial application fee, which may be established by the responsible public entity. The bill authorizes a responsible public entity to request additional funds if the initial fee does not cover the costs to evaluate the unsolicited proposal. It also requires the responsible public entity to return the initial application fee if the responsible public entity does not review the unsolicited proposal.

The bill authorizes the Department of Management Services to accept and maintain copies of comprehensive agreements received from responsible public entities.

The bill expands the limitation on state agencies' and local governments' ability to refuse surety bonds issued by surety companies that meet specific criteria.

II. Present Situation:

Background

Public-private partnerships (P3s) are contractual agreements formed between public entities and private sector entities that allow for greater private sector participation in the delivery and financing of public building and infrastructure projects.¹ Through these agreements, the skills and assets of each sector, public and private, are shared in delivering a service or facility for use by the general public. In addition to the sharing of resources, each party shares in the risks and rewards potential in the delivery of the service or facility.²

Section 287.05712, F.S., governs the procurement process for P3s for public purpose projects. It authorizes a responsible public entity to enter into a P3 for a specified qualifying project if the responsible public entity determines the project is in the public's best interest.³

Section 287.05712(1)(j), F.S., defines "responsible public entity" as a county, municipality, school board, or any other political subdivision of the state; a public body politic and corporate; or a regional entity that serves a public purpose and is authorized to develop or operate a qualifying project.

Section 287.05712(1)(i), F.S., defines "qualifying project" as:

- A facility or project that serves a public purpose, including, but not limited to, any ferry or mass transit facility, vehicle parking facility, airport or seaport facility, rail facility or project, fuel supply facility, oil or gas pipeline, medical or nursing care facility, recreational facility, sporting or cultural facility, or educational facility or other building or facility that is used or will be used by a public educational institution, or any other public facility or infrastructure that is used or will be used by the public at large or in support of an accepted public purpose or activity;
- An improvement, including equipment, of a building that will be principally used by a public entity or the public at large or that supports a service delivery system in the public sector;
- A water, wastewater, or surface water management facility or other related infrastructure; or
- For projects that involve a facility owned or operated by the governing board of a county, district, or municipal hospital or health care system, or projects that involve a facility owned or operated by a municipal electric utility, only those projects that the governing board designates as qualifying projects.

Procurement Procedures

Responsible public entities may receive unsolicited proposals or may solicit proposals for qualifying projects and may, thereafter, enter into a comprehensive agreement with a private entity for the building, upgrading, operation, ownership, or financing of facilities.⁴ Responsible

¹ See The Federal Highway Administration, United State Department of Transportation, Innovative Program Delivery website, available at: <http://www.fhwa.dot.gov/ipd/p3/defined/index.htm> (last visited on September 14, 2015).

² *Id.*

³ Section 287.05712(4)(d), F.S.

⁴ Section 287.05712(4), F.S.

public entities may establish a reasonable fee to accompany unsolicited proposals. The fee must be sufficient to pay the costs of evaluating the proposals.⁵

Unsolicited proposals from private entities must be accompanied by the following material and information, unless waived by the responsible public entity:⁶

- A description of the qualifying project, including the conceptual design of the facilities or a conceptual plan for the provision of services, and a schedule for the initiation and completion of the qualifying project.
- A description of the method by which the private entity proposes to secure any necessary property interests that are required for the qualifying project.
- A description of the private entity's general plans for financing the qualifying project, including the sources of the private entity's funds and identification of any dedicated revenue source or proposed debt or equity investment on behalf of the private entity.
- The name and address of the person who may be contacted for further information concerning the proposal.
- The proposed user fees, lease payments, or other service payments over the term of a comprehensive agreement, and the methodology and circumstances for changes to the user fees, lease payments, and other service payments over time.
- Any additional material or information the responsible public entity reasonably requests.

If the responsible public entity receives an unsolicited proposal and intends to enter into a P3 agreement for the qualifying project, the responsible public entity must publish a notice in the Florida Administrative Register (FAR) and a newspaper of general circulation at least once a week for two weeks stating the entity has received a proposal and will accept other proposals.⁷ The responsible public entity must establish a timeframe in which to accept other proposals; however, the timeframe for allowing other proposals must be at least 21 days, but not more than 120 days after the initial date of publication.⁸

After the notification period has expired, the responsible public entity must rank the proposals received in order of preference.⁹ If negotiations with the first ranked firm are unsuccessful, the responsible public entity may begin negotiations with the second ranked firm.¹⁰ The responsible public entity may reject all proposals at any point in the process.¹¹

The responsible public entity may charge a reasonable fee to cover the costs of processing, reviewing, and evaluating the requests, including, but not limited to, reasonable attorney fees and fees for financial and technical advisors or consultants and for other necessary advisors and consultants.¹²

⁵ Section 287.05712(4)(a), F.S.

⁶ Section 287.05712(5), F.S.

⁷ Section 287.05712(4)(b), F.S.

⁸ *Id.*

⁹ Section 287.05712(6)(c), F.S.

¹⁰ *Id.*

¹¹ *Id.*

¹² Section 287.05712(6)(f), F.S.

The responsible public entity may approve a qualifying project if:¹³

- There is a public need for or benefit derived from the project that the private entity proposes.
- The estimated cost of the qualifying project is reasonable in relation to similar facilities.
- The private entity's plans will result in the timely acquisition, design, construction, improvement, renovation, expansion, equipping, maintenance, or operation of the qualifying project.

Notice to Affected Local Jurisdictions

A responsible public entity must notify each affected local jurisdiction when considering a qualifying project by furnishing a copy of the proposal to each affected local jurisdiction.¹⁴ The affected local jurisdictions may, within 60 days, submit written comments to the responsible public entity. The responsible public entity is required to consider the comments submitted by the affected local jurisdiction. In addition, a responsible public entity must mail a copy of the notice that is published in the FAR to each local government in the affected area.¹⁵

Agreements

Interim Agreement

Before entering into a comprehensive agreement, the responsible public entity may enter into an interim agreement with the private entity, which does not obligate the responsible public entity to enter into a comprehensive agreement.¹⁶ Interim agreements must be limited to provisions that:

- Authorize the private entity to commence activities for which it may be compensated related to the proposed qualifying project.
- Establish the process and timing of the negotiation of the comprehensive agreement.
- Contain any other provision related to any aspect of the development or operation of a qualifying project.

Comprehensive Agreement

The responsible public entity and private entity must enter into a comprehensive agreement prior to developing or operating a qualifying project.¹⁷ The comprehensive agreement must provide for:¹⁸

- Delivery of performance and payment bonds, letters of credit, and other security in connection with the development or operation of the qualifying project.
- Review of plans and specifications for the project by the public entity. This does not require the private entity to complete the design of the project prior to executing the comprehensive agreement.
- Inspection of the qualifying project by the responsible public entity.
- Maintenance of a policy or policies of public liability insurance.

¹³ Section 287.05712(6)(e), F.S.

¹⁴ Section 287.05712(7), F.S.

¹⁵ Section 287.05712(4)(b), F.S.

¹⁶ Section 287.05712(8), F.S.

¹⁷ Section 287.05712(9), F.S.

¹⁸ Section 287.05712(9)(a), F.S.

- Monitoring the practices of the private entity to ensure the qualifying project is properly maintained.
- Filing of financial statements on a periodic basis.
- Policies and procedures governing the rights and responsibilities of the public and private entity in the event of a termination of the comprehensive agreement or a material default.
- User fees, lease payments, or service payments as may be established.
- Duties of the private entity, including terms and conditions that the responsible public entity determines serve the public purpose of the qualifying project.

The comprehensive agreement may include the following:¹⁹

- An agreement by the responsible public entity to make grants or loans to the private entity from amounts received from federal, state, or local government or any agency or instrumentality thereof.
- A provision under which each entity agrees to provide notice of default and cure rights for the benefit of the other entity.
- A provision that terminates the authority and duties of the private entity and dedicates the qualifying project to the responsible public entity.

Fees

The comprehensive agreement may authorize the private entity to impose fees on the public entity for use of the facility.²⁰

Financing

Section 287.05712(11), F.S., authorizes the use of multiple financing options for P3s. The options include the private entity obtaining private-source financing, the responsible public entity lending funds to the private entity, or the use of other innovative finance techniques associated with P3s.

Powers and Duties of the Private Entity

The private entity must develop, operate, and maintain the qualifying project in accordance with the comprehensive agreement.²¹ The private entity must cooperate with the responsible public entity in making best efforts to establish interconnection between the qualifying project and other facilities and infrastructure. The private entity must comply with the terms of the comprehensive agreement and any other lease or contract.

Expiration or Termination of Agreements

Upon the expiration or termination of a comprehensive agreement, the responsible public entity may use revenues from the qualifying project to pay the current operation and maintenance costs of the qualifying project.²² If the private entity materially defaults, the compensation that is

¹⁹ Section 287.05712(9)(b), F.S.

²⁰ Section 287.05712(10), F.S.

²¹ Section 287.05712(12), F.S.

²² Section 287.05712(13), F.S.

otherwise due to the private entity is payable to satisfy all financial obligations to investors and lenders on the qualifying project in the same way that is provided in the comprehensive agreement or any other agreement involving the qualifying project, if the costs of operating and maintaining the project are paid in the normal course. The full faith and credit of the responsible public entity may not be pledged to secure the financing of the private entity.

Partnership for Public Facilities and Infrastructure Act Guidelines Task Force

Section 287.05712(3), F.S., created the Partnership for Public Facilities and Infrastructure Act Guidelines Task Force (task force). The task force was created to recommend guidelines for the Legislature to consider for purposes of creating a uniform P3 process across the state.²³ The seven-member task force was comprised of the Secretary of the Department of Management Services (department) and six members appointed by the Governor representing county government, municipal government, district school boards, and the business community. The department provided administrative and technical support to the task force.

In July 2014, the task force completed its duties and submitted a final report of its recommendations.²⁴ The task force was disbanded on December 31, 2014.²⁵

Performance Bond Requirements and Limitations

A governmental entity contracting for services with a private sector contractor may require the contractor to post a surety or performance bond. This type of bond is intended to protect the buyer by ensuring that the contractor will perform the work as specified by the contract. The level of the bond is intended to allow the governmental entity to guard against the risk of nonperformance by the contractor and provide funds necessary to hold the governmental entity (and taxpayers) harmless to the greatest extent possible.

Requirements

Section 255.05, F.S., requires any person entering into a formal contract with the state or any county, city, or other political subdivision, for the construction of a public building, for the completion of a public work, or for repairs upon a public building or public work, before commencing the work or before recommencing the work after a default or abandonment, to execute, deliver, and record in the public records of the county where the improvement is located, a payment and performance bond with a surety insurer authorized to do business in this state as surety. The statute specifies some exceptions and the form for the bond.

Limitations

Section 287.0935, F.S., limits the authority of a state agency or political subdivision of the state to refuse a surety issued by a surety company that meets certain criteria if the contract amount

²³ Section 287.05712(3)(a), F.S.

²⁴ The task force report can be found online at:

http://www.dms.myflorida.com/agency_administration/communications/partnership_for_public_facilities_infrastructure_act (last visited September 14, 2015).

²⁵ Section 287.05712(3)(f), F.S.

does not exceed \$500,000 and public funds are used for the project. The criteria that the surety company must meet include:

- Licensed to do business in Florida;
- Holds a certificate of authority to issue surety bonds in Florida;
- Complies with the provisions of the Florida Insurance Code;
- Holds a valid certificate of authority issued by the United State Department of the Treasury under 31 U.S.C. ss. 9304-9308 (federal regulation of corporations providing sureties for persons required or permitted to provide a surety bond with the federal government); and
- Has twice the minimum surplus and capital required by the Florida Insurance Code at the time the invitation to bid is issued.

Under the Florida Insurance Code, differing levels of surplus are required based upon the type of insurance the insurer writes in Florida. Specifically, s. 624.408, F.S., requires, in pertinent part, an insurer to maintain surplus as to policyholders at least the greater of:²⁶

- \$1.5 million;
- \$4 million for property and casualty insurers, except for property and casualty insurers authorized to underwrite any line of residential property insurance;
- \$15 million for residential property insurers not holding a certificate of authority before July 1, 2011; or
- For residential property insurers holding a certificate of authority before July 1, 2011, and until June 30, 2016, \$5 million; on or after July 1, 2016, and until June 30, 2021, \$10 million; on or after July 1, 2021, \$15 million.²⁷

A.M. Best’s Financial Strength Rating

A.M. Best’s Financial Strength Rating is an independent opinion of an insurer’s strength and ability to meet its ongoing insurance policy and contract obligations.²⁸ The rating is based on a comprehensive quantitative and qualitative evaluation of a company’s balance sheet strength, operating performance and business profile. The rating system uses certain methodologies to review Property/Casualty (Non-life), Life/Annuity, and Health/HMO industry segments all over the world. The table below shows the highest tier (“Secure”) of financial ratings.

Best’s Financial Strength Ratings²⁹			
	Rating	Descriptor	Definition
Secure	A++, A+	Superior	Assigned to companies that have, in our opinion, a superior ability to meet their ongoing insurance obligations

²⁶²⁶ Section 624.408(3), F.S., does not require an insurer to have surplus as to policyholders greater than \$100 million.

²⁷ Section 624.408(g), F.S., also provides that the Office of Insurance Regulation may reduce the surplus requirements in paragraphs (f) and (g) if the insurer is not writing new business, has premiums in force of less than \$1 million per year in residential property insurance, or is a mutual insurance company.

²⁸ See AM Best Ratings and Criteria Center webpage, available at <http://www.ambest.com/ratings/guide.asp> (last visited on September 14, 2015).

²⁹ Id.

	A, A-	Excellent	Assigned to companies that have, in our opinion, an excellent ability to meet their ongoing insurance obligations
	B++, B+	Good	Assigned to companies that have, in our opinion, a good ability to meet their ongoing insurance obligations

Administrative Commission’s Uniform Rules of Procedure

The Administrative Commission³⁰ has adopted Uniform Rules of Procedures. These procedures include rules governing bid protests under specified Florida Laws. Chapter 28-110, F.A.C., supplements the laws on bid protests that arise from the contract procurement process under chapters 24, 255, 287, 334 through 349, sections 282.303 through 282.313, F.S., and other statutes applicable to agencies as defined in s. 120.52(1), F.S.³¹

Rule 28.110.005, F.A.C., governs bond requirements for certain bid protests, such as procurement of commodities, contractual services, professional services and insurance, and for procurement of leases of space in privately-owned buildings.

III. Effect of Proposed Changes:

Section 1 transfers s. 287.05712, F.S., and renumbers it as s. 255.065, F.S., to incorporate many of the recommendations contained in the task force report, which include best practice recommendations as well as recommendations relating to needed clarification of s. 287.05712, F.S., which may facilitate the implementation of P3s.

Responsible Public Entity Definition

The bill clarifies the definition of “responsible public entity” includes special districts, school districts (rather than school boards), and Florida College System institutions.³²

Task Force

The bill deletes the task force provisions, as the task force was disbanded on December 31, 2014.

Application Fees

The bill provides that when a private entity submits an unsolicited proposal, the private entity must concurrently submit the initial application fee.³³ The application fee must be paid by cash, cashier’s check, or other noncancelable instrument. The bill provides that if the initial fee, as determined by the responsible public entity, is not sufficient to cover the costs associated with

³⁰ Section 14.202, F.S. The Administrative Commission consists of the Governor and members of the Cabinet.

³¹ See Rule 28-110.001, F.A.C.

³² *Id.* at 18. The task force recommended amending the definition of “responsible public entity” to reference school district, rather than board, as the district is the unit that provides public primary education. It also recommended clarifying that the definition includes both special districts and the Florida College System.

³³ *Id.* at 9. The task force recommended amending the fee provisions to ensure that the fees were related to actual, reasonable costs associated with reviewing an unsolicited proposal and not revenue generation.

evaluating the unsolicited proposal, the responsible public entity must request in writing the additional amount required. If the private entity fails to pay the additional amount requested within 30 days of the notice, the responsible public entity may stop reviewing the proposal. The bill requires the responsible public entity to return the application fee if the responsible public entity does not evaluate the unsolicited proposal.

Solicitation Timeframes

The bill provides flexibility to the responsible public entity for accepting proposals if an alternative timeframe is approved by majority vote of the entity's governing body.³⁴ It also removes the provision that required a school board to obtain the approval of the local governing body.³⁵

Contents of Solicitation – Design Criteria Package

The bill requires a solicitation to include a design criteria package prepared by an architect, engineer or landscape architect licensed in Florida that is sufficient to allow private entities to prepare a bid or a response to the solicitation. The design criteria package must specify performance-based criteria for the project, including:

- The legal description of the site, with survey information;
- Interior space requirements;
- Material quality standards;
- Schematic layouts and conceptual design criteria for the project, with budget estimates;
- Design and construction schedules; and
- Site development and utility requirements.

Ownership by the Responsible Public Entity

The bill clarifies that the project must be owned by the responsible public entity upon expiration of the comprehensive agreement, rather than solely upon completion or termination of the agreement.³⁶

Unsolicited Proposal

The bill clarifies that any pricing or financial terms included in an unsolicited proposal must be specific as to when the pricing or terms expire.³⁷

Project Qualification

The bill alters the parties that must meet the minimum standards contained in the responsible public entity's guidelines for qualifying professional services and contracts for traditional

³⁴ *Id.* at 7. The task force discussed that increased flexibility may be necessary when dealing with complex proposals to ensure sufficient time is allowed for the receipt of competing proposals.

³⁵ *Id.* at 18. The task force recommended striking this provision because school boards are not subject to governance by a local governing body.

³⁶ *Id.* at 13.

³⁷ *Id.* at 7.

procurement projects to allow the applicable party (or parties) of the private entity's team to be a qualifying entity, rather than just the private entity itself.³⁸

The bill deletes a requirement that a responsible public entity ensure that provision is made for the transfer of a private entity's obligations if the comprehensive agreement is terminated and replaces it with a requirement that the responsible public entity ensure that the comprehensive agreement addresses termination upon a material default.³⁹

Notice to Affected Local Jurisdictions

The bill deletes the requirement that a responsible public entity notify each affected local jurisdiction of an unsolicited proposal by furnishing a copy of the proposal to each affected local jurisdiction when considering it.⁴⁰ The responsible public entity must still provide each affected local jurisdiction a copy of the notice published in the FAR concerning solicitations for a qualifying project.

Financing

The bill clarifies that a financing agreement may not require the responsible public entity to secure financing by a mortgage on, or security interest in, the real or tangible personal property of the responsible public entity in a manner that could result in the loss of the fee ownership of the property by the responsible public entity.⁴¹

The bill also deletes a provision that provides for the responsible public entity to appropriate on a priority basis a contractual payment obligation from the government fund from which the qualifying project will be funded.⁴² Current law raised concerns regarding infringement upon a responsible public entity's appropriation powers. Additionally, had the provision remained in current law, it is unclear how this provision would apply to state universities or Florida College System institutions.

Department of Management Services

The bill provides that the department may accept and maintain copies of comprehensive agreements received from responsible public entities for the purpose of sharing the comprehensive agreements with other responsible public entities.⁴³ Responsible public entities are not required to provide copies to the department; however, if a responsible public entity provides a copy, the responsible public entity must first redact any confidential or exempt information from the comprehensive agreement.

³⁸ *Id.* at 21.

³⁹ *Id.* at 14.

⁴⁰ *Id.* at 12. The report provided a discussion on the notice that is already provided to affected local jurisdictions through the permitting process and stated a mandatory P3 notice process could delay project timelines.

⁴¹ *Id.* at 20.

⁴² *Id.* at 14.

⁴³ *Id.* at 11. The report recommended authorizing a state agency to provide assistance to responsible public entities concerning P3s.

Construction

The bill clarifies that the P3 process must be construed as cumulative and supplemental to any other authority or power vested in the governing body of a county, municipality, special district, or municipal hospital or health care system. The bill provides that the P3 process is an alternative method that may be used, but that it does not limit a county, municipality, special district, or other political subdivision of the state in the procurement or operation of a qualifying project pursuant to other statutory or constitutional authority.⁴⁴

Miscellaneous

The bill transfers and renumbers s. 287.05712, F.S., as s. 255.065, F.S., because chapter 255, F.S., relates to procurement of construction services, and P3s are primarily construction related projects.

The bill also makes other changes to provide for the consistent use of terminology and to provide clarity.

Section 2 amends s. 287.0935, F.S., to expand the limitation on state agencies and local governments to refuse surety bonds issued by surety companies that meet specific criteria. Specifically, the statute is amended to expand the limitation to include projects worth up to \$5 million (rather than \$500,000) and to prohibit a governmental entity from refusing a surety bond issued by a company that has an A- rating or higher from A.M. Best Company. Any surety company that does not maintain at least two times the minimum surplus and capital required under the Florida Insurance Code may rely on its AM Best rating, if at least an A-, to preclude a governmental entity from refusing its surety bonds for particular projects.

In practical application, this modification may reduce the level of surplus and capital available in Florida of a surety company writing performance bonds on publicly funded projects. This may reduce the ability of governmental entities to ensure the timely completion of public projects if a contractor fails to comply with a contract.

Section 3 provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

⁴⁴ *Id.* at 19. The report discussed the need for flexibility in the creation of P3s and noted that clarification is needed to ensure that the process is considered supplemental and alternative to any other applicable statutory authority.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This bill may provide more opportunities for the private sector to enter into contracts for construction services with state universities and local governments.

C. Government Sector Impact:

The bill will have an insignificant negative fiscal impact on the Department of Management Services for the purpose of receiving comprehensive agreements and acting as a depository for such comprehensive agreements. According to the department, the costs should be absorbed within current resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 287.05712 of the Florida Statutes and transfers and renumbers it as section 255.065 of the Florida Statutes.

This bill substantially amends section 287.0935 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By Senator Evers

2-00110-16

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1 A bill to be entitled
2 An act relating to public procurement practices;
3 transferring, renumbering, and amending s. 287.05712,
4 F.S.; revising definitions; deleting provisions
5 creating the Partnership for Public Facilities and
6 Infrastructure Act Guidelines Task Force; requiring a
7 private entity that submits an unsolicited proposal to
8 pay an initial application fee and additional amounts
9 if the fee does not cover certain costs; specifying
10 payment methods; authorizing a responsible public
11 entity to alter the statutory timeframe for accepting
12 proposals for a qualifying project under certain
13 circumstances; requiring a responsible public entity
14 to include a design criteria package in a
15 solicitation; specifying requirements for the design
16 criteria package; deleting a provision that requires
17 approval of the local governing body before a school
18 board enters into a comprehensive agreement; revising
19 the conditions necessary for a responsible public
20 entity to approve a comprehensive agreement; deleting
21 provisions relating to notice to affected local
22 jurisdictions; requiring that fees imposed by a
23 private entity be applied as set forth in the
24 comprehensive agreement; restricting provisions in
25 financing agreements which could result in a
26 responsible public entity's loss of fee ownership of
27 real or tangible personal property; deleting a
28 provision that requires a responsible public entity to
29 comply with specific financial obligations; specifying

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30 duties of the Department of Management Services;
31 revising provisions relating to construction of the
32 act; amending s. 287.0935, F.S.; increasing the dollar
33 threshold for a contract amount of a project for which
34 a person, the state, or a political subdivision is
35 prohibited from refusing a surety bond issued by a
36 surety company that meets certain requirements;
37 revising the requirements for surety companies with
38 respect to bonds issued for certain publicly funded
39 contracts; providing an effective date.

40
41 Be It Enacted by the Legislature of the State of Florida:

42
43 Section 1. Section 287.05712, Florida Statutes, is
44 transferred, renumbered as section 255.065, Florida Statutes,
45 and amended to read:

46 255.065 ~~287.05712~~ Public-private partnerships.—

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

48 (a) "Affected local jurisdiction" means a county,
49 municipality, or special district in which all or a portion of a
50 qualifying project is located.

51 (b) "Develop" means to plan, design, finance, lease,
52 acquire, install, construct, or expand.

53 (c) "Fees" means charges imposed by the private entity of a
54 qualifying project for use of all or a portion of such
55 qualifying project pursuant to a comprehensive agreement.

56 (d) "Lease payment" means any form of payment, including a
57 land lease, by a public entity to the private entity of a
58 qualifying project for the use of the project.

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59 (e) "Material default" means a nonperformance of its duties
60 by the private entity of a qualifying project which jeopardizes
61 adequate service to the public from the project.

62 (f) "Operate" means to finance, maintain, improve, equip,
63 modify, or repair.

64 (g) "Private entity" means any natural person, corporation,
65 general partnership, limited liability company, limited
66 partnership, joint venture, business trust, public benefit
67 corporation, nonprofit entity, or other private business entity.

68 (h) "Proposal" means a plan for a qualifying project with
69 detail beyond a conceptual level for which terms such as fixing
70 costs, payment schedules, financing, deliverables, and project
71 schedule are defined.

72 (i) "Qualifying project" means:

73 1. A facility or project that serves a public purpose,
74 including, but not limited to, any ferry or mass transit
75 facility, vehicle parking facility, airport or seaport facility,
76 rail facility or project, fuel supply facility, oil or gas
77 pipeline, medical or nursing care facility, recreational
78 facility, sporting or cultural facility, or educational facility
79 or other building or facility that is used or will be used by a
80 public educational institution, or any other public facility or
81 infrastructure that is used or will be used by the public at
82 large or in support of an accepted public purpose or activity;

83 2. An improvement, including equipment, of a building that
84 will be principally used by a public entity or the public at
85 large or that supports a service delivery system in the public
86 sector;

87 3. A water, wastewater, or surface water management

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88 facility or other related infrastructure; or

89 4. Notwithstanding any provision of this section, for
90 projects that involve a facility owned or operated by the
91 governing board of a county, district, or municipal hospital or
92 health care system, or projects that involve a facility owned or
93 operated by a municipal electric utility, only those projects
94 that the governing board designates as qualifying projects
95 pursuant to this section.

96 (j) "Responsible public entity" means a county,
97 municipality, school district, special district, or Florida
98 College System institution board, or any other political
99 subdivision of the state; a public body corporate and politic;
100 or a regional entity that serves a public purpose and is
101 authorized to develop or operate a qualifying project.

102 (k) "Revenues" means the income, earnings, user fees, lease
103 payments, or other service payments relating to the development
104 or operation of a qualifying project, including, but not limited
105 to, money received as grants or otherwise from the Federal
106 Government, a public entity, or an agency or instrumentality
107 thereof in aid of the qualifying project.

108 (l) "Service contract" means a contract between a
109 responsible public entity and the private entity which defines
110 the terms of the services to be provided with respect to a
111 qualifying project.

112 (2) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds
113 that there is a public need for the construction or upgrade of
114 facilities that are used predominantly for public purposes and
115 that it is in the public's interest to provide for the
116 construction or upgrade of such facilities.

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117 (a) The Legislature also finds that:

118 1. There is a public need for timely and cost-effective
119 acquisition, design, construction, improvement, renovation,
120 expansion, equipping, maintenance, operation, implementation, or
121 installation of projects serving a public purpose, including
122 educational facilities, transportation facilities, water or
123 wastewater management facilities and infrastructure, technology
124 infrastructure, roads, highways, bridges, and other public
125 infrastructure and government facilities within the state which
126 serve a public need and purpose, and that such public need may
127 not be wholly satisfied by existing procurement methods.

128 2. There are inadequate resources to develop new
129 educational facilities, transportation facilities, water or
130 wastewater management facilities and infrastructure, technology
131 infrastructure, roads, highways, bridges, and other public
132 infrastructure and government facilities for the benefit of
133 residents of this state, and that a public-private partnership
134 has demonstrated that it can meet the needs by improving the
135 schedule for delivery, lowering the cost, and providing other
136 benefits to the public.

137 3. There may be state and federal tax incentives that
138 promote partnerships between public and private entities to
139 develop and operate qualifying projects.

140 4. A procurement under this section serves the public
141 purpose of this section if such procurement facilitates the
142 timely development or operation of a qualifying project.

143 (b) It is the intent of the Legislature to encourage
144 investment in the state by private entities; to facilitate
145 various bond financing mechanisms, private capital, and other

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146 funding sources for the development and operation of qualifying
147 projects, including expansion and acceleration of such financing
148 to meet the public need; and to provide the greatest possible
149 flexibility to public and private entities contracting for the
150 provision of public services.

151 ~~(3) PUBLIC-PRIVATE PARTNERSHIP GUIDELINES TASK FORCE.—~~

152 ~~(a) There is created the Partnership for Public Facilities~~
153 ~~and Infrastructure Act Guidelines Task Force for the purpose of~~
154 ~~recommending guidelines for the Legislature to consider for~~
155 ~~purposes of creating a uniform process for establishing public-~~
156 ~~private partnerships, including the types of factors responsible~~
157 ~~public entities should review and consider when processing~~
158 ~~requests for public-private partnership projects pursuant to~~
159 ~~this section.~~

160 ~~(b) The task force shall be composed of seven members, as~~
161 ~~follows:~~

162 ~~1. The Secretary of Management Services or his or her~~
163 ~~designee, who shall serve as chair of the task force.~~

164 ~~2. Six members appointed by the Governor, as follows:~~

165 ~~a. One county government official.~~

166 ~~b. One municipal government official.~~

167 ~~c. One district school board member.~~

168 ~~d. Three representatives of the business community.~~

169 ~~(c) Task force members must be appointed by July 31, 2013.~~
170 ~~By August 31, 2013, the task force shall meet to establish~~
171 ~~procedures for the conduct of its business and to elect a vice~~
172 ~~chair. The task force shall meet at the call of the chair. A~~
173 ~~majority of the members of the task force constitutes a quorum,~~
174 ~~and a quorum is necessary for the purpose of voting on any~~

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175 ~~action or recommendation of the task force. All meetings shall~~
176 ~~be held in Tallahassee, unless otherwise decided by the task~~
177 ~~force, and then no more than two such meetings may be held in~~
178 ~~other locations for the purpose of taking public testimony.~~
179 ~~Administrative and technical support shall be provided by the~~
180 ~~department. Task force members shall serve without compensation~~
181 ~~and are not entitled to reimbursement for per diem or travel~~
182 ~~expenses.~~

183 ~~(d) In reviewing public-private partnerships and developing~~
184 ~~recommendations, the task force must consider:~~

185 ~~1. Opportunities for competition through public notice and~~
186 ~~the availability of representatives of the responsible public~~
187 ~~entity to meet with private entities considering a proposal.~~

188 ~~2. Reasonable criteria for choosing among competing~~
189 ~~proposals.~~

190 ~~3. Suggested timelines for selecting proposals and~~
191 ~~negotiating an interim or comprehensive agreement.~~

192 ~~4. If an accelerated selection and review and documentation~~
193 ~~timelines should be considered for proposals involving a~~
194 ~~qualifying project that the responsible public entity deems a~~
195 ~~priority.~~

196 ~~5. Procedures for financial review and analysis which, at a~~
197 ~~minimum, include a cost-benefit analysis, an assessment of~~
198 ~~opportunity cost, and consideration of the results of all~~
199 ~~studies and analyses related to the proposed qualifying project.~~

200 ~~6. The adequacy of the information released when seeking~~
201 ~~competing proposals and providing for the enhancement of that~~
202 ~~information, if deemed necessary, to encourage competition.~~

203 ~~7. Current exemptions from public records and public~~

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204 ~~meetings requirements, if any changes to those exemptions are~~
205 ~~necessary, or if any new exemptions should be created in order~~
206 ~~to maintain the confidentiality of financial and proprietary~~
207 ~~information received as part of an unsolicited proposal.~~

208 ~~8. Recommendations regarding the authority of the~~
209 ~~responsible public entity to engage the services of qualified~~
210 ~~professionals, which may include a Florida-registered~~
211 ~~professional or a certified public accountant, not otherwise~~
212 ~~employed by the responsible public entity, to provide an~~
213 ~~independent analysis regarding the specifics, advantages,~~
214 ~~disadvantages, and long-term and short-term costs of a request~~
215 ~~by a private entity for approval of a qualifying project, unless~~
216 ~~the governing body of the public entity determines that such~~
217 ~~analysis should be performed by employees of the public entity.~~

218 ~~(e) The task force must submit a final report of its~~
219 ~~recommendations to the Governor, the President of the Senate,~~
220 ~~and the Speaker of the House of Representatives by July 1, 2014.~~

221 ~~(f) The task force is terminated December 31, 2014. The~~
222 ~~establishment of guidelines pursuant to this section or the~~
223 ~~adoption of such guidelines by a responsible public entity is~~
224 ~~not required for such entity to request or receive proposals for~~
225 ~~a qualifying project or to enter into a comprehensive agreement~~
226 ~~for a qualifying project. A responsible public entity may adopt~~
227 ~~guidelines so long as such guidelines are not inconsistent with~~
228 ~~this section.~~

229 ~~(3)(4)~~ PROCUREMENT PROCEDURES.—A responsible public entity
230 may receive unsolicited proposals or may solicit proposals for
231 qualifying projects and may thereafter enter into a
232 comprehensive ~~an~~ agreement with a private entity, or a

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233 consortium of private entities, for the building, upgrading,
234 operating, ownership, or financing of facilities.

235 (a)1. The responsible public entity may establish a
236 reasonable application fee for the submission of an unsolicited
237 proposal under this section.

238 2. A private entity that submits an unsolicited proposal to
239 the responsible public entity must concurrently pay an initial
240 application fee, as determined by the responsible public entity.
241 Payment must be made by cash, cashier's check, or other
242 noncancelable instrument. Personal checks may not be accepted.

243 3. If the initial application fee does not cover the
244 responsible public entity's costs to evaluate the unsolicited
245 proposal, the responsible public entity must request in writing
246 the additional amounts required. The private entity must pay the
247 requested additional amounts within 30 days after receipt of the
248 notice. The responsible public entity may stop its review of the
249 unsolicited proposal if the private entity fails to pay the
250 additional fee.

251 4. If the responsible public entity does not evaluate the
252 unsolicited proposal, the responsible public entity must return
253 the application fee ~~The fee must be sufficient to pay the costs~~
254 ~~of evaluating the proposal. The responsible public entity may~~
255 ~~engage the services of a private consultant to assist in the~~
256 ~~evaluation.~~

257 (b) The responsible public entity may request a proposal
258 from private entities for a qualifying ~~public-private~~ project
259 or, if the responsible public entity receives an unsolicited
260 proposal for a qualifying ~~public-private~~ project and the
261 responsible public entity intends to enter into a comprehensive

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262 agreement for the project described in the ~~such~~ unsolicited
263 proposal, the responsible public entity shall publish notice in
264 the Florida Administrative Register and a newspaper of general
265 circulation at least once a week for 2 weeks stating that the
266 responsible public entity has received a proposal and will
267 accept other proposals for the same project. The timeframe
268 within which the responsible public entity may accept other
269 proposals shall be determined by the responsible public entity
270 on a project-by-project basis based upon the complexity of the
271 qualifying project and the public benefit to be gained by
272 allowing a longer or shorter period of time within which other
273 proposals may be received; however, the timeframe for allowing
274 other proposals must be at least 21 days, but no more than 120
275 days, after the initial date of publication. If approved by a
276 majority vote of the responsible public entity's governing body,
277 the responsible public entity may alter the timeframe for
278 accepting proposals to more adequately suit the needs of the
279 qualifying project. A copy of the notice must be mailed to each
280 local government in the affected area.

281 (c) If the responsible public entity solicits proposals
282 under this section, the solicitation must include a design
283 criteria package prepared by an architect, an engineer, or a
284 landscape architect licensed in this state which is sufficient
285 to allow private entities to prepare a bid or a response. The
286 design criteria package must specify performance-based criteria
287 for the project, including the legal description of the site,
288 with survey information; interior space requirements; material
289 quality standards; schematic layouts and conceptual design
290 criteria for the project; cost or budget estimates; design and

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291 construction schedules; and site development and utility
292 requirements ~~A responsible public entity that is a school board~~
293 ~~may enter into a comprehensive agreement only with the approval~~
294 ~~of the local governing body.~~

295 (d) Before approving a comprehensive agreement ~~approval~~,
296 the responsible public entity must determine that the proposed
297 project:

- 298 1. Is in the public's best interest.
- 299 2. Is for a facility that is owned by the responsible
300 public entity or for a facility for which ownership will be
301 conveyed to the responsible public entity.
- 302 3. Has adequate safeguards in place to ensure that
303 additional costs or service disruptions are not imposed on the
304 public in the event of material default or cancellation of the
305 comprehensive agreement by the responsible public entity.
- 306 4. Has adequate safeguards in place to ensure that the
307 responsible public entity or private entity has the opportunity
308 to add capacity to the proposed project or other facilities
309 serving similar predominantly public purposes.
- 310 5. Will be owned by the responsible public entity upon
311 completion, expiration, or termination of the comprehensive
312 agreement and upon payment of the amounts financed.

313 (e) Before signing a comprehensive agreement, the
314 responsible public entity must consider a reasonable finance
315 plan that is consistent with subsection (9) ~~(11)~~; the qualifying
316 project cost; revenues by source; available financing; major
317 assumptions; internal rate of return on private investments, if
318 governmental funds are assumed in order to deliver a cost-
319 feasible project; and a total cash-flow analysis beginning with

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320 the implementation of the project and extending for the term of
321 the comprehensive agreement.

322 (f) In considering an unsolicited proposal, the responsible
323 public entity may require from the private entity a technical
324 study prepared by a nationally recognized expert with experience
325 in preparing analyses ~~analysis~~ for bond rating agencies. In
326 evaluating the technical study, the responsible public entity
327 may rely upon internal staff reports prepared by personnel
328 familiar with the operation of similar facilities or the advice
329 of external advisors or consultants who have relevant
330 experience.

331 (4) ~~(5)~~ PROJECT APPROVAL REQUIREMENTS.—An unsolicited
332 proposal from a private entity for approval of a qualifying
333 project must be accompanied by the following material and
334 information, unless waived by the responsible public entity:

335 (a) A description of the qualifying project, including the
336 conceptual design of the facilities or a conceptual plan for the
337 provision of services, and a schedule for the initiation and
338 completion of the qualifying project.

339 (b) A description of the method by which the private entity
340 proposes to secure the necessary property interests that are
341 required for the qualifying project.

342 (c) A description of the private entity's general plans for
343 financing the qualifying project, including the sources of the
344 private entity's funds and the identity of any dedicated revenue
345 source or proposed debt or equity investment on behalf of the
346 private entity.

347 (d) The name and address of a person who may be contacted
348 for additional information concerning the proposal.

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349 (e) The proposed user fees, lease payments, or other
350 service payments over the term of a comprehensive agreement, and
351 the methodology for and circumstances that would allow changes
352 to the user fees, lease payments, and other service payments
353 over time.

354 (f) Additional material or information that the responsible
355 public entity reasonably requests.

356

357 Any pricing or financial terms included in an unsolicited
358 proposal must be specific as to when the pricing or terms
359 expire.

360 (5)~~(6)~~ PROJECT QUALIFICATION AND PROCESS.—

361 (a) The private entity, or the applicable party or parties
362 of the private entity's team, must meet the minimum standards
363 contained in the responsible public entity's guidelines for
364 qualifying professional services and contracts for traditional
365 procurement projects.

366 (b) The responsible public entity must:

367 1. Ensure that provision is made for the private entity's
368 performance and payment of subcontractors, including, but not
369 limited to, surety bonds, letters of credit, parent company
370 guarantees, and lender and equity partner guarantees. For the
371 components of the qualifying project which involve construction
372 performance and payment, bonds are required and are subject to
373 the recordation, notice, suit limitation, and other requirements
374 of s. 255.05.

375 2. Ensure the most efficient pricing of the security
376 package that provides for the performance and payment of
377 subcontractors.

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378 3. Ensure that ~~provision is made for the transfer of the~~
379 ~~private entity's obligations if the comprehensive agreement~~
380 addresses termination upon is terminated or a material default
381 of the comprehensive agreement occurs.

382 (c) After the public notification period has expired in the
383 case of an unsolicited proposal, the responsible public entity
384 shall rank the proposals received in order of preference. In
385 ranking the proposals, the responsible public entity may
386 consider factors that include, but are not limited to,
387 professional qualifications, general business terms, innovative
388 design techniques or cost-reduction terms, and finance plans.
389 The responsible public entity may then begin negotiations for a
390 comprehensive agreement with the highest-ranked firm. If the
391 responsible public entity is not satisfied with the results of
392 the negotiations, the responsible public entity may terminate
393 negotiations with the proposer and negotiate with the second-
394 ranked or subsequent-ranked firms, in the order consistent with
395 this procedure. If only one proposal is received, the
396 responsible public entity may negotiate in good faith, and if
397 the responsible public entity is not satisfied with the results
398 of the negotiations, the responsible public entity may terminate
399 negotiations with the proposer. Notwithstanding this paragraph,
400 the responsible public entity may reject all proposals at any
401 point in the process until a contract with the proposer is
402 executed.

403 (d) The responsible public entity shall perform an
404 independent analysis of the proposed public-private partnership
405 which demonstrates the cost-effectiveness and overall public
406 benefit before the procurement process is initiated or before

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407 the contract is awarded.

408 (e) The responsible public entity may approve the
409 development or operation of an educational facility, a
410 transportation facility, a water or wastewater management
411 facility or related infrastructure, a technology infrastructure
412 or other public infrastructure, or a government facility needed
413 by the responsible public entity as a qualifying project, or the
414 design or equipping of a qualifying project that is developed or
415 operated, if:

416 1. There is a public need for or benefit derived from a
417 project of the type that the private entity proposes as the
418 qualifying project.

419 2. The estimated cost of the qualifying project is
420 reasonable in relation to similar facilities.

421 3. The private entity's plans will result in the timely
422 acquisition, design, construction, improvement, renovation,
423 expansion, equipping, maintenance, or operation of the
424 qualifying project.

425 (f) The responsible public entity may charge a reasonable
426 fee to cover the costs of processing, reviewing, and evaluating
427 the request, including, but not limited to, reasonable attorney
428 fees and fees for financial and technical advisors or
429 consultants and for other necessary advisors or consultants.

430 (g) Upon approval of a qualifying project, the responsible
431 public entity shall establish a date for the commencement of
432 activities related to the qualifying project. The responsible
433 public entity may extend the commencement date.

434 (h) Approval of a qualifying project by the responsible
435 public entity is subject to entering into a comprehensive

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436 agreement with the private entity.

437 ~~(7) NOTICE TO AFFECTED LOCAL JURISDICTIONS.—~~

438 ~~(a) The responsible public entity must notify each affected~~
439 ~~local jurisdiction by furnishing a copy of the proposal to each~~
440 ~~affected local jurisdiction when considering a proposal for a~~
441 ~~qualifying project.~~

442 ~~(b) Each affected local jurisdiction that is not a~~
443 ~~responsible public entity for the respective qualifying project~~
444 ~~may, within 60 days after receiving the notice, submit in~~
445 ~~writing any comments to the responsible public entity and~~
446 ~~indicate whether the facility is incompatible with the local~~
447 ~~comprehensive plan, the local infrastructure development plan,~~
448 ~~the capital improvements budget, any development of regional~~
449 ~~impact processes or timelines, or other governmental spending~~
450 ~~plan. The responsible public entity shall consider the comments~~
451 ~~of the affected local jurisdiction before entering into a~~
452 ~~comprehensive agreement with a private entity. If an affected~~
453 ~~local jurisdiction fails to respond to the responsible public~~
454 ~~entity within the time provided in this paragraph, the~~
455 ~~nonresponse is deemed an acknowledgment by the affected local~~
456 ~~jurisdiction that the qualifying project is compatible with the~~
457 ~~local comprehensive plan, the local infrastructure development~~
458 ~~plan, the capital improvements budget, or other governmental~~
459 ~~spending plan.~~

460 ~~(6)~~(8) INTERIM AGREEMENT.—Before or in connection with the
461 negotiation of a comprehensive agreement, the responsible public
462 entity may enter into an interim agreement with the private
463 entity proposing the development or operation of the qualifying
464 project. An interim agreement does not obligate the responsible

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465 public entity to enter into a comprehensive agreement. The
466 interim agreement is discretionary with the parties and is not
467 required on a qualifying project for which the parties may
468 proceed directly to a comprehensive agreement without the need
469 for an interim agreement. An interim agreement must be limited
470 to provisions that:

471 (a) Authorize the private entity to commence activities for
472 which it may be compensated related to the proposed qualifying
473 project, including, but not limited to, project planning and
474 development, design, environmental analysis and mitigation,
475 survey, other activities concerning any part of the proposed
476 qualifying project, and ascertaining the availability of
477 financing for the proposed facility or facilities.

478 (b) Establish the process and timing of the negotiation of
479 the comprehensive agreement.

480 (c) Contain such other provisions related to an aspect of
481 the development or operation of a qualifying project that the
482 responsible public entity and the private entity deem
483 appropriate.

484 (7)~~(9)~~ COMPREHENSIVE AGREEMENT.—

485 (a) Before developing or operating the qualifying project,
486 the private entity must enter into a comprehensive agreement
487 with the responsible public entity. The comprehensive agreement
488 must provide for:

489 1. Delivery of performance and payment bonds, letters of
490 credit, or other security acceptable to the responsible public
491 entity in connection with the development or operation of the
492 qualifying project in the form and amount satisfactory to the
493 responsible public entity. For the components of the qualifying

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494 project which involve construction, the form and amount of the
495 bonds must comply with s. 255.05.

496 2. Review of the design for the qualifying project by the
497 responsible public entity and, if the design conforms to
498 standards acceptable to the responsible public entity, the
499 approval of the responsible public entity. This subparagraph
500 does not require the private entity to complete the design of
501 the qualifying project before the execution of the comprehensive
502 agreement.

503 3. Inspection of the qualifying project by the responsible
504 public entity to ensure that the private entity's activities are
505 acceptable to the responsible public entity in accordance with
506 the comprehensive agreement.

507 4. Maintenance of a policy of public liability insurance, a
508 copy of which must be filed with the responsible public entity
509 and accompanied by proofs of coverage, or self-insurance, each
510 in the form and amount satisfactory to the responsible public
511 entity and reasonably sufficient to ensure coverage of tort
512 liability to the public and employees and to enable the
513 continued operation of the qualifying project.

514 5. Monitoring by the responsible public entity of the
515 maintenance practices to be performed by the private entity to
516 ensure that the qualifying project is properly maintained.

517 6. Periodic filing by the private entity of the appropriate
518 financial statements that pertain to the qualifying project.

519 7. Procedures that govern the rights and responsibilities
520 of the responsible public entity and the private entity in the
521 course of the construction and operation of the qualifying
522 project and in the event of the termination of the comprehensive

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523 agreement or a material default by the private entity. The
524 procedures must include conditions that govern the assumption of
525 the duties and responsibilities of the private entity by an
526 entity that funded, in whole or in part, the qualifying project
527 or by the responsible public entity, and must provide for the
528 transfer or purchase of property or other interests of the
529 private entity by the responsible public entity.

530 8. Fees, lease payments, or service payments. In
531 negotiating user fees, the fees must be the same for persons
532 using the facility under like conditions and must not materially
533 discourage use of the qualifying project. The execution of the
534 comprehensive agreement or a subsequent amendment is conclusive
535 evidence that the fees, lease payments, or service payments
536 provided for in the comprehensive agreement comply with this
537 section. Fees or lease payments established in the comprehensive
538 agreement as a source of revenue may be in addition to, or in
539 lieu of, service payments.

540 9. Duties of the private entity, including the terms and
541 conditions that the responsible public entity determines serve
542 the public purpose of this section.

543 (b) The comprehensive agreement may include:

544 1. An agreement by the responsible public entity to make
545 grants or loans to the private entity from amounts received from
546 the federal, state, or local government or an agency or
547 instrumentality thereof.

548 2. A provision under which each entity agrees to provide
549 notice of default and cure rights for the benefit of the other
550 entity, including, but not limited to, a provision regarding
551 unavoidable delays.

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552 3. A provision that terminates the authority and duties of
 553 the private entity under this section and dedicates the
 554 qualifying project to the responsible public entity or, if the
 555 qualifying project was initially dedicated by an affected local
 556 jurisdiction, to the affected local jurisdiction for public use.

557 (8)~~(10)~~ FEES.—A comprehensive ~~An~~ agreement entered into
 558 pursuant to this section may authorize the private entity to
 559 impose fees on ~~to~~ members of the public for the use of the
 560 facility. The following provisions apply to the comprehensive
 561 agreement:

562 (a) The responsible public entity may develop new
 563 facilities or increase capacity in existing facilities through a
 564 comprehensive agreement with a private entity ~~agreements with~~
 565 ~~public-private partnerships~~.

566 (b) The comprehensive ~~public-private partnership~~ agreement
 567 must ensure that the facility is properly operated, maintained,
 568 or improved in accordance with standards set forth in the
 569 comprehensive agreement.

570 (c) The responsible public entity may lease existing fee-
 571 for-use facilities through a comprehensive ~~public-private~~
 572 ~~partnership~~ agreement.

573 (d) Any revenues must be authorized by and applied in the
 574 manner set forth in ~~regulated by the responsible public entity~~
 575 ~~pursuant to~~ the comprehensive agreement.

576 (e) A negotiated portion of revenues from fee-generating
 577 uses may ~~must~~ be returned to the responsible public entity over
 578 the life of the comprehensive agreement.

579 (9)~~(11)~~ FINANCING.—

580 (a) A private entity may enter into a private-source

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581 financing agreement between financing sources and the private
582 entity. A financing agreement and any liens on the property or
583 facility must be paid in full at the applicable closing that
584 transfers ownership or operation of the facility to the
585 responsible public entity at the conclusion of the term of the
586 comprehensive agreement.

587 (b) The responsible public entity may lend funds to private
588 entities that construct projects containing facilities that are
589 approved under this section.

590 (c) The responsible public entity may use innovative
591 finance techniques associated with a public-private partnership
592 under this section, including, but not limited to, federal loans
593 as provided in Titles 23 and 49 C.F.R., commercial bank loans,
594 and hedges against inflation from commercial banks or other
595 private sources. In addition, the responsible public entity may
596 provide its own capital or operating budget to support a
597 qualifying project. The budget may be from any legally
598 permissible funding sources of the responsible public entity,
599 including the proceeds of debt issuances. A responsible public
600 entity may use the model financing agreement provided in s.
601 489.145(6) for its financing of a facility owned by a
602 responsible public entity. A financing agreement may not require
603 the responsible public entity to indemnify the financing source,
604 subject the responsible public entity's facility to liens in
605 violation of s. 11.066(5), or secure financing of by the
606 responsible public entity by a mortgage on, or security interest
607 in, the real or tangible personal property of the responsible
608 public entity in a manner that could result in the loss of the
609 fee ownership of the property by the responsible public entity

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610 with a pledge of security interest, and any such provision is
611 void.

612 ~~(d) A responsible public entity shall appropriate on a~~
613 ~~priority basis as required by the comprehensive agreement a~~
614 ~~contractual payment obligation, annual or otherwise, from the~~
615 ~~enterprise or other government fund from which the qualifying~~
616 ~~projects will be funded. This required payment obligation must~~
617 ~~be appropriated before other noncontractual obligations payable~~
618 ~~from the same enterprise or other government fund.~~

619 (10) ~~(12)~~ POWERS AND DUTIES OF THE PRIVATE ENTITY.—

620 (a) The private entity shall:

621 1. Develop or operate the qualifying project in a manner
622 that is acceptable to the responsible public entity in
623 accordance with the provisions of the comprehensive agreement.

624 2. Maintain, or provide by contract for the maintenance or
625 improvement of, the qualifying project if required by the
626 comprehensive agreement.

627 3. Cooperate with the responsible public entity in making
628 best efforts to establish interconnection between the qualifying
629 project and any other facility or infrastructure as requested by
630 the responsible public entity in accordance with the provisions
631 of the comprehensive agreement.

632 4. Comply with the comprehensive agreement and any lease or
633 service contract.

634 (b) Each private facility that is constructed pursuant to
635 this section must comply with the requirements of federal,
636 state, and local laws; state, regional, and local comprehensive
637 plans; the responsible public entity's rules, procedures, and
638 standards for facilities; and such other conditions that the

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639 responsible public entity determines to be in the public's best
640 interest and that are included in the comprehensive agreement.

641 (c) The responsible public entity may provide services to
642 the private entity. An agreement for maintenance and other
643 services entered into pursuant to this section must provide for
644 full reimbursement for services rendered for qualifying
645 projects.

646 (d) A private entity of a qualifying project may provide
647 additional services for the qualifying project to the public or
648 to other private entities if the provision of additional
649 services does not impair the private entity's ability to meet
650 its commitments to the responsible public entity pursuant to the
651 comprehensive agreement.

652 (11)~~(13)~~ EXPIRATION OR TERMINATION OF AGREEMENTS.—Upon the
653 expiration or termination of a comprehensive agreement, the
654 responsible public entity may use revenues from the qualifying
655 project to pay current operation and maintenance costs of the
656 qualifying project. If the private entity materially defaults
657 under the comprehensive agreement, the compensation that is
658 otherwise due to the private entity is payable to satisfy all
659 financial obligations to investors and lenders on the qualifying
660 project in the same way that is provided in the comprehensive
661 agreement or any other agreement involving the qualifying
662 project, if the costs of operating and maintaining the
663 qualifying project are paid in the normal course. Revenues in
664 excess of the costs for operation and maintenance costs may be
665 paid to the investors and lenders to satisfy payment obligations
666 under their respective agreements. A responsible public entity
667 may terminate with cause and without prejudice a comprehensive

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668 agreement and may exercise any other rights or remedies that may
669 be available to it in accordance with the provisions of the
670 comprehensive agreement. The full faith and credit of the
671 responsible public entity may not be pledged to secure the
672 financing of the private entity. The assumption of the
673 development or operation of the qualifying project does not
674 obligate the responsible public entity to pay any obligation of
675 the private entity from sources other than revenues from the
676 qualifying project unless stated otherwise in the comprehensive
677 agreement.

678 (12)~~(14)~~ SOVEREIGN IMMUNITY.—This section does not waive
679 the sovereign immunity of a responsible public entity, an
680 affected local jurisdiction, or an officer or employee thereof
681 with respect to participation in, or approval of, any part of a
682 qualifying project or its operation, including, but not limited
683 to, interconnection of the qualifying project with any other
684 infrastructure or project. A county or municipality in which a
685 qualifying project is located possesses sovereign immunity with
686 respect to the project, including, but not limited to, its
687 design, construction, and operation.

688 (13) DEPARTMENT OF MANAGEMENT SERVICES.—

689 (a) A responsible public entity may provide a copy of its
690 comprehensive agreement to the Department of Management
691 Services. A responsible public entity must redact any
692 confidential or exempt information from the copy of the
693 comprehensive agreement before providing it to the Department of
694 Management Services.

695 (b) The Department of Management Services may accept and
696 maintain copies of comprehensive agreements received from

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697 responsible public entities for the purpose of sharing
698 comprehensive agreements with other responsible public entities.

699 (c) This subsection does not require a responsible public
700 entity to provide a copy of its comprehensive agreement to the
701 Department of Management Services.

702 (14)~~(15)~~ CONSTRUCTION.—

703 (a) This section shall be liberally construed to effectuate
704 the purposes of this section.

705 (b) This section shall be construed as cumulative and
706 supplemental to any other authority or power vested in or
707 exercised by the governing body ~~board~~ of a county, municipality,
708 special district, or municipal hospital or health care system
709 including those contained in acts of the Legislature
710 ~~establishing such public hospital boards or s. 155.40.~~

711 (c) This section does not affect any agreement or existing
712 relationship with a supporting organization involving such
713 governing body ~~board~~ or system in effect as of January 1, 2013.

714 (d)~~(a)~~ This section provides an alternative method and does
715 not limit a county, municipality, special district, or other
716 political subdivision of the state in the procurement or
717 operation of a qualifying project ~~acquisition, design, or~~
718 ~~construction of a public project~~ pursuant to other statutory or
719 constitutional authority.

720 (e)~~(b)~~ Except as otherwise provided in this section, this
721 section does not amend existing laws by granting additional
722 powers to, or further restricting, a local governmental entity
723 from regulating and entering into cooperative arrangements with
724 the private sector for the planning, construction, or operation
725 of a facility.

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726 (f)~~(e)~~ This section does not waive any requirement of s.
727 287.055.

728 Section 2. Section 287.0935, Florida Statutes, is amended
729 to read:

730 287.0935 Surety bond insurers.—When the contract amount of
731 a project that uses public funds does not exceed \$5 million
732 ~~\$500,000 and when public funds are utilized for the project,~~ a
733 person, the state, or a political subdivision may ~~shall~~ not
734 refuse, ~~as surety for the project,~~ bid bonds, performance bonds,
735 labor and materials payment bonds, or any other surety bonds as
736 surety for the project if such bonds ~~which~~ are issued by a
737 surety company that meets all ~~which fulfills each~~ of the
738 following requirements ~~provisions~~:

739 (1) The surety company is licensed to do business in this
740 state. ~~the State of Florida.~~

741 (2) The surety company holds a certificate of authority
742 authorizing it to write surety bonds in this state.~~†~~

743 (3) The surety company has twice the minimum surplus and
744 capital required by the Florida Insurance Code at the time the
745 invitation to bid is issued, or is currently rated "A-" or
746 higher by A.M. Best Company.~~†~~

747 (4) The surety company is otherwise in compliance with the
748 provisions of the Florida Insurance Code.~~† and~~

749 (5) The surety company holds a currently valid certificate
750 of authority issued by the United States Department of the
751 Treasury under 31 U.S.C. ss. 9304-9308.

752 Section 3. This act shall take effect July 1, 2016.



The Florida Senate

Committee Agenda Request

To: Senator Simpson
Chair, Committee on Community Affairs

Subject: Committee Agenda Request

September 22, 2015

Dear Senator Simpson,

I respectfully request that **Senate Bill 0124**, regarding **Public Procurement Practices**, be placed on the:

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

A handwritten signature in cursive script that reads "Greg Evers".

Senator Greg Evers
Florida Senate, District 2

THE FLORIDA SENATE

APPEARANCE RECORD

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

11/17/15 Meeting Date

SB 124 Bill Number (if applicable)

Topic Public Procurement

Amendment Barcode (if applicable)

Name Bruce Kershner

Job Title

Address 231 West Bay Ave Street Longwood FL 32750 City State Zip

Phone 407-830-1882

Email RBKershner@att.net

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

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

Representing NACM Improved Construction Practices Committee

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

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

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

11/17/15

Meeting Date

SB 124

Bill Number (if applicable)

Topic Public Procurement

Amendment Barcode (if applicable)

Name David Cruz

Job Title Assistant General Counsel

Address P.O. Box 1757

Phone 701-3676

Street

Tallahassee

FL

32302

Email _____

City

State

Zip

Speaking: For Against Information

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

Representing FL. League of Cities

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

11/17/15
Meeting Date

124
Bill Number (if applicable)

Topic Public Procurement Practices

Amendment Barcode (if applicable)

Name Edward Briggs

Job Title _____

Address 235 W. Brandon Blvd. Ste. 640
Street

Phone 850-933-5994

Brandon FL 33511
City State Zip

Email edward@rsaconsulting.com

Speaking: For Against Information

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

Representing Associated Builders + Contractors; Gulf Coast Chapter

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)

11/17/2015

Meeting Date

SB 124

Bill Number (if applicable)

Topic Public Procurement Practices

Amendment Barcode (if applicable)

Name Warren Husband

Job Title _____

Address PO Box 10909

Phone 950-205-9000

Street

Tallahassee

FL

32302

Email whh@metzlaw.com

City

State

Zip

Speaking: For Against Information

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

Representing Fla. Associated General Contractors Council

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

11/17/15
Meeting Date

124
Bill Number (if applicable)

Topic Public Private Partnership

Amendment Barcode (if applicable)

Name Richard Watson

Job Title Legislative Counsel

Address P.O. Box 10038

Phone 850 222-0700

Tallahassee FL 32302

Email rick@watsonadvisors.com

Speaking: For Against Information

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

Representing Associated Builders + Contractors

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
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 126

INTRODUCER: Senator Evers

SUBJECT: Public Records and Public Meetings / Public-private Partnerships

DATE: September 11, 2015 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cochran	Yeatman	CA	Favorable
2.			GO	
3.			FP	

I. Summary:

SB 126, which is linked to the passage of SB 124, creates an exemption from public record and public meeting requirements for unsolicited proposals for public-private partnership (P3) projects for public facilities and infrastructure.

II. Present Situation:

Public Records and Open Meetings Requirements

The Florida Constitution provides that the public has the right to access government records and meetings. The public may inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or of persons acting on their behalf.¹ The public also has a right to be afforded notice and access to meetings of any collegial public body of the executive branch of state government or of any local government.² The Legislature’s meetings must also be open and noticed to the public, unless there is an exemption provided for by the Constitution.³

In addition to the Florida Constitution, the Florida Statutes specify conditions under which public access must be provided to government records and meetings. The Public Records Act⁴ guarantees every person’s right to inspect and copy any state or local government public record.⁵

¹ FLA. CONST., art. I, s. 24(a).

² FLA. CONST., art. I, s. 24(b).

³ FLA. CONST., art. I, s. 24(b).

⁴ Chapter 119, F.S.

⁵ Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” to mean “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law

The Sunshine Law⁶ requires all meetings of any board or commission of any state or local agency or authority at which official acts are to be taken to be noticed and open to the public.⁷

The Legislature may create an exemption to public records or open meetings requirements.⁸ An exemption must specifically state the public necessity justifying the exemption⁹ and must be tailored to accomplish the stated purpose of the law.¹⁰

Open Government Sunset Review Act

The Open Government Sunset Review Act (OGSR) prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions.¹¹ The OGSR provides that an exemption automatically repeals on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption.¹²

The OGSR provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.¹³ An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;¹⁴

including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.” The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So.2d 32 (Fla. 1992). The Legislature’s records are public pursuant to section 11.0431, F.S.

⁶ Section 286.011, F.S.

⁷ Section 286.011(1)-(2), F.S. The Sunshine Law does not apply to the Legislature; rather, open meetings requirements for the Legislature are set out in the Florida Constitution. Article III, section 4(e) of the Florida Constitution provides that legislative committee meetings must be open and noticed to the public. In addition, prearranged gatherings, between more than two members of the Legislature, or between the Governor, the President of the Senate, or the Speaker of the House of Representatives, the purpose of which is to agree upon or to take formal legislative action, must be reasonably open to the public.

⁸ FLA. CONST., art. I, s. 24(c). There is a difference between records the Legislature designates as exempt from public records requirements and those the Legislature designates *confidential* and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential, such record may not be released, to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004).

⁹ FLA. CONST., art. I, s. 24(c).

¹⁰ FLA. CONST., art. I, s. 24(c).

¹¹ Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more information or to include meetings. The OGSR does not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to section 119.15(2), F.S.

¹² Section 119.15(3), F.S.

¹³ Section 119.15(6)(b), F.S.

¹⁴ Section 119.15(6)(b)1., F.S.

- Releasing sensitive personal information would be defamatory or would jeopardize an individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;¹⁵ or
- It protects trade or business secrets.¹⁶

The OGSR also requires specified questions to be considered during the review process.¹⁷ In examining an exemption, the OGSR asks the Legislature to carefully question the purpose and necessity of reenacting the exemption.

If, in reenacting an exemption, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.¹⁸ If the exemption is reenacted without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless provided for by law.¹⁹

Public-Private Partnerships

Section 287.05712, F.S., governs the procurement process for public-private partnerships (P3s) for public purpose projects. It authorizes a responsible public entity²⁰ to enter into a P3 for specified qualifying projects²¹ if the responsible public entity determines the project is in the public's best interest.²²

Responsible public entities may receive unsolicited proposals or may solicit proposals for qualifying projects and may, thereafter, enter into an agreement with a private entity for the

¹⁵ Section 119.15(6)(b)2., F.S.

¹⁶ Section 119.15(6)(b)3., F.S.

¹⁷ Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

¹⁸ FLA. CONST., art. I, s. 24(c).

¹⁹ Section 119.15(7), F.S.

²⁰ Section 287.05712(1)(j), F.S., defines "responsible public entity" as a county, municipality, school board, or any other political subdivision of the state; a public body politic and corporate; or a regional entity that serves a public purpose and is authorized to develop or operate a qualifying project.

²¹ Section 287.05712(1)(i), F.S., defines the term "qualifying project" as a facility or project that serves a public purpose, including, but not limited to, any ferry or mass transit facility, vehicle parking facility, airport or seaport facility, rail facility or project, fuel supply facility, oil or gas pipeline, medical or nursing care facility, recreational facility, sporting or cultural facility, or educational facility or other building or facility that is used or will be used by a public educational institution, or any other public facility or infrastructure that is used or will be used by the public at large or in support of an accepted public purpose or activity; an improvement, including equipment, of a building that will be principally used by a public entity or the public at large or that supports a service delivery system in the public sector; a water, wastewater, or surface water management facility or other related infrastructure; or for projects that involve a facility owned or operated by the governing board of a county, district, or municipal hospital or health care system, or projects that involve a facility owned or operated by a municipal electric utility, only those projects that the governing board designates as qualifying projects.

²² Section 287.05712(4)(d), F.S.

building, upgrading, operation, ownership, or financing of facilities. Unsolicited proposals from private entities must be accompanied by the following material and information, unless waived by the responsible public entity:²³

- A description of the qualifying project, including the conceptual design of the facilities or a conceptual plan for the provision of services, and a schedule for the initiation and completion of the qualifying project.
- A description of the method by which the private entity proposes to secure any necessary property interests that are required for the qualifying project.
- A description of the private entity's general plans for financing the qualifying project, including the sources of the private entity's funds and identification of any dedicated revenue source or proposed debt or equity investment on behalf of the private entity.
- The name and address of the person who may be contacted for further information concerning the proposal.
- The proposed user fees, lease payments, or other service payments over the term of a comprehensive agreement, and the methodology and circumstances for changes to the user fees, lease payments, and other service payments over time.
- Any additional material or information the responsible public entity reasonably requests.

If the responsible public entity receives an unsolicited proposal and intends to enter into a P3 agreement for the project, the responsible public entity must publish a notice in the Florida Administrative Register and a newspaper of general circulation at least once a week for two weeks stating the entity has received a proposal and will accept other proposals.²⁴ The responsible public entity must establish a timeframe in which to accept other proposals.²⁵

After the notification period has expired, the responsible public entity must rank the proposals received in order of preference.²⁶ If negotiations with the first ranked firm are unsuccessful, the responsible public entity may begin negotiations with the second ranked firm.²⁷ The responsible public entity may reject all proposals at any point in the process.²⁸

Public Record and Public Meeting Exemptions

Current law does not provide a public record exemption for unsolicited proposals. However, sealed bids, proposals, or replies received by an agency pursuant to a competitive solicitation are exempt²⁹ from public record requirements until such time as the agency provides notice of an intended decision or until 30 days after opening the bids, proposals, or final replies, whichever is

²³ Section 287.05712(5), F.S.

²⁴ Section 287.05712(4)(b), F.S.

²⁵ *Id.*

²⁶ Section 287.05712(6)(c), F.S.

²⁷ *Id.*

²⁸ *Id.*

²⁹ There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in statute. See Attorney General Opinion 85-62 (August 1, 1985).

earlier.³⁰ If an agency rejects all bids, proposals, or replies submitted in response to a competitive solicitation and the agency concurrently provides notice of its intent to reissue the competitive solicitation, the rejected bids, proposals, or replies remain exempt until the agency provides notice of its intended decision or withdraws the reissued competitive solicitation. A bid, proposal, or reply is not exempt for longer than 12 months after the initial agency notice rejecting all bids, proposals, or replies.³¹

Current law does not provide a public meeting exemption for meetings during which an unsolicited proposal is discussed. However, public meetings in which a negotiation with a vendor is conducted pursuant to a competitive solicitation, at which a vendor makes an oral presentation as part of a competitive solicitation, or at which a vendor answers questions as part of a competitive solicitation are exempt from public meeting requirements.³² A complete recording of the closed meeting must be made and no portion of the exempt meeting may be held off the record.³³

The recording of, and any records presented at, the exempt meeting are exempt from public record requirements until such time as the agency provides notice of an intended decision or until 30 days after opening the bids, proposals, or final replies, whichever occurs earlier.³⁴ If the agency rejects all bids, proposals, or replies and concurrently provides notice of its intent to reissue a competitive solicitation, the recording and any records presented at the exempt meeting remain exempt from public record requirements until such time as the agency provides notice of an intended decision concerning the reissued competitive solicitation or until the agency withdraws the reissued competitive solicitation.³⁵ A recording and any records presented at an exempt meeting are not exempt for longer than 12 months after the initial agency notice rejecting all bids, proposals, or replies.³⁶

III. Effect of Proposed Changes:

Section 1 amends s. 287.05712(15), F.S., and transfers and renumbers it as s. 255.065(15), F.S., to create an exemption from public record and public meeting requirements for unsolicited proposals for P3 projects for public facilities and infrastructure.

Under the bill, unsolicited proposals held by a responsible public entity are exempt until the responsible public entity provides notice of its intended decision. If the responsible public entity rejects all proposals and concurrently provides notice of its intent to seek additional proposals, the unsolicited proposal remains exempt until such time that the responsible public entity provides notice of an intended decision concerning the reissued competitive solicitation or until the responsible public entity withdraws the reissued competitive solicitation for the project. An unsolicited proposal is not exempt for more than 90 days after the responsible public entity initially rejects all proposals received for the project described in the unsolicited proposal.

³⁰ Section 119.071(1)(b), F.S.

³¹ *Id.*

³² Section 286.0113(2)(b), F.S.

³³ Section 286.0113(2)(c), F.S.

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

If the responsible public entity does not issue a competitive solicitation, the unsolicited proposal is not exempt for more than 180 days after it is received by the responsible public entity.

The bill creates a public meeting exemption for any portion of a meeting during which the exempt unsolicited proposal is discussed. A recording must be made of the closed portion of the meeting. The recording, and any records generated during the closed meeting, are exempt from public record requirements until such time as the underlying public record exemption expires.

The public record and public meeting exemptions are subject to the Open Government Sunset Review Act and will stand repealed on October 2, 2020, unless reviewed and saved from repeal through reenactment by the Legislature. The bill also provides a statement of public necessity as required by the State Constitution.

Section 2 states the bill becomes effective on the same date that SB 124 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

This bill creates new public record and public meeting exemptions. Therefore the following constitutional requirements apply.

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created public record or public meeting exemption. The bill creates new public record and public meeting exemptions; thus, it requires a two-thirds vote for final passage.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill creates new public record and public meeting exemptions; thus, it includes a public necessity statement.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires a newly created public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill creates public record and public meeting exemptions for unsolicited proposals for P3 projects that expire after a certain time. The exemption does not appear to be in conflict with the constitutional requirement that the exemption be no broader than necessary to accomplish its purpose.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may create a minimal fiscal impact on local governments that receive unsolicited P3 proposals because staff responsible for complying with public record requests could require training related to the public record exemption. Local governments could incur costs associated with redacting the exempt information prior to releasing a record. The costs, however, would be absorbed, as they are part of the day-to-day responsibilities of the local government. In addition, local governments may incur minimal fiscal costs associated with recording that portion of a closed meeting during which an unsolicited proposal that is exempt is discussed.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 287.05712(15) of the Florida Statutes and transfers and renumbers it as section 255.065(15) 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.

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

By Senator Evers

2-00111-16

2016126__

1 A bill to be entitled
 2 An act relating to public records and public meetings;
 3 transferring, renumbering, and amending s. 287.05712,
 4 F.S., relating to public-private partnerships for
 5 public facilities and infrastructure; providing a
 6 definition; providing an exemption from public records
 7 requirements for a specified period for unsolicited
 8 proposals received by a responsible public entity;
 9 providing an exemption from public meeting
 10 requirements for any portion of a meeting of a
 11 responsible public entity during which exempt
 12 proposals are discussed; requiring that a recording be
 13 made of the closed meeting; providing an exemption
 14 from public records requirements for a specified
 15 period for the recording of, and any records generated
 16 during, a closed meeting; providing for future
 17 legislative review and repeal of the exemptions;
 18 providing a statement of public necessity; providing a
 19 contingent effective date.

20
 21 Be It Enacted by the Legislature of the State of Florida:

22
 23 Section 1. Subsection (15) is added to section 287.05712,
 24 Florida Statutes, as transferred, renumbered, and amended by SB
 25 ____, to read:

26 255.065 ~~287.05712~~ Public-private partnerships; public
 27 records and public meetings exemptions.-

28 (15) PUBLIC RECORDS AND PUBLIC MEETINGS EXEMPTIONS.-

29 (a) As used in this subsection, the term "competitive

2-00111-16

2016126__

30 solicitation” has the same meaning as provided in s. 119.071(1).

31 (b)1. An unsolicited proposal received by a responsible
32 public entity is exempt from s. 119.07(1) and s. 24(a), Art. I
33 of the State Constitution until such time as the responsible
34 public entity provides notice of an intended decision for a
35 qualifying project.

36 2. If the responsible public entity rejects all proposals
37 submitted pursuant to a competitive solicitation for a
38 qualifying project and such entity concurrently provides notice
39 of its intent to seek additional proposals for such project, the
40 unsolicited proposal remains exempt until the responsible public
41 entity provides notice of an intended decision concerning the
42 reissued competitive solicitation for the qualifying project or
43 until the responsible public entity withdraws the reissued
44 competitive solicitation for such project.

45 3. An unsolicited proposal is exempt for no longer than 90
46 days after the initial notice by the responsible public entity
47 rejecting all proposals.

48 (c) If the responsible public entity does not issue a
49 competitive solicitation for a qualifying project, the
50 unsolicited proposal ceases to be exempt 180 days after receipt
51 of the unsolicited proposal by such entity.

52 (d)1. Any portion of a meeting of a responsible public
53 entity during which an unsolicited proposal that is exempt is
54 discussed is exempt from s. 286.011 and s. 24(b), Art. I of the
55 State Constitution.

56 2.a. A complete recording must be made of any portion of an
57 exempt meeting. No portion of the exempt meeting may be held off
58 the record.

2-00111-16

2016126__

59 b. The recording of, and any records generated during, the
60 exempt meeting are exempt from s. 119.07(1) and s. 24(a), Art. I
61 of the State Constitution until such time as the responsible
62 public entity provides notice of an intended decision for a
63 qualifying project or 180 days after receipt of the unsolicited
64 proposal by the responsible public entity if such entity does
65 not issue a competitive solicitation for the project.

66 c. If the responsible public entity rejects all proposals
67 and concurrently provides notice of its intent to reissue a
68 competitive solicitation, the recording and any records
69 generated at the exempt meeting remain exempt from s. 119.07(1)
70 and s. 24(a), Art. I of the State Constitution until such time
71 as the responsible public entity provides notice of an intended
72 decision concerning the reissued competitive solicitation or
73 until the responsible public entity withdraws the reissued
74 competitive solicitation for such project.

75 d. A recording and any records generated during an exempt
76 meeting are exempt for no longer than 90 days after the initial
77 notice by the responsible public entity rejecting all proposals.

78 (e) This subsection is subject to the Open Government
79 Sunset Review Act in accordance with s. 119.15 and shall stand
80 repealed on October 2, 2021, unless reviewed and saved from
81 repeal through reenactment by the Legislature.

82 Section 2. (1) The Legislature finds that it is a public
83 necessity that an unsolicited proposal received by a responsible
84 public entity pursuant to s. 255.065, Florida Statutes, be made
85 exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
86 Article I of the State Constitution for a specified period.
87 Temporarily prohibiting the public release of unsolicited

2-00111-16

2016126__

88 proposals ensures the effective and efficient administration of
89 the public-private partnership process established in s.
90 255.065, Florida Statutes. Temporarily protecting unsolicited
91 proposals protects the public-private partnership process by
92 encouraging private entities to submit such proposals, which
93 will facilitate the timely development and operation of a
94 qualifying project. Protecting such information ensures that
95 other private entities do not gain an unfair competitive
96 advantage. The public records exemption preserves public
97 oversight of the public-private partnership process by providing
98 for disclosure of the unsolicited proposal when the responsible
99 public entity provides notice of an intended decision; by
100 limiting the exemption to no longer than 90 days after the
101 responsible public entity rejects all proposals received in a
102 competitive solicitation for a qualifying project; or by
103 limiting the exemption to no longer than 180 days after receipt
104 of an unsolicited proposal if such entity does not issue a
105 competitive solicitation for a qualifying project related to the
106 proposal.

107 (2) The Legislature further finds that it is a public
108 necessity that any portion of a meeting of the responsible
109 public entity during which an unsolicited proposal that is
110 exempt from public records requirements is discussed be made
111 exempt from s. 286.011, Florida Statutes, and s. 24(b), Article
112 I of the State Constitution. The Legislature also finds that it
113 is a public necessity that the recording of, and any records
114 generated during, a closed meeting be made temporarily exempt
115 from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of
116 the State Constitution. Failure to close any portion of a

2-00111-16

2016126__

117 meeting during which such unsolicited proposal is discussed, and
118 failure to protect the release of the recording and records
119 generated during that closed meeting, would defeat the purpose
120 of the public records exemption. In addition, the Legislature
121 finds that public oversight is maintained because the public
122 records exemption for the recording and records generated during
123 any closed portion of a meeting of the responsible public entity
124 are subject to public disclosure when such entity provides
125 notice of an intended decision; are exempt no longer than 90
126 days after the responsible public entity rejects all proposals
127 received in a competitive solicitation for a qualifying project;
128 or are exempt no longer than 180 days after receipt of an
129 unsolicited proposal if the responsible public entity does not
130 issue a competitive solicitation for a qualifying project
131 related to the proposal.

132 Section 3. This act shall take effect on the same date that
133 SB ___ or similar legislation takes effect, if such legislation
134 is adopted in the same legislative session or an extension
135 thereof and becomes a law.



The Florida Senate

Committee Agenda Request

To: Senator Simpson
Chair, Committee on Community Affairs

Subject: Committee Agenda Request

September 22, 2015

Dear Senator Simpson,

I respectfully request that **Senate Bill 0126**, regarding **Public Records and Public Meetings/Public-Private Partnerships**, be placed on the:

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

A handwritten signature in cursive script that reads "Greg Evers".

Senator Greg Evers
Florida Senate, District 2

APPEARANCE RECORD

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

11/17/15
Meeting Date

126
Bill Number (if applicable)

Topic Public Records / PPP

Amendment Barcode (if applicable)

Name Edward Briggs

Job Title _____

Address 235 W. Brandon Blvd. Ste. 640
Street
Brandon FL 33511
City State Zip

Phone 850-933-5994

Email edward@arsaconsultingllc.com

Speaking: For Against Information

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

Representing Associated Builders & Contractors; Gulf Coast Chapter

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)

11/17/2015

Meeting Date

SB 126

Bill Number (if applicable)

Topic Public Records and Public Meetings

Amendment Barcode (if applicable)

Name Warren Husband

Job Title _____

Address PO Box 10909

Phone 950-205-9000

Street

Tallahassee

FL

32302

Email whh@metzlaw.com

City

State

Zip

Speaking: For Against Information

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

Representing Fla. Associated General Contractors Council

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

11/17/15

Meeting Date

126

Bill Number (if applicable)

Public/Print Partnership (PPPs)
Topic Public/Print Partnership (PPPs)

Amendment Barcode (if applicable)

Name Richard Watson

Job Title Legislative Counsel

Address P.O. Box 10038

Phone 850 222 0000

Street

Tallahassee, FL 32302

City

State

Zip

Email rick@watsonand

associates.com

Speaking: For Against Information

Waive Speaking: In Support Against

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

Representing ABC of FL (Associated Builders & Contractors)

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
COMMITTEE VOTE RECORD

COMMITTEE: Community Affairs
ITEM: SB 126
FINAL ACTION: Favorable
MEETING DATE: Tuesday, November 17, 2015
TIME: 1:00—3:00 p.m.
PLACE: 301 Senate Office Building

FINAL VOTE		SENATORS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Abruzzo						
		Bradley						
X		Dean						
X		Diaz de la Portilla						
X		Hutson						
X		Thompson						
X		Brandes, VICE CHAIR						
X		Simpson, CHAIR						
7	0	TOTALS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting

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: CS/SB 516

INTRODUCER: Community Affairs Committee and Senators Ring and Gaetz

SUBJECT: Special Districts

DATE: November 16, 2015 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	Fav/CS
2.			ATD	
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 516 requires each special district to publish an online version of its budget information on its official website which allows the public to:

- View multiple years of budget, general ledger, and checking account data;
- Review year-over-year spending trends, examine individual accounting entries, and filter data according to categories in the special district's chart of accounts, including, but not limited to, fund, department, division, program, or activity;
- Download financial data and graphs;
- View data in different graphical formats, including, but not limited to, stacked line, trend line, bar graph, and pie chart;
- View data in tabular formats;
- View information for multiple special district departments, divisions, funds, or financial categories simultaneously; and
- View and compare revenue and expense trends simultaneously on the same graph for any level of financial data.

The bill removes several provisions relating to a special district that does not operate an official website because a special district is required to operate an official website as of October 1, 2015.

The bill provides that an independent special district that regulates transit or transportation services is subject to the Administrative Procedure Act in ch. 120, F.S.

II. Present Situation:

Special Districts

A special district is a unit of local government created for a special purpose, which has jurisdiction to operate within a limited geographical area. Special districts may be created by general law (an act of the Legislature), by special act (a law enacted by the Legislature at the request of a local government and affecting only that local government), by local ordinance, or by rule of the Governor and Cabinet.¹ Special districts are created to provide a wide variety of services, such as mosquito control,² beach facilities, children's services,³ fire control and rescue,⁴ or drainage control.⁵

All special districts must comply with the requirements of the Uniform Special District Accountability Act of 1989 which was enacted by the Legislature to reform and consolidate laws relating to special districts. The act also charges the Department of Economic Opportunity (DEO) Special District Accountability Program with a number of duties relating to special districts, including publishing and updating a "Florida Special District Handbook."⁶

According to the DEO, the state currently has 1,662 active special districts and 10 inactive ones, comprised of 635 dependent and 1,027 independent special districts.⁷

Special District Website Requirements

Section 189.016, F.S., requires special districts to comply with certain budget requirements and file certain documents and reports with the Department of Economic Opportunity and other state and local agencies. Section 189.016, F.S., requires special districts to make the following website postings:

- Each special district must post its tentative budget on its official website at least 2 days before the budget hearing, held pursuant to s. 200.065, F.S., or other law, to consider such budget.⁸
- Each special district must post its final adopted budget on its official website within 30 days after adoption⁹ and must post any budget amendments on its official website within 5 days after adoption.¹⁰

¹ Section 189.012(6), F.S.

² Section 388.021(1), F.S. However, new independent mosquito control districts are prohibited; *see* s. 388.021(2), F.S.

³ Section 125.901(1), F.S.

⁴ Section 191.002, F.S.

⁵ Section 298.01, F.S.

⁶ Section 189.064, F.S.

⁷ Department of Economic Opportunity, Division of Community Development, *Official List of Special Districts Online*, (data as of November 5, 2015) available at <https://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/StateTotals.cfm> (last visited November 5, 2015).

⁸ Section 189.016(4), F.S.

⁹ *Id.*

¹⁰ Section 189.016(7), F.S.

- If a special district does not operate an official website, the special district must transmit the tentative budget,¹¹ adopted budget,¹² or budget amendment¹³ to the manager or administrator of the local general-purpose government in which it is located. The manager or administrator of the local general-purpose government shall post such information to its website.

Beginning October 1, 2015, or by the end of the first full fiscal year after its creation, each special district is required to maintain an official website containing specific information about the special district.¹⁴ Independent special districts are required to maintain their own website,¹⁵ while only a link to information about dependent special districts must be displayed on the home page of the local general-purpose government that created the district.¹⁶

The Administrative Procedure Act

The Administrative Procedure Act (APA) in ch. 120, F.S., sets forth uniform procedures that agencies must follow when exercising rulemaking authority. A rule is an agency statement of general applicability which interprets, implements, or prescribes law or policy, including the procedure and practice requirements of an agency.¹⁷ Rulemaking authority is delegated by the Legislature¹⁸ through statute and authorizes an agency to “adopt, develop, establish, or otherwise create”¹⁹ a rule. Agencies do not have discretion whether to engage in rulemaking.²⁰ To adopt a rule, an agency must have a general grant of authority to implement a specific law through rulemaking.²¹ The grant of rulemaking authority itself need not be detailed.²² The specific statute being interpreted or implemented through rulemaking must provide specific standards and guidelines to preclude the administrative agency from exercising unbridled discretion in creating policy or applying the law.²³

III. Effect of Proposed Changes:

Section 1 amends s. 189.016, F.S., to require each special district to publish an online version of its budget information on its official website which allows the public to:

- View multiple years of budget, general ledger, and checking account data;
- Review year-over-year spending trends, examine individual accounting entries, and filter data according to categories in the special district’s chart of accounts, including, but not limited to, fund, department, division, program, or activity;

¹¹ Section 189.016(4), F.S.

¹² *Id.*

¹³ Section 189.016(7), F.S.

¹⁴ Section 189.069(1), F.S.

¹⁵ Section 189.069(1)(a), F.S.

¹⁶ Section 189.069(1)(b), F.S. Dependent special districts may maintain their own webpage, but are not required to do so.

¹⁷ Section 120.52(16), F.S.; *Florida Dep’t of Financial Services v. Capital Collateral Regional Counsel-Middle Region*, 969 So. 2d 527, 530 (Fla. 1st DCA 2007).

¹⁸ *Southwest Fla. Water Mgmt. Dist. v. Save the Manatee Club, Inc.*, 773 So. 2d 594 (Fla. 1st DCA 2000).

¹⁹ Section 120.52(17), F.S.

²⁰ Section 120.54(1)(a), F.S.

²¹ Sections 120.52(8) and 120.536(1), F.S.

²² *Southwest Fla. Water Mgmt. Dist. v. Save the Manatee Club, Inc.*, 773 So. 2d 594 at 599.

²³ *Sloban v. Fla. Bd. of Pharmacy*, 982 So. 2d 26, 29-30 (Fla. 1st DCA 2008) (internal citations omitted); *Bd. of Trustees of the Internal Improvement Trust Fund v. Day Cruise Assoc., Inc.*, 794 So. 2d 696, 704 (Fla. 1st DCA 2001).

- Download financial data and graphs;
- View data in different graphical formats, including, but not limited to, stacked line, trend line, bar graph, and pie chart;
- View data in tabular formats;
- View information for multiple special district departments, divisions, funds, or financial categories simultaneously; and
- View and compare revenue and expense trends simultaneously on the same graph for any level of financial data.

This section removes the requirement that a special district that does not operate an official website must transmit the tentative budget,²⁴ adopted budget,²⁵ or budget amendment²⁶ to the manager or administrator of the local general-purpose government in which it is located. These provisions were obsolete because each special district is required to operate an official website beginning October 1, 2015.²⁷

Section 2 amends s. 189.0695, F.S., to provide that an independent special district that regulates transit or transportation services is subject to the Administrative Procedure Act in ch. 120, F.S.

Section 3 amends s. 120.52, F.S., to redefine the term “agency” to include an independent special district that regulates transit or transportation services.

Section 4 provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

²⁴ Section 189.016(4), F.S.

²⁵ *Id.*

²⁶ Section 189.016(7), F.S.

²⁷ Chapter 2014-22 s. 54, Laws of Fla. (creating s. 189.069, F.S.).

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may have an indeterminate negative fiscal impact on special districts relating to the increased data that a special district must provide on its website.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The requirement in s. 189.016(4)(b), F.S., that each special district publish an online version of its budget information on its official website does not specify whether the requirement applies to a tentative budget, a final budget, or both the tentative budget and the final budget.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 189.016, 189.0695, and 120.52.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Community Affairs on November 17, 2015:

Provides that an independent special district that regulates transit or transportation services is subject to the Administrative Procedure Act in ch. 120, F.S.

B. Amendments:

None.



926750

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
11/17/2015	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Between lines 64 and 65

insert:

Section 2. Section 189.0695, Florida Statutes, is created to read:

189.0695 Special districts regulating transit or transportation services; procedures.—An independent or a dependent special district that regulates transit or transportation services is subject to the Administrative



926750

11 Procedure Act, chapter 120.

12 Section 3. Paragraph (a) of subsection (1) of section
13 120.52, Florida Statutes, is amended to read:

14 120.52 Definitions.—As used in this act:

15 (1) "Agency" means the following officers or governmental
16 entities if acting pursuant to powers other than those derived
17 from the constitution:

18 (a) The Governor; each state officer and state department,
19 and each departmental unit described in s. 20.04; the Board of
20 Governors of the State University System; the Commission on
21 Ethics; the Fish and Wildlife Conservation Commission; a
22 regional water supply authority; a regional planning agency; a
23 multicounty special district, but only if a majority of its
24 governing board is comprised of nonelected persons; an
25 independent or a dependent special district that regulates
26 transit or transportation services; educational units; and each
27 entity described in chapters 163, 373, 380, and 582 and s.
28 186.504.

29
30 This definition does not include a municipality or legal entity
31 created solely by a municipality; a legal entity or agency
32 created in whole or in part pursuant to part II of chapter 361;
33 a metropolitan planning organization created pursuant to s.
34 339.175; a separate legal or administrative entity created
35 pursuant to s. 339.175 of which a metropolitan planning
36 organization is a member; an expressway authority pursuant to
37 chapter 348 or any transportation authority or commission under
38 chapter 343 or chapter 349; or a legal or administrative entity
39 created by an interlocal agreement pursuant to s. 163.01(7),



926750

40 unless any party to such agreement is otherwise an agency as
41 defined in this subsection.

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

43 And the title is amended as follows:

44 Delete line 7

45 and insert:

46 made by this act; creating s. 189.0695, F.S.;

47 requiring certain independent and dependent special

48 districts to be subject to ch. 120, F.S.; amending s.

49 120.52, F.S.; redefining the term "agency"; providing

50 an effective date.



352102

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
11/17/2015	.	
	.	
	.	
	.	

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

1 **Senate Substitute for Amendment (926750) (with title**
2 **amendment)**

3
4 Between lines 64 and 65
5 insert:

6 Section 2. Section 189.0695, Florida Statutes, is created
7 to read:

8 189.0695 Special districts regulating transit or
9 transportation services; procedures.—An independent special
10 district that regulates transit or transportation services is



352102

11 subject to the Administrative Procedure Act, chapter 120.

12 Section 3. Paragraph (a) of subsection (1) of section
13 120.52, Florida Statutes, is amended to read:

14 120.52 Definitions.—As used in this act:

15 (1) "Agency" means the following officers or governmental
16 entities if acting pursuant to powers other than those derived
17 from the constitution:

18 (a) The Governor; each state officer and state department,
19 and each departmental unit described in s. 20.04; the Board of
20 Governors of the State University System; the Commission on
21 Ethics; the Fish and Wildlife Conservation Commission; a
22 regional water supply authority; a regional planning agency; a
23 multicounty special district, but only if a majority of its
24 governing board is comprised of nonelected persons; an
25 independent special district that regulates transit or
26 transportation services; educational units; and each entity
27 described in chapters 163, 373, 380, and 582 and s. 186.504.

28
29 This definition does not include a municipality or legal entity
30 created solely by a municipality; a legal entity or agency
31 created in whole or in part pursuant to part II of chapter 361;
32 a metropolitan planning organization created pursuant to s.
33 339.175; a separate legal or administrative entity created
34 pursuant to s. 339.175 of which a metropolitan planning
35 organization is a member; an expressway authority pursuant to
36 chapter 348 or any transportation authority or commission under
37 chapter 343 or chapter 349; or a legal or administrative entity
38 created by an interlocal agreement pursuant to s. 163.01(7),
39 unless any party to such agreement is otherwise an agency as



352102

40 defined in this subsection.

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

42 And the title is amended as follows:

43 Delete line 7

44 and insert:

45 made by this act; creating s. 189.0695, F.S.;

46 requiring certain independent special districts to be

47 subject to ch. 120, F.S.; amending s. 120.52, F.S.;

48 redefining the term "agency"; providing an effective

49 date.

By Senators Ring and Gaetz

29-00421-16

2016516__

1 A bill to be entitled
2 An act relating to special districts; amending s.
3 189.016, F.S.; requiring each special district to
4 operate an official website; requiring each special
5 district's official website to include specified
6 budget information; conforming provisions to changes
7 made by this act; providing an effective date.

8
9 Be It Enacted by the Legislature of the State of Florida:

10
11 Section 1. Subsections (4) and (7) of section 189.016,
12 Florida Statutes, are amended to read:

13 189.016 Reports; budgets; audits.—

14 (4) (a) The tentative budget must be posted on the special
15 district's official website at least 2 days before the budget
16 hearing, held pursuant to s. 200.065 or other law, to consider
17 such budget. The final adopted budget must be posted on the
18 special district's official website within 30 days after
19 adoption. ~~If the special district does not operate an official~~
20 ~~website, the special district must, within a reasonable period~~
21 ~~of time as established by the local general-purpose government~~
22 ~~or governments in which the special district is located or the~~
23 ~~local governing authority to which the district is dependent,~~
24 ~~transmit the tentative budget or final budget to the manager or~~
25 ~~administrator of the local general-purpose government or the~~
26 ~~local governing authority. The manager or administrator shall~~
27 ~~post the tentative budget or final budget on the website of the~~
28 ~~local general-purpose government or governing authority. This~~
29 subsection and subsection (3) do not apply to water management

29-00421-16

2016516__

30 districts as defined in s. 373.019.

31 (b) Each special district shall publish an online version
32 of its budget information on its official website which allows
33 the public to:

34 1. View multiple years of budget, general ledger, and
35 checking account data;

36 2. Review year-over-year spending trends, examine
37 individual accounting entries, and filter data according to
38 categories in the special district's chart of accounts,
39 including, but not limited to, fund, department, division,
40 program, or activity;

41 3. Download financial data and graphs;

42 4. View data in different graphical formats, including, but
43 not limited to, stacked line, trend line, bar graph, and pie
44 chart;

45 5. View data in tabular formats;

46 6. View information for multiple special district
47 departments, divisions, funds, or financial categories
48 simultaneously; and

49 7. View and compare revenue and expense trends
50 simultaneously on the same graph for any level of financial
51 data.

52 (7) If the governing body of a special district amends the
53 budget pursuant to paragraph (6) (c), the adopted amendment must
54 be posted on the official website of the special district within
55 5 days after adoption. ~~If the special district does not operate~~
56 ~~an official website, the special district must, within a~~
57 ~~reasonable period of time as established by the local general-~~
58 ~~purpose government or governments in which the special district~~

29-00421-16

2016516__

59 ~~is located or the local governing authority to which the~~
60 ~~district is dependent, transmit the adopted amendment to the~~
61 ~~manager or administrator of the local general-purpose government~~
62 ~~or governing authority. The manager or administrator shall post~~
63 ~~the adopted amendment on the website of the local general-~~
64 ~~purpose government or governing authority.~~

65 Section 2. This act shall take effect July 1, 2016.



The Florida Senate

Committee Agenda Request

To: Senator Wilton Simpson
Committee on Community Affairs

Subject: Committee Agenda Request

Date: October 22, 2015

I respectfully request that **Senate Bill #516**, relating to Special Districts, be placed on the:

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

A handwritten signature in cursive script that reads "Jeremy Ring".

Senator Jeremy Ring
Florida Senate, District 29

THE FLORIDA SENATE

APPEARANCE RECORD

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

11/17/15

Meeting Date

SBS16

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Ron Book

Job Title _____

Address 104 W. Jefferson

Street

Phone _____

T2H

City

State

Zip

Email _____

Speaking: For Against Information

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

Representing Open Gov.

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)

11/17/15

Meeting Date

516

Bill Number (if applicable)

Topic Special Districts

Amendment Barcode (if applicable)

Name Chris Lyon

Job Title Attorney

Address 315 S. Calhoun St., Suite 830

Phone 850/222-5702

Street

Tallahassee

FL

32301

City

State

Zip

Email clyon@llw-law.com

Speaking: For Against Information

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

Representing Florida Association of Special Districts

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 7014
 INTRODUCER: Governmental Oversight and Accountability Committee
 SUBJECT: Florida Retirement System
 DATE: October 27, 2015 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	McVaney	McVaney		GO Submitted as Committee Bill
1.	Present	Yeatman	CA	Favorable
2.			AP	

I. Summary:

SB 7014 reestablishes renewed membership in the Florida Retirement System (FRS). A retiree of the FRS pension plan, the FRS investment plan, the Senior Management Service Optional Annuity Program (SMSOAP), the State University System Optional Retirement Program (SUSORP) or the State Community College System Optional Retirement Program (SCCSOAP) who is employed in a regularly established position with a covered employer on or after July 1, 2016, will be a renewed member in the FRS as follows:

- FRS (all retirees) → Investment Plan (any eligible class);
- SMSOAP → Investment Plan (any eligible class);
- SUSORP → SUSORP; or
- SCCSORP → SCCSORP.

A renewed member must meet the vesting requirements of the applicable plan in which he becomes a renewed member. Except for renewed members reemployed prior to June 30, 2010, creditable service does not accrue for a retiree's employment in a regularly established position with a covered employer from July 1, 2010, through June 30, 2016, and no employer or employee contributions may be paid into a renewed member's investment plan account for employment with a covered employer during this time period.

System-wide, the contributions paid into the FRS Trust Fund by employers participating in the FRS will be increased by \$75.8 million annually.

The bill also requires employers to pay the full contribution related to the purchase of general military service under s. 121.111, F.S., in those instances in which the FRS member leaves the employment of a FRS-participating employer to report for active duty in the Armed Forces. This modification does not impact the FRS Trust Fund but does shift the costs of the service from the member to the employer.

II. Present Situation:

The Florida Retirement System

The Florida Retirement System (FRS) was established in 1970 when the Legislature consolidated the Teachers' Retirement System, the State and County Officers and Employees' Retirement System, and the Highway Patrol Pension Fund. In 1972, the Judicial Retirement System was added to the FRS, and in 2007, the membership of the Institute of Food and Agricultural Sciences Supplemental Retirement Program was included in the Regular Class of the FRS as a closed group.¹ The FRS is a contributory system, with most members contributing 3 percent of their salaries.²

The FRS is a multi-employer, contributory plan, governed by the Florida Retirement System Act in ch. 121, F.S. As of June 30, 2014, the FRS had 622,089 active members, 363,034 annuitants, 16,137 disabled retirees, and 38,058 active participants of the Deferred Retirement Option Program (DROP).³ As of June 30, 2014, the FRS consisted of 1,014 total employers. The FRS is the primary retirement plan for the employees and officers of state and county government agencies, district school boards, Florida college institutions, and state universities, as well as the employees and officers of the 186 cities and 262 special districts that have elected to join the system.⁴

The membership of the FRS is divided into five membership classes:

- The Regular Class⁵ consists of 537,993 active members, plus 5,402 in renewed membership;
- The Special Risk Class⁶ includes 68,593 active members;
- The Special Risk Administrative Support Class⁷ has 84 active members;
- The Elected Officers' Class⁸ has 2,040 active members, plus 147 in renewed membership; and
- The Senior Management Service Class⁹ has 7,607 members, plus 184 in renewed membership.¹⁰

¹ The Florida Retirement System Pension Plan and Other State Administered Systems Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2014, at p. 29. Available online at: https://www.rol.frs.state.fl.us/forms/2013-14_CAFR.pdf.

² Prior to 1975, members of the FRS were required to make employee contributions of either 4 percent for Regular Class employees or 6 percent for Special Risk Class members. Employees were again required to contribute to the system after July 1, 2011. Members in the Deferred Retirement Option Program do not contribute to the system.

³ Florida Retirement System Annual Financial Report Fiscal Year Ended June 30, 2014, at 112.

⁴ *Id.*, at 146.

⁵ The Regular Class is for all members who are not assigned to another class. Section 121.021(12), F.S.

⁶ The Special Risk Class is for members employed as law enforcement officers, firefighters, correctional officers, probation officers, paramedics and emergency technicians, among others. Section 121.0515, F.S.

⁷ The Special Risk Administrative Support Class is for a special risk member who moved or was reassigned to a nonspecial risk law enforcement, firefighting, correctional, or emergency medical care administrative support position with the same agency, or who is subsequently employed in such a position under the Florida Retirement System. Section 121.0515(8), F.S.

⁸ The Elected Officers' Class is for elected state and county officers, and for those elected municipal or special district officers whose governing body has chosen Elected Officers' Class participation for its elected officers. Section 121.052, F.S.

⁹ The Senior Management Service Class is for members who fill senior management level positions assigned by law to the Senior Management Service Class or authorized by law as eligible for Senior Management Service designation. Section 121.055, F.S.

¹⁰ All figures from Florida Retirement System Annual Financial Report Fiscal Year Ended June 30, 2014, at p. 115.

Investment Plan

In 2000, the Legislature created the Public Employee Optional Retirement Program (investment plan), a defined contribution plan offered to eligible employees as an alternative to the FRS Pension Plan.

Benefits under the investment plan accrue in individual member accounts funded by both employee and employer contributions and investment earnings. Benefits are provided through employee-directed investments offered by approved investment providers.

A member vests immediately in all employee contributions paid to the investment plan.¹¹ With respect to the employer contributions, a member vests after completing one work year of employment with an FRS employer.¹² Vested benefits are payable upon termination or death as a lump-sum distribution, direct rollover distribution, or periodic distribution.¹³ The investment plan also provides disability coverage for both in the line of duty and regular disability retirement benefits.¹⁴ An FRS member who qualifies for disability while enrolled in the investment plan must apply for benefits as if the employee were a member of the pension plan. If approved for retirement disability benefits, the member is transferred to the pension plan.¹⁵

The State Board of Administration (SBA) is primarily responsible for administering the investment plan.¹⁶ The SBA is comprised of the Governor as chair, the Chief Financial Officer, and the Attorney General.¹⁷

Pension Plan

The pension plan is administered by the Secretary of the Department of Management Services through the Division of Retirement.¹⁸ Investment management of the pension plan assets is handled by the State Board of Administration.

Any member initially enrolled in the pension plan before July 1, 2011, vests in the pension plan after completing 6 years of service with an FRS employer.¹⁹ For members enrolled on or after

¹¹ Section 121.4501(6)(a), F.S.

¹² If a member terminates employment before vesting in the investment plan, the nonvested money is transferred from the member's account to the SBA for deposit and investment by the SBA in its suspense account for up to five years. If the member is not reemployed as an eligible employee within five years, then any nonvested accumulations transferred from a member's account to the SBA's suspense account are forfeited. (Section 121.4501(6)(b) – (d), F.S.)

¹³ Section 121.591, F.S.

¹⁴ Section 121.4501(16), F.S.

¹⁵ Pension plan disability retirement benefits, which apply for investment plan members who qualify for disability, compensate an in the line of duty disabled member up to 65 percent of the average monthly compensation as of the disability retirement date for special risk class members. Other members may receive up to 42 percent of the member's average monthly compensation for disability retirement benefits. If the disability occurs other than in the line of duty, the monthly benefit may not be less than 25 percent of the average monthly compensation as of the disability retirement date. Section 121.091(4)(f), F.S.

¹⁶ Section 121.4501(8), F.S.

¹⁷ FLA.CONST. art. IV, s. 4.

¹⁸ Section 121.025, F.S.

¹⁹ Section 121.021(45)(a), F.S.

July 1, 2011, the member vests in the pension plan after 8 years of creditable service.²⁰ Benefits payable under the pension plan are calculated based on the member's years of creditable service multiplied by the service accrual rate multiplied by the member's average final compensation.²¹ For most members of the pension plan, normal retirement occurs at 30 years of service or age 62.²² For members in the Special Risk and Special Risk Administrative Support Classes, normal retirement occurs at 25 years of service or age 55.²³ Members initially enrolled in the pension plan on or after July 1, 2011, have longer vesting requirements. For unreduced benefits for members initially enrolled after that date, most members must complete 33 years of service or attain age 65, and members in the Special Risk classes must complete 30 years of service or attain age 60.²⁴

Optional Retirement Programs

Eligible employees may choose to participate in one of three retirement programs instead of participating in the FRS:

- Members of the Senior Management Service Class may elect to enroll in the Senior Management Service Optional Annuity Program;²⁵
- Members in specified positions in the State University System may elect to enroll in the State University System Optional Retirement Program;²⁶ and
- Members in specified positions at a Florida College institution may elect to enroll in the State Community College System Optional Retirement Program.²⁷

Reemployment Restrictions

For the purposes of the pension plan, a “retiree” means a former member of the FRS or an existing system who has terminated employment and is receiving benefit payments from the system in which he or she was a member.²⁸ For the purposes of the investment plan, a “retiree” means a former member of the investment plan who has terminated employment and taken a distribution of vested employee or employer contributions. This does not include a member who has received a mandatory distribution of a de minimis account authorized by the SBA or a minimum required distribution provided for by the Internal Revenue Code.²⁹

²⁰ Section 121.021(45)(b), F.S.

²¹ Section 121.091, F.S.

²² Section 121.021(29)(a)1., F.S.

²³ Section 121.021(29)(b)1., F.S.

²⁴ Sections 121.021(29)(a)2. and (b)2., F.S.

²⁵ The Senior Management Service Optional Annuity Program (SMSOAP) was established in 1986 for members of the Senior Management Service Class. Employees in eligible positions may irrevocably elect to participate in the SMSOAP rather than the FRS. Section 121.055(6), F.S.

²⁶ Eligible participants of the State University System Optional Retirement Program (SUSORP) are automatically enrolled in the SUSORP. However, the member must execute a contract with a SUSORP provider within the first 90 days of employment or the employee will default into the pension plan. If the employee decides to remain in the SUSORP, the decision is irrevocable and the member must remain in the SUSORP as long as the member remains in a SUSORP-eligible position. Section 121.35, F.S.

²⁷ If the member is eligible for participation in a State Community College System Optional Retirement Program, the member must elect to participate in the program within 90 days of employment. Unlike the other optional programs, an employee who elects to participate in this optional retirement program has one opportunity to transfer to the FRS. Section 1012.875, F.S.

²⁸ Section 121.021(60), F.S.

²⁹ Section 121.4501(2)(k), F.S.

After retiring under the FRS, a retiree can work for any private employer, for any public employer not participating in the FRS, or for any employer in another state, without affecting his FRS benefits.

However, there are certain termination requirements and reemployment limitations that affect retirement benefits **if a retiree is employed with an FRS-participating employer** during the first 12 calendar months after the effective retirement date without DROP participation or after the DROP termination date. If a retiree returns to work during the **first 6 calendar months** of retirement or after his DROP termination date, then his retirement application is voided and all retirement benefits, including any funds accumulated during DROP participation, must be repaid to the FRS Trust Fund. This restriction applies even if the particular position held is not covered by the FRS. A retiree cannot become a newly hired employee until after meeting the definition of termination by remaining unemployed for six calendar months.

A retiree may not receive both wages paid by an FRS-participating employer and an FRS retirement benefit in the same month during the **7th through 12th calendar months** of retirement or after the DROP termination date. There are no exceptions to this reemployment limitation during this period. This restriction applies even if the particular position held is not covered by the FRS. A retiree must inform the Division of Retirement if he works for an FRS-participating employer during the reemployment limitation period.

Suspended retirement benefits for the months a reemployed retiree is employed by an FRS-participating employer during the reemployment limitation period will never be paid to the retiree. The reemployed retiree and his employing agency are jointly and severally liable for repaying any retirement benefits the employee receives while working during this period.

There are no limits on working for an FRS-participating employer after a retiree has been retired for 12 calendar months.

If a retiree is reemployed with an FRS participating employer, he will be required to sign a statement that his reemployment does not violate these provisions.³⁰

Before July 1, 2010, there were various exceptions to employment with FRS-participating employers during the reemployment limitation period. All reemployment limitation exceptions that were not specific to educational institutions were closed by operation of ch. 2009-209, L.O.F., which also extended from 1 month to 12 months the exclusionary period immediately after retirement in which a retiree may not be reemployed with any FRS-participating employer.

Renewed Membership

Retirees of the FRS Pension Plan or the FRS Investment Plan who were initially reemployed in covered employment prior to July 1, 2010, can have renewed membership in either the FRS pension plan or FRS investment plan or other state-administered retirement system and earn

³⁰ The information in this section of the bill analysis comes from the FRS Pension Plan Member Handbook, 2013 edition, p. 56, located at: https://www.rol.frs.state.fl.us/forms/member_handbook.pdf. See also ss. 121.091(9), 121.122, and 1012.01(2), F.S.

service credit toward a second retirement benefit. Renewed members who retire again, including former DROP participants, are once more subject to reemployment limitations.

Renewed members are not eligible to participate in DROP or the Special Risk Class, and are not eligible for disability retirement. However, the surviving spouse and dependent children of a renewed member may qualify for survivor benefits.

Prior to July 1, 2010, when ch. 2009-209, L.O.F., took effect, retirees of a state-administered retirement system reemployed by an FRS-participating employer were eligible for renewed membership in the FRS. Currently, retirees initially reemployed in a regularly established position on or after July 1, 2010, are not eligible for renewed membership and will not earn creditable service toward a subsequent retirement benefit. This restriction from renewed membership includes retirees of the FRS pension plan, the FRS investment plan, the SUSORP, the SMSOAP, and the SCCSORP.³¹

Reemployed Retirees without Renewed Membership

Information provided by the Department of Management Services indicates that as of December of 2013, there were 5,703 employees who retired by June 30, 2010, and subsequently returned to FRS-covered employment, but are not permitted to be renewed members of the FRS. Of that number, 2,918 were retirees of the pension plan, and 2,616 were retirees of the investment plan. Anecdotal evidence suggests that some of these “retirees” were employees who took distributions from investment plan accounts prior to July 1, 2010, and rolled them into IRAs upon their termination from FRS-covered employment. The enactment on the bar to renewed membership means that anyone who took such a distribution is deemed retired, and cannot become a renewed member of the FRS.

Purchase of Military Service

Section 121.111, F.S., allows a member of the Florida Retirement System to purchase credit for military service. For the purchase of general military service, the member must have been employed by an FRS-participating employer in a regularly established position within 60 days prior to reporting for active duty. Upon return from active duty the member must be reemployed by the employer. The cost to purchase the service credit is equal to the employee and employer contributions required for the employee’s membership class for each month of service credit during the period of military service based on the member’s rate of monthly compensation as of the date that the employee left his position. Annual interest of 6 percent is added to such contributions from the due date of the contribution until final payment is made.

III. Effect of Proposed Changes:

The bill allows renewed membership in the FRS investment plan, beginning July 1, 2016, for all retirees of the FRS, the SUSORP, the CCORP, and the SMSOAP.

Section 6 amends s. 121.122, F.S., to provide that a retiree of:

- Either the pension plan or the investment plan of the FRS,

³¹ *Id.*, at 57. See also ss. 121.053, 121.091(9), 121.122, and 238.181, F.S.

- The State University System Optional Retirement Program,
 - The Senior Management Service Optional Annuity Program, or
 - The State Community College System Optional Retirement Program,
- who is employed in a regularly established position with a covered employer on or after July 1, 2016, will be a renewed member of the appropriate membership class in the investment plan, unless employed in a position eligible for participation in the SUSORP or the SCCSORP, in which case the retiree will become a renewed member of the SUSOPRP or SCCSORP. The renewed member must satisfy the vesting requirements of the plan (1 year for the investment plan). Members who retired and returned to renewed membership before July 1, 2010, may continue membership in the plan they choose.

A renewed member who had returned to covered employment prior to July 1, 2010, may retain membership in either the pension plan or the investment plan. A renewed member may be moved to Special Risk Class membership after July 1, 2016, if the position and member are eligible for Special Risk Class membership.

Creditable service (including credit toward the retiree health insurance subsidy) does not accrue for a retiree's employment in a regularly established position with a covered employer from July 1, 2010, through June 30, 2016. Employer or employee contributions may not be paid into a renewed member's investment plan account for employment with a covered employer during this time period.

Section 1 amends s. 121.0515, F.S., to make conforming changes consistent with section 6 and to allow a renewed member who returned to covered service prior to July 1, 2010, to shift to the Special Risk Class for service on or after July 1, 2016, if the member's position is eligible for the Special Risk Class.

Sections 2, 3, 4, and 7 amend ss. 121.053, 121.055, 121.091, and 121.4501, F.S., respectively to make conforming changes consistent with section 6 of the bill.

Section 5 amends s. 121.111, F.S., to require the employer to pay both the employer and employee contributions for the purchase of military service credit earned on or after July 1, 2016.

Section 8 provides a mechanism to adjust employer contribution rates to be paid into the FRS Trust Fund.

Section 9 makes the finding that the changes made by the bill fulfill an important state interest.

Section 10 provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Subsection (a) of s. 18, Art. VII of the Florida Constitution provides in pertinent part that "no county or municipality shall be bound by any general law requiring such county or municipality to spend funds . . . unless the legislature has determined that such law

fulfills an important state interest and unless: . . . the expenditure is required to comply with a law that applies to all persons similarly situated.”

This bill includes legislative findings that the bill fulfills important state interests (see section 9), and the bill applies to all persons similarly situated (those employers participating in the Florida Retirement System), including state agencies, school boards, universities, community colleges, counties, and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Members of the FRS who purchase military service earned on or after July 1, 2016, will save roughly 3 percent of the salary used to calculate the cost of the purchase of the credits.

C. Government Sector Impact:

Employers participating in the FRS that hire employees eligible for renewed membership will incur greater personnel costs associated with contributing to the FRS. Likewise, the public sector employees will also contribute 3 percent of their salaries to the FRS.

The aggregate employer contributions anticipated to be paid into the Florida Retirement System Trust Fund in Fiscal Year 2016-2017 will increase by approximately \$75.8 million when compared to the employer contributions paid in Fiscal Year 2015-2016. The impacts by employer group for Fiscal Year 2016-2017 are noted below.

Employer Group	Impact on Contributions
State Agencies	\$12.7 m
Universities	\$7.3 m
Colleges	\$2.6 m
School Boards	\$29.9 m
Counties	\$19.4 m
Other	\$3.9 m
Total	\$75.8 m

Employers participating in the FRS that have employees purchase military service earned on or after July 1, 2016, will incur greater costs associated with the purchase of the service.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 121.0515, 121.053, 121.055, 121.091, 121.111, 121.122, and 121.4501.

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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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
11/17/2015	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Before line 80
insert:

Section 1. Paragraph (g) is added to subsection (3) of section 121.031, Florida Statutes, to read:

121.031 Administration of system; appropriation; oaths; actuarial studies; public records.—

(3) The administrator shall cause an actuarial study of the system to be made at least annually and shall report the results



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11 of such study to the Legislature by December 31 prior to the
12 next legislative session. The study shall, at a minimum, conform
13 to the requirements of s. 112.63, with the following exceptions
14 and additions:

15 (g) Effective January 1, 2017, the actuarial assumed rate
16 of return must be at a rate that is expected to be realized at
17 least 50 percent of the time over the next 30-year period.

18

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

20 And the title is amended as follows:

21 Between lines 2 and 3

22 insert:

23 amending s. 121.031, F.S.; revising the minimum
24 requirements for the annual actuarial study of the
25 Florida Retirement System;

By the Committee on Governmental Oversight and Accountability

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1 A bill to be entitled
2 An act relating to the Florida Retirement System;
3 amending s. 121.0515, F.S.; authorizing renewed
4 membership in the retirement system for retirees who
5 are reemployed in a position eligible for the Special
6 Risk Class under certain circumstances; amending s.
7 121.053, F.S.; authorizing renewed membership in the
8 retirement system for retirees who are reemployed in a
9 position eligible for the Elected Officers' Class
10 under certain circumstances; amending s. 121.055,
11 F.S.; providing for renewed membership in the
12 retirement system for retirees of the Senior
13 Management Service Optional Annuity Program who are
14 employed on or after a specified date; amending s.
15 121.091, F.S.; conforming a provision to changes made
16 by the act; amending s. 121.111, F.S.; requiring an
17 employer to make employer and employee contributions
18 toward credit for military service for service credit
19 earned on or after a specified date; amending s.
20 121.122, F.S.; requiring that certain retirees who are
21 employed on or after a specified date be renewed
22 members in the investment plan; providing exceptions;
23 specifying that creditable service does not accrue for
24 employment during a specified period; prohibiting
25 certain funds from being paid into a renewed member's
26 investment plan account for a specified period of
27 employment; requiring the renewed member to satisfy
28 vesting requirements; prohibiting a renewed member
29 from receiving specified disability benefits;

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30 specifying limitations and requirements; requiring the
31 employer and the retiree to make applicable
32 contributions to the renewed member's investment plan
33 account; providing for the transfer of contributions;
34 prohibiting the purchase of past service in the
35 investment plan; authorizing a renewed member to
36 receive additional credit towards the health insurance
37 subsidy under certain circumstances; prohibiting
38 transfers to the pension plan; providing that a
39 retiree employed on or after a specified date in a
40 regularly established position eligible for the State
41 University System Optional Retirement Program or State
42 Community College System Optional Retirement Program
43 is a renewed member of that program; specifying
44 limitations and requirements; requiring the employer
45 and the retiree to make applicable contributions;
46 prohibiting the purchase of past service in the
47 program; providing for renewed membership in the
48 optional retirement program for certain retirees
49 initially reemployed on or after a specified date;
50 prohibiting a renewed member from receiving specified
51 disability benefits; specifying limitations and
52 requirements; requiring the employer and the retiree
53 to make applicable contributions; providing for the
54 transfer of contributions; prohibiting the purchase of
55 past service in the optional retirement program;
56 authorizing a renewed member to receive additional
57 credit towards the health insurance subsidy under
58 certain circumstances; providing for enrollment in the

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59 investment plan for retirees initially reemployed on
60 or after a specified date; prohibiting such retirees
61 from receiving specified disability benefits;
62 specifying limitations and requirements; providing for
63 contributions, and the transfer thereof, to the
64 reemployed retiree's investment plan account;
65 prohibiting the purchase of past service; authorizing
66 a renewed member to receive additional credit towards
67 the health insurance subsidy under certain
68 circumstances; prohibiting transfers to the pension
69 plan; amending s. 121.4501, F.S.; revising the
70 definition of the term "eligible employee"; conforming
71 a provision to changes made by the act; providing for
72 employer contribution rate increases to fund changes
73 made by the act; providing a directive to the Division
74 of Law Revision and Information; declaring that the
75 act fulfills an important state interest; providing an
76 effective date.

77

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

79

80 Section 1. Paragraphs (i) and (j) are added to subsection
81 (2) of section 121.0515, Florida Statutes, to read:

82 121.0515 Special Risk Class.—

83 (2) MEMBERSHIP.—

84 (i) A retiree of a state-administered retirement system who
85 is employed in a regularly established position eligible for the
86 Special Risk Class with a covered employer and initially
87 enrolled in the Special Risk Class as a renewed member as

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88 provided in s. 121.122 on or after July 1, 2016, is subject to
89 the following conditions:

90 1. If initially reemployed at any time from July 1, 2010,
91 through June 30, 2016, and employed in a regularly established
92 position eligible for the Special Risk Class as provided in this
93 subsection and subsection (3), the retiree shall be enrolled in
94 the Special Risk Class as a renewed member of the investment
95 plan for creditable service earned on or after July 1, 2016.

96 2. If initially reemployed on or after July 1, 2016 in a
97 regularly established position eligible for the Special Risk
98 Class as provided in this subsection and subsection (3), the
99 retiree shall be enrolled as a renewed member of the investment
100 plan.

101 3. A reemployed retiree, or the employer on behalf of the
102 retiree, may not purchase any past service for employment from
103 July 1, 2010, to June 30, 2016, when renewed membership was not
104 available.

105 (j) Effective July 1, 2016, a renewed member initially
106 enrolled before July 1, 2010, who is employed in a regularly
107 established position eligible for the Special Risk Class as
108 provided in this subsection and subsection (3) may be enrolled
109 in the Special Risk Class as a renewed member of the Florida
110 Retirement System for creditable service earned on or after July
111 1, 2016. Service as a renewed member in a regularly established
112 position otherwise covered by the Special Risk Class as required
113 by this subsection and subsection (3), before July 1, 2016,
114 cannot be upgraded from the Regular Class accrual value.

115 Section 2. Paragraph (a) of subsection (3) and subsection
116 (5) of section 121.053, Florida Statutes, are amended to read:

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117 121.053 Participation in the Elected Officers' Class for
118 retired members.—

119 (3) On or after July 1, 2010:

120 (a) A retiree of a state-administered retirement system who
121 is initially reemployed in ~~elected or appointed for the first~~
122 ~~time to~~ an elective office in a regularly established position
123 with a covered employer may not reenroll in the Florida
124 Retirement System, except as provided in s. 121.122.

125 (5) Any renewed member, as described in s. 121.122(1), (3),
126 or (6) ~~subsection (1) or subsection (2)~~, who is not receiving
127 the maximum health insurance subsidy provided in s. 112.363 is
128 entitled to earn additional credit toward the maximum health
129 insurance subsidy. Any additional subsidy due because of such
130 additional credit may be received only at the time of payment of
131 the second career retirement benefit. The total health insurance
132 subsidy received from initial and renewed membership may not
133 exceed the maximum allowed in s. 112.363.

134 Section 3. Paragraph (f) of subsection (1) and paragraph
135 (c) of subsection (6) of section 121.055, Florida Statutes, are
136 amended to read:

137 121.055 Senior Management Service Class.—There is hereby
138 established a separate class of membership within the Florida
139 Retirement System to be known as the "Senior Management Service
140 Class," which shall become effective February 1, 1987.

141 (1)

142 (f) Effective July 1, 1997:

143 1. Except as provided in subparagraph 3., an elected state
144 officer eligible for membership in the Elected Officers' Class
145 under s. 121.052(2)(a), (b), or (c) who elects membership in the

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146 Senior Management Service Class under s. 121.052(3)(c) may,
147 within 6 months after assuming office or within 6 months after
148 this act becomes a law for serving elected state officers, elect
149 to participate in the Senior Management Service Optional Annuity
150 Program, as provided in subsection (6), in lieu of membership in
151 the Senior Management Service Class.

152 2. Except as provided in subparagraph 3., an elected
153 officer of a local agency employer eligible for membership in
154 the Elected Officers' Class under s. 121.052(2)(d) who elects
155 membership in the Senior Management Service Class under s.
156 121.052(3)(c) may, within 6 months after assuming office, or
157 within 6 months after this act becomes a law for serving elected
158 officers of a local agency employer, elect to withdraw from the
159 Florida Retirement System, as provided in subparagraph (b)2., in
160 lieu of membership in the Senior Management Service Class.

161 3. A retiree of a state-administered retirement system who
162 is initially reemployed in a regularly established position on
163 ~~or after~~ July 1, 2010, through June 30, 2016, as an elected
164 official eligible for the Elected Officers' Class may not be
165 enrolled in renewed membership in the Senior Management Service
166 Class or in the Senior Management Service Optional Annuity
167 Program as provided in subsection (6), and may not withdraw from
168 the Florida Retirement System as a renewed member as provided in
169 subparagraph (b)2., as applicable, in lieu of membership in the
170 Senior Management Service Class. Effective July 1, 2016, a
171 retiree of the Senior Management Service Optional Annuity
172 Program who reenters covered employment shall be enrolled as a
173 renewed member as provided in s. 121.122.

174 (6)

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175 (c) *Participation.*—

176 1. An eligible employee who is employed on or before
177 February 1, 1987, may elect to participate in the optional
178 annuity program in lieu of participating in the Senior
179 Management Service Class. Such election shall ~~must~~ be made in
180 writing and filed with the department and the personnel officer
181 of the employer on or before May 1, 1987. An eligible employee
182 who is employed on or before February 1, 1987, and who fails to
183 make an election to participate in the optional annuity program
184 by May 1, 1987, is ~~shall be~~ deemed to have elected membership in
185 the Senior Management Service Class.

186 2. Except as provided in subparagraph 6., an employee who
187 becomes eligible to participate in the optional annuity program
188 by reason of initial employment commencing after February 1,
189 1987, may, within 90 days after the date of commencing
190 employment, elect to participate in the optional annuity
191 program. Such election shall ~~must~~ be made in writing and filed
192 with the personnel officer of the employer. An eligible employee
193 who does not within 90 days after commencing employment elect to
194 participate in the optional annuity program is ~~shall be~~ deemed
195 to have elected membership in the Senior Management Service
196 Class.

197 3. A person who is appointed to a position in the Senior
198 Management Service Class and who is a member of an existing
199 retirement system or the Special Risk or Special Risk
200 Administrative Support Classes of the Florida Retirement System
201 may elect to remain in such system or class in lieu of
202 participating in the Senior Management Service Class or optional
203 annuity program. Such election shall ~~must~~ be made in writing and

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204 filed with the department and the personnel officer of the
205 employer within 90 days after such appointment. An eligible
206 employee who fails to make an election to participate in the
207 existing system, the Special Risk Class of the Florida
208 Retirement System, the Special Risk Administrative Support Class
209 of the Florida Retirement System, or the optional annuity
210 program is ~~shall be~~ deemed to have elected membership in the
211 Senior Management Service Class.

212 4. Except as provided in subparagraph 5., an employee's
213 election to participate in the optional annuity program is
214 irrevocable if the employee continues to be employed in an
215 eligible position and continues to meet the eligibility
216 requirements set forth in this paragraph.

217 5. Effective from July 1, 2002, through September 30, 2002,
218 an active employee in a regularly established position who has
219 elected to participate in the Senior Management Service Optional
220 Annuity Program has one opportunity to choose to move from the
221 Senior Management Service Optional Annuity Program to the
222 Florida Retirement System Pension Plan.

223 a. The election shall ~~must~~ be made in writing and ~~must be~~
224 filed with the department and the personnel officer of the
225 employer before October 1, 2002, or, in the case of an active
226 employee who is on a leave of absence on July 1, 2002, within 90
227 days after the conclusion of the leave of absence. This election
228 is irrevocable.

229 b. The employee shall receive service credit under the
230 pension plan equal to his or her years of service under the
231 Senior Management Service Optional Annuity Program. The cost for
232 such credit is the amount representing the present value of that

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233 employee's accumulated benefit obligation for the affected
234 period of service.

235 c. The employee shall ~~must~~ transfer the total accumulated
236 employer contributions and earnings on deposit in his or her
237 Senior Management Service Optional Annuity Program account. If
238 the transferred amount is not sufficient to pay the amount due,
239 the employee shall ~~must~~ pay a sum representing the remainder of
240 the amount due. The employee may not retain any employer
241 contributions or earnings from the Senior Management Service
242 Optional Annuity Program account.

243 6. A retiree of a state-administered retirement system who
244 is initially reemployed on or after July 1, 2010, through June
245 30, 2016, may not renew membership in the Senior Management
246 Service Optional Annuity Program. Effective July 1, 2016, a
247 retiree of the Senior Management Service Optional Annuity
248 Program who reenters covered employment shall be enrolled as a
249 renewed member as provided in s. 121.122.

250 Section 4. Paragraph (c) of subsection (9) of section
251 121.091, Florida Statutes, is amended to read:

252 121.091 Benefits payable under the system.—Benefits may not
253 be paid under this section unless the member has terminated
254 employment as provided in s. 121.021(39) (a) or begun
255 participation in the Deferred Retirement Option Program as
256 provided in subsection (13), and a proper application has been
257 filed in the manner prescribed by the department. The department
258 may cancel an application for retirement benefits when the
259 member or beneficiary fails to timely provide the information
260 and documents required by this chapter and the department's
261 rules. The department shall adopt rules establishing procedures

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262 for application for retirement benefits and for the cancellation
263 of such application when the required information or documents
264 are not received.

265 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

266 (c) Any person whose retirement is effective on or after
267 July 1, 2010, or whose participation in the Deferred Retirement
268 Option Program terminates on or after July 1, 2010, who is
269 retired under this chapter, except under the disability
270 retirement provisions of subsection (4) or as provided in s.
271 121.053, may be reemployed by an employer that participates in a
272 state-administered retirement system and receive retirement
273 benefits and compensation from that employer. However, a person
274 may not be reemployed by an employer participating in the
275 Florida Retirement System before meeting the definition of
276 termination in s. 121.021 and may not receive both a salary from
277 the employer and retirement benefits for 6 calendar months after
278 meeting the definition of termination. However, a DROP
279 participant shall continue employment and receive a salary
280 during the period of participation in the Deferred Retirement
281 Option Program, as provided in subsection (13).

282 1. The reemployed retiree may not renew membership in the
283 Florida Retirement System, except as provided in s. 121.122.

284 2. The employer shall pay retirement contributions in an
285 amount equal to the unfunded actuarial liability portion of the
286 employer contribution that would be required for active members
287 of the Florida Retirement System in addition to the
288 contributions required by s. 121.76.

289 3. A retiree initially reemployed in violation of this
290 paragraph and an employer that employs or appoints such person

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291 are jointly and severally liable for reimbursement of any
292 retirement benefits paid to the retirement trust fund from which
293 the benefits were paid, including the Florida Retirement System
294 Trust Fund and the Public Employee Optional Retirement Program
295 Trust Fund, as appropriate. The employer must have a written
296 statement from the employee that he or she is not retired from a
297 state-administered retirement system. Retirement benefits shall
298 remain suspended until repayment is made. Benefits suspended
299 beyond the end of the retiree's 6-month reemployment limitation
300 period shall apply toward the repayment of benefits received in
301 violation of this paragraph.

302 Section 5. Subsection (1) of section 121.111, Florida
303 Statutes, is amended to read:

304 121.111 Credit for military service.—

305 (1) Creditable service of any member shall also include
306 military service as defined in s. 121.021(20) (a) if:

307 (a) The member is in the active employ of an employer
308 immediately prior to such service and leaves a position, other
309 than a temporary position, for the purpose of induction into the
310 Armed Forces of the United States or entry upon duty in the
311 Armed Forces of the United States. When applied to the Florida
312 Retirement System:

313 1. The term "position other than a temporary position"
314 means a regularly established position with a Florida Retirement
315 System employer; and

316 2. A member shall be construed to have left his or her
317 employment for military purposes if he or she reported for
318 active duty within 60 days after leaving such employment;

319 (b) The member is entitled to reemployment under the

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320 provisions of the Veterans' Reemployment Rights Act (38 U.S.C.
321 ss. 2021 et seq.);

322 (c) The member applies for reemployment with the same
323 employer within the time set forth in s. 2021 or s. 2024 of the
324 Veterans' Reemployment Rights Act, whichever is applicable, and
325 is reemployed by such employer;

326 (d)1. For service credit before July 1, 2016, the member
327 makes the required employee contributions, if any, and the
328 employer makes the required employer contributions for the
329 employee's membership class for each month of service credit
330 during such period of military service, based upon the
331 employee's rate of monthly compensation as of the date that the
332 employee left his or her position, plus 4 percent interest on
333 such contributions compounded annually from the due date of the
334 contribution until July 1, 1975, and 6.5 percent interest
335 compounded annually thereafter, until the payment is made to the
336 proper retirement trust fund; and

337 2. For service credit on or after July 1, 2016, the
338 employer makes the required employer and employee contributions
339 for the employee's membership class for each month of service
340 credit during such period of military service, based upon the
341 employee's rate of monthly compensation as of the date that the
342 employee left his or her position, plus 6.5 percent interest on
343 such contributions compounded annually from the due date of the
344 contribution until the payment is made to the Florida Retirement
345 System Trust Fund; and

346 (e) The period of service claimed pursuant to this
347 subsection does not exceed the periods specified by the
348 provisions of ss. 2021 and 2024 of the Veterans' Reemployment

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349 Rights Act which are applicable in the member's case.

350 Section 6. Subsection (2) of section 121.122, Florida
351 Statutes, is amended, and subsections (3) through (6) are added
352 to that section, to read:

353 121.122 Renewed membership in system.—

354 (2) A retiree of a state-administered retirement system who
355 is initially reemployed in a regularly established position on
356 or after July 1, 2010, through June 30, 2016, may not be
357 enrolled as a renewed member.

358 (3) A retiree of a state-administered retirement system
359 specified in subsection (2) who is employed on or after July 1,
360 2016, in a regularly established position shall be a renewed
361 member of the investment plan, regardless of the position held,
362 unless employed in a position eligible for participation in the
363 State University System Optional Retirement Program or the State
364 Community College System Optional Retirement Program as provided
365 in subsections (4) and (5), respectively. A renewed member must
366 satisfy the vesting requirements and other provisions of this
367 chapter.

368 (a) Creditable service, including credit toward the retiree
369 health insurance subsidy provided in s. 112.363, does not accrue
370 for a retiree's employment in a regularly established position
371 with a covered employer during the period from July 1, 2010,
372 through June 30, 2016.

373 (b) Employer and employee contributions, interest,
374 earnings, or any other funds may not be paid into a renewed
375 member's investment plan account for any employment in a
376 regularly established position with a covered employer from July
377 1, 2010, through June 30, 2016, by the renewed member or the

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378 employer on behalf of the member.

379 (c) To be eligible to receive a retirement benefit, the
380 renewed member must satisfy the vesting requirements in s.
381 121.4501(6).

382 (d) The member is ineligible to receive disability benefits
383 as provided in s. 121.091(4) or s. 121.591(2).

384 (e) The member is subject to the reemployment after
385 retirement limitations provided in s. 121.091(9), as applicable.

386 (f) The member must satisfy the requirements for
387 termination from employment provided in s. 121.021(39).

388 (g) Upon the renewed membership or reemployment of a
389 retiree, the employer and the retiree shall pay the applicable
390 employer and employee contributions required under ss. 112.363,
391 121.71, 121.74, and 121.76. The contributions are payable only
392 for employment and salary earned in a regularly established
393 position with a covered employer on or after July 1, 2016. The
394 employer and employee contributions shall be transferred to the
395 investment plan and placed in a default fund as designated by
396 the state board. The retiree may move the contributions once an
397 account is activated in the investment plan.

398 (h) The member may not purchase any past service in the
399 investment plan, including employment in a regularly established
400 position with a covered employer from July 1, 2010, through June
401 30, 2016.

402 (i) A renewed member who earns creditable service under the
403 investment plan and who is not receiving the maximum health
404 insurance subsidy provided in s. 112.363 is entitled to earn
405 additional credit toward the subsidy. Such credit may be earned
406 only for employment in a regularly established position with a

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407 covered employer on or after July 1, 2016. Any additional
408 subsidy due because of additional credit may be received only at
409 the time of paying the second career retirement benefit. The
410 total health insurance subsidy received by a retiree receiving
411 benefits from initial and renewed membership may not exceed the
412 maximum allowed under s. 112.363.

413 (j) Notwithstanding s. 121.4501(4)(g), the renewed member
414 is not eligible to move to the pension plan.

415 (4) A retiree of a state-administered retirement system
416 specified in subsection (2) who is employed on or after July 1,
417 2016, in a regularly established position eligible for
418 participation in the State University System Optional Retirement
419 Program shall become a renewed member of the optional retirement
420 program. The renewed member must satisfy the vesting
421 requirements and other provisions of this chapter. Once
422 enrolled, a renewed member remains enrolled in the optional
423 retirement program while employed in an eligible position for
424 the optional retirement program. If employment in a different
425 covered position results in the retiree's enrollment in the
426 investment plan, the retiree is no longer eligible to
427 participate in the optional retirement program unless employed
428 in a mandatory position under s. 121.35.

429 (a) The member is subject to the reemployment after
430 retirement limitations provided in s. 121.091(9), as applicable.

431 (b) The member must satisfy the requirements for
432 termination of employment provided in s. 121.021(39).

433 (c) Upon renewed membership or reemployment of a retiree,
434 the employer and the retiree shall pay the applicable employer
435 and employee contributions required under s. 121.35.

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436 (d) The member, or the employer on behalf of the member,
437 may not purchase any past service in the optional retirement
438 program or employment from July 1, 2010, to June 30, 2016, when
439 renewed membership is not available.

440 (5) A retiree of a state-administered retirement system
441 specified in subsection (2) who is employed on or after July 1,
442 2016, in a regularly established position eligible for
443 participation in the State Community College System Optional
444 Retirement Program as provided in s. 121.051(2)(c)4. shall
445 become a renewed member of the optional retirement program. The
446 renewed member must satisfy the eligibility requirements of this
447 chapter and s. 1012.875 for the optional retirement program.
448 Once enrolled, a renewed member remains enrolled in the optional
449 retirement program while employed in an eligible position for
450 the optional retirement program. If employment in a different
451 covered position results in the retiree's enrollment in the
452 investment plan, the retiree is no longer eligible to
453 participate in the optional retirement program.

454 (a) The member is subject to the reemployment after
455 retirement limitations provided in s. 121.091(9), as applicable.

456 (b) The member must satisfy the requirements for
457 termination of employment provided in s. 121.021(39).

458 (c) Upon renewed membership or reemployment of a retiree,
459 the employer and the retiree shall pay the applicable employer
460 and employee contributions required under ss. 121.051(2)(c) and
461 1012.875.

462 (d) The member, or the employer on behalf of the member,
463 may not purchase any past service in the optional retirement
464 program or employment accrued from July 1, 2010, to June 30,

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465 2016.

466 (6) A retiree of a state-administered retirement system who
467 is initially reemployed in a regularly established position on
468 or after July 1, 2016, shall be enrolled in the investment plan
469 unless eligible for participation in the State University System
470 Optional Retirement Program as provided in s. 121.35 or in the
471 State Community College System Optional Retirement Program as
472 provided in ss. 121.051(2)(c) and 1012.875. A renewed member
473 must satisfy the vesting requirements and other provisions
474 provided in this chapter.

475 (a) The member is not entitled to disability benefits as
476 provided in s. 121.091(4) or s. 121.591(2).

477 (b) The member is subject to the reemployment after
478 retirement limitations as provided in s. 121.091(9), as
479 applicable.

480 (c) The member must meet the termination from employment
481 provisions as provided in s. 121.021(39).

482 (d) Upon the renewed membership of a reemployed retiree,
483 the employer and the retiree shall pay the applicable employer
484 and employee contributions as required by ss. 112.363, 121.71,
485 121.74, and 121.76. The contributions are payable only for
486 employment and compensation earned in a regularly established
487 position with a covered employer on or after July 1, 2016. The
488 employer and employee contributions shall be transferred to the
489 investment plan and placed in a default fund as designated by
490 the state board. The retiree may move the contributions once an
491 account is activated in the investment plan.

492 (e) The member or the employer on behalf of the member may
493 not purchase any past service in the optional retirement program

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494 or employment accrued from July 1, 2010 to June 30, 2016.

495 (f) A renewed member who earns creditable service in the
 496 investment plan and is not receiving the maximum health
 497 insurance subsidy provided in s. 112.363 is entitled to earn
 498 additional credit toward the subsidy. Such credit may be earned
 499 only for employment in a regularly established position with a
 500 covered employer on or after July 1, 2016. Any additional
 501 subsidy due because of additional credit may be received only at
 502 the time of paying the second career retirement benefit. The
 503 total health insurance subsidy received by a retiree receiving
 504 benefits from initial and renewed membership may not exceed the
 505 maximum allowable under s. 112.363.

506 (g) Notwithstanding s. 121.4501(4)(g), the renewed member
 507 is not eligible to move to the pension plan.

508 Section 7. Paragraph (e) of subsection (2) and paragraph
 509 (f) of subsection (4) of section 121.4501, Florida Statutes, are
 510 amended to read:

511 121.4501 Florida Retirement System Investment Plan.—

512 (2) DEFINITIONS.—As used in this part, the term:

513 (e) "Eligible employee" means an officer or employee, as
 514 defined in s. 121.021, who:

515 1. Is a member of, or is eligible for membership in, the
 516 Florida Retirement System, including any renewed member of the
 517 Florida Retirement System initially enrolled before July 1,
 518 2010; ~~or~~

519 2. Participates in, or is eligible to participate in, the
 520 Senior Management Service Optional Annuity Program as
 521 established under s. 121.055(6), the State Community College
 522 System Optional Retirement Program as established under s.

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523 121.051(2)(c), or the State University System Optional
524 Retirement Program established under s. 121.35; or
525 3. Is a retiree of a state-administered retirement system
526 employed in a regularly established position on or after July 1,
527 2016, enrolled as a renewed member as provided under s. 121.122.

528
529 The term does not include any member participating in the
530 Deferred Retirement Option Program established under s.
531 121.091(13), a retiree of a state-administered retirement system
532 initially reemployed in a regularly established position on or
533 after July 1, 2010, through June 30, 2016, or a mandatory
534 participant of the State University System Optional Retirement
535 Program established under s. 121.35.

536 (4) PARTICIPATION; ENROLLMENT.—

537 (f) 1. A member of the investment plan who takes a
538 distribution of any contributions from his or her investment
539 plan account is considered a retiree. A retiree who is initially
540 reemployed in a regularly established position on or after July
541 1, 2010, and before June 30, 2016, is not eligible for ~~to be~~
542 ~~enrolled in~~ renewed membership, except as provided in s.
543 121.122.

544 2. A retiree who is initially reemployed on or after July
545 1, 2016, shall be a renewed member as provided in s. 121.122.

546 Section 8. (1) In order to fund the benefit changes
547 provided for in this act, the required employer contribution
548 rates of the Florida Retirement System established in s.
549 121.71(4), Florida Statutes, shall be adjusted effective July 1,
550 2016, as follows:

551 (a) The Regular Class is increased by 0.05 percentage

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552 points.

553 (b) The Special Risk Class is increased by 0.09 percentage
554 points.

555 (c) The Special Risk Administrative Support Class is
556 increased by 0.00 percentage points.

557 (d) The Elected Officers' Class—Legislators, Governor, Lt.
558 Governor, Cabinet Officers, State Attorneys, Public Defenders is
559 increased by 0.14 percentage points.

560 (e) The Elected Officers' Class—Justices, Judges is
561 increased by 0.56 percentage points.

562 (f) The Elected Officers' Class—County Elected Officers is
563 increased by 0.22 percentage points.

564 (g) The Senior Management Service Class is increased by
565 0.10 percentage points.

566 (h) The DROP is increased by 0.07 percentage points.

567 (2) In order to fund the benefit changes provided for in
568 this act, the required employer contribution rates of the
569 Florida Retirement System established in s. 121.71(5), Florida
570 Statutes, shall be adjusted effective July 1, 2016, as follows:

571 (a) The Regular Class is increased by 0.18 percentage
572 points.

573 (b) The Special Risk Class is increased by 0.18 percentage
574 points.

575 (c) The Special Risk Administrative Support Class is
576 increased by 0.00 percentage points.

577 (d) The Elected Officers' Class—Legislators, Governor, Lt.
578 Governor, Cabinet Officers, State Attorneys, Public Defenders is
579 increased by 0.44 percentage points.

580 (e) The Elected Officers' Class—Justices, Judges is

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581 increased by 1.01 percentage points.

582 (f) The Elected Officers' Class—County Elected Officers is
583 increased by 0.54 percentage points.

584 (g) The Senior Management Service Class is increased by
585 0.38 percentage points.

586 (h) The DROP is increased by 0.00 percentage points.

587 (3) The adjustments provided in subsections (1) and (2)
588 shall be made in addition to other changes to such contribution
589 rates which may be enacted into law to take effect on July 1,
590 2016. The Division of Law Revision and Information is requested
591 to adjust accordingly the contribution rates provided in s.
592 121.71, Florida Statutes.

593 Section 9. The Legislature finds that a proper and
594 legitimate state purpose is served when employees and retirees
595 of the state and its political subdivisions, and the dependents,
596 survivors, and beneficiaries of such employees and retirees, are
597 extended the basic protections afforded by governmental
598 retirement systems. These persons must be provided benefits that
599 are fair and adequate and that are managed, administered, and
600 funded in an actuarially sound manner, as required by s. 14,
601 Article X of the State Constitution and part VII of chapter 112,
602 Florida Statutes. Therefore, the Legislature determines and
603 declares that this act fulfills an important state interest.

604 Section 10. This act shall take effect July 1, 2016.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Governmental Oversight and Accountability, *Chair*
Judiciary, *Vice Chair*
Appropriations
Appropriations Subcommittee on Education
Children, Families, and Elder Affairs
Commerce and Tourism

SENATOR JEREMY RING

29th District

October 29, 2015

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

Dear Chairman Simpson,

I am writing to respectfully request your cooperation in placing Senate Bill 7014, relating to the Florida Retirement System, on the Committee on Community Affairs agenda at your earliest convenience. I would greatly appreciate the opportunity to discuss the bill at greater length before your committee.

Thank you in advance for your assistance. As always, please do not hesitate to contact me with any questions or comments you may have.

Very Truly Yours,

A handwritten signature in cursive script that reads "Jeremy Ring".

Jeremy Ring
Senator District 29

cc: Tom Yeatman, Staff Director
Ann Whittaker, Committee Administrative Assistant

REPLY TO:

- 5790 Margate Boulevard, Margate, Florida 33063 (954) 917-1392 FAX: (954) 917-1394
- 405 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5029

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

11/17/2015

Meeting Date

7014

Bill Number (if applicable)

Topic Reemployment

Amendment Barcode (if applicable)

Name Matt Puckett

Job Title Lobbyist

Address 300 East Brevard St.
Street

Phone 850-222-3329

Tallahassee FL 32301
City State Zip

Email N/A

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)

11/17/15
Meeting Date

SB 7014
Bill Number (if applicable)

Topic FRS reemployment

Amendment Barcode (if applicable)

Name Jim Tolley

Job Title President FPF

Address 345 West Madison St.
Street

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 Florida Prof Fire Fighters

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)

11/17/2015

Meeting Date

7014

Bill Number (if applicable)

622220

Amendment Barcode (if applicable)

Topic Reemployment

Name Matt Pickett

Job Title Lobbyist

Address 300 East Brevard St.

Phone 850-222-3329

Street

Tallahassee

City

FL

State

32301

Zip

Email N/A

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.

The Florida Senate
COMMITTEE VOTE RECORD

COMMITTEE: Community Affairs
ITEM: SB 7014
FINAL ACTION: Favorable
MEETING DATE: Tuesday, November 17, 2015
TIME: 1:00—3:00 p.m.
PLACE: 301 Senate Office Building

FINAL VOTE		SENATORS	11/17/2015 Amendment 622220 ¹					
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Abruzzo						
X		Bradley						
X		Dean						
X		Diaz de la Portilla						
X		Hutson						
X		Thompson						
X		Brandes, VICE CHAIR						
X		Simpson, CHAIR						
8	0	TOTALS	-	WD				
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting

CourtSmart Tag Report

Room: SB 301

Case No.:

Type:

Caption: Senate Community Affairs Committee Judge:

Started: 11/17/2015 1:02:00 PM

Ends: 11/17/2015 2:06:17 PM

Length: 01:04:18

1:02:05 PM Call to Order
1:02:39 PM Roll Call
1:02:39 PM Quorum Present
1:03:00 PM Senator Simpson
1:03:06 PM Senator Ring: SB 516
1:03:28 PM SB 516 Special Districts by Senators Ring and Gaetz
1:03:52 PM Questions
1:04:19 PM Amendment 926750
1:04:27 PM Substitute Amendment 352102
1:04:30 PM Senator Brandes closes
1:04:34 PM Amendment adopted
1:04:38 PM Back on bill as amended
1:04:56 PM Appearance: Chris Lyon: FL Association of Special Districts
1:07:00 PM Senator Simpson questions
1:07:07 PM Senator Abruzzo with a question
1:07:18 PM Mr. Lyon answers
1:07:41 PM Senator Thompson with question
1:07:59 PM Mr. Lyon responds
1:08:17 PM Senator Thompson another question
1:08:40 PM Senator Dean with a question
1:09:05 PM Mr. Lyon with answer
1:09:46 PM Senator Dean with clarification
1:09:53 PM Mr. Lyon responds
1:10:28 PM No other questions
1:10:40 PM Appearance: Ron Book: Open Gov.
1:10:59 PM Ron Book: Open Gov.
1:11:43 PM Discussion or Debate?
1:11:49 PM Senator Ring close on bill
1:12:57 PM Roll Call SB 516
1:13:21 PM SB 516 Reported Favorably
1:13:45 PM Senator Ring: SB 7014: FL Retirement System
1:14:06 PM SB 7014 Governmental Oversight and Accountability
1:14:18 PM Amendment 622220 by Senator Brandes
1:14:56 PM Amendment Withdrawn
1:15:03 PM Back on Bill
1:15:17 PM Appearances: Jim Tolley: FL Prof Fire Fighters and Matt Puckett: FL Police Benevolent Assoc. waive in support
1:15:21 PM Close on SB 7014
1:15:22 PM Roll Call
1:15:43 PM SB 7014 Reported Favorably
1:16:04 PM SB 530: Senator Sobel
1:16:33 PM SB 530: Calder Sloan Swimming Pool Electrical-Safety Task Force
1:16:38 PM Questions
1:16:41 PM Senator Dean with a question
1:17:03 PM Senator Sobel with response
1:18:05 PM Senator Dean with clarification
1:18:52 PM Senator Sobel with response
1:19:12 PM Questions
1:19:29 PM Appearances: Jennifer Hatfield: FL Swimming Pool Assoc. and Bruce Kershner: NACM Improved Construction Practice Committee waive in support
1:19:30 PM Debate
1:19:33 PM None

1:19:39 PM Senator Sabel closing
1:19:50 PM Roll Call
1:20:09 PM SB 530 Reported Favorably
1:20:22 PM SB 456: Senator Latvala
1:20:33 PM SB 456: Firefighters
1:24:00 PM Questions
1:24:09 PM Senator Thompson with a question
1:24:48 PM Senator Latvala with answer
1:25:18 PM Senator Brandes with question
1:25:29 PM Senator Latvala with answer
1:25:42 PM Appearance: Kraig Conn: FL League of Cities
1:25:51 PM Chair turned over to Senator Brandes
1:26:06 PM Mr. Conn speaking
1:34:47 PM Questions
1:34:52 PM Senator Dean with a question
1:35:13 PM Mr. Conn responds
1:36:08 PM Appearance: Jim Tolley: FL Prof. Fire Fighters
1:36:13 PM Chair turned back to Senator Simpson
1:36:20 PM Mr. Tolley speaking
1:39:21 PM Questions
1:39:37 PM Senator Simpson
1:39:38 PM Debate
1:39:44 PM Senator Bradley with a question
1:40:07 PM Senator Thompson with a comment
1:40:44 PM Mr. Tolley's response
1:40:53 PM Senator Latvala's closing
1:44:25 PM Roll Call
1:44:44 PM SB 456: Reported Favorably
1:44:59 PM SB 124: Senator Evers
1:45:16 PM SB 124: Public Procurement Practices
1:45:40 PM Questions
1:45:57 PM Appearance: Richard Watson: Associated Builders and Contractors waives in support
1:46:01 PM Appearance: Edward Briggs: Associated Builders and Contractors, Gulf Coast Chapter waives in support
1:46:07 PM Appearance: David Cruz: FL League of Cities waives in support
1:46:07 PM Appearance: Warren Husband: FL Assoc. General Contractors Council waives in support
1:46:15 PM Appearance: Bruce Kershner: NACM Improved Construction Practice Committee waives in support
1:46:17 PM Debate
1:46:23 PM Waives close
1:46:26 PM Roll Call
1:46:37 PM SB 124 Reported Favorably
1:46:45 PM SB 126: Senator Evers
1:47:19 PM SB 126: Public Records and Public Meetings/Public-private Partnerships
1:47:45 PM Questions
1:47:49 PM Appearances
1:47:54 PM Appearance: Richard Watson: ABC of FL waives in support
1:47:58 PM Appearance: Warren Husband: FL Assoc. General Contractors Council waives in support
1:48:04 PM Appearance: Edward Briggs: ABC, Gulf Coast Chapter waives in support
1:48:05 PM Debate
1:48:15 PM Senator de la Portilla
1:48:59 PM Senator Evers waives close
1:49:01 PM Roll Call
1:49:15 PM SB 126 Reported Favorably
1:49:30 PM SB 492: Senator Flores
1:49:45 PM SJR 492: Homestead Tax Exemption
1:50:35 PM Questions
1:50:40 PM Appearance
1:50:41 PM Appearance: Corey Baker: FL Assoc of Property Appraisers, Inc.
1:50:45 PM Debate
1:50:50 PM Senator Flores close
1:50:53 PM Roll Call
1:51:09 PM SJR 492 Reported Favorably
1:51:22 PM SB 488: Senator Flores

1:51:24 PM Questions
1:51:32 PM Amendment 929898
1:51:37 PM Senator Flores
1:51:42 PM Adopted without objection
1:51:46 PM Back on bill as amended
1:51:50 PM Appearance: Corey Baker: FL Assoc. of Property Appraisers, Inc.
1:51:52 PM Debate
1:51:55 PM Roll Call
1:52:03 PM SB 488 Reported Favorably
1:52:23 PM SB 304: Senator Stargel
1:52:36 PM Delete All Amendment
1:52:50 PM Amendment 408522: Senator de la Portilla
1:52:56 PM Senator Stargel recognized
1:53:33 PM Questions on Amendment
1:53:43 PM Senator Dean
1:54:16 PM Senator Stargel responds
1:55:03 PM Senator Dean with follow up question
1:55:10 PM Senator Stargel responds
1:55:54 PM Late filed Amendment 652776 Senator Abruzzo
1:55:58 PM Objection
1:56:04 PM Senator Abruzzo recognized
1:56:29 PM Questions
1:56:34 PM Senator Hudson
1:56:45 PM Senator Stargel responds
1:57:21 PM Debate
1:57:26 PM Senator Brandes
1:57:55 PM Amendment carries
1:58:04 PM Strike all as amended
1:58:12 PM Appearance: Adam Basford: FL Farm Bureau
1:58:47 PM Appearance: David Cruz: FL League of Cities
1:59:55 PM Senator Brandes interjects
2:00:21 PM Mr. Cruz responds
2:00:46 PM Appearance: Doug Mann: A.I.F. waives in support
2:00:53 PM Appearance: Lena Juarez: FL Agritourism Assoc. waives in support
2:01:01 PM Appearance: Trent Mathews: Sweet Seasons Farms waives in support
2:01:11 PM Debate
2:01:14 PM Senator Abruzzo
2:02:18 PM Senator de la Portilla
2:03:38 PM Senator Simpson
2:04:17 PM Senator Stargel closes on Amendment
2:05:19 PM Amendment to Amendment is adopted
2:05:22 PM Back on bill as amended
2:05:23 PM Question
2:05:28 PM No Speaker cards
2:05:32 PM Senator Stargel closes on bill
2:05:40 PM Roll Call as Committee Substitute
2:05:49 PM SB 304 Reported Favorably
2:06:06 PM Senator Brandes technical changes
2:06:12 PM Meeting Adjourned