

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

COMMERCE AND TOURISM
Senator Detert, Chair
Senator Thompson, Vice Chair

MEETING DATE: Monday, February 16, 2015
TIME: 4:00 —6:00 p.m.
PLACE: *Toni Jennings Committee Room*, 110 Senate Office Building

MEMBERS: Senator Detert, Chair; Senator Thompson, Vice Chair; Senators Bean, Latvala, Richter, and Ring

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 222 Hukill (Similar CS/H 175)	Electronic Commerce; Creating the "Computer Abuse and Data Recovery Act"; prohibiting a person from intentionally committing specified acts without authorization with respect to a protected computer; specifying remedies for civil actions brought by persons affected by a violation; providing that the act does not prohibit specified activity by certain state, federal, and foreign law enforcement agencies, regulatory agencies, and political subdivisions, etc.	CM 02/16/2015 CU JU
2	SB 384 Garcia (Similar H 259)	Small Business Saturday Sales Tax Holiday; Providing that the tax levied under ch. 212, F.S., may not be collected on the sale of items or articles of tangible personal property by certain small businesses during a specified period, etc.	CM 02/16/2015 FT AP
3	SB 456 Braynon (Similar H 325)	Labor Pools; Revising methods by which a labor pool is required to compensate day laborers; requiring a labor pool to provide certain notice before a day laborer's first pay period; specifying requirements for a labor pool that selects to compensate a day laborer by payroll debit card; authorizing a labor pool to deliver a wage statement electronically upon request by the day laborer, etc.	CM 02/16/2015 BI RC

COMMITTEE MEETING EXPANDED AGENDA

Commerce and Tourism

Monday, February 16, 2015, 4:00 —6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 526 Grimsley (Identical H 523, Compare H 513)	Notaries Public; Revising the methods available for verifying documents; providing an exception to the requirement that a signer personally appear before a notary public at the time of notarization; defining the term "reliable electronic means"; authorizing specified officers to administer oaths by reliable electronic means when engaged in the performance of official duties, etc. CM 02/16/2015 CJ RC	
5	Presentation on the programs of the Department of Economic Opportunity		
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 Commerce and Tourism

BILL: SB 222

INTRODUCER: Senator Hukill

SUBJECT: Electronic Commerce

DATE: February 13, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harmsen	McKay	CM	Pre-meeting
2.			CU	
3.			JU	

I. Summary:

SB 222 creates the Computer Abuse and Data Recovery Act (“CADRA”), which creates a civil cause of action for harm or loss caused by the unauthorized access, or hacking, of a protected computer owned by a business. Remedies created by the bill include the recovery of actual damages, lost profits, economic damages, and injunctive or other equitable relief. The bill does not create any criminal penalties, and does not address the unauthorized access of a personal computer.

II. Present Situation:

“Hacking” is the unauthorized access of a computer or its related technologies, usually with intent to cause harm.¹ Currently, hackers are subject to criminal and limited civil penalties under the Florida Computer Crimes Act (“CCA”) and the federal Computer Fraud and Abuse Act (“CFAA”).

Hacking by insiders or employees poses a significant threat to businesses because employees have ready access to valuable or significant information,² but challenges to the prosecution of hacking by employees exist. For example, the CCA exempts employees acting within the scope of their lawful employment from prosecution for criminal actions.³ Civil actions brought under the CFAA must have damages of \$5,000 or more, or must be based on other specific harm.⁴

¹ Eric J. Sinrod, William P. Reilly, *Cyber-Crimes: A Practical Approach to the Application of Federal Computer Crime Laws*, 16 Santa Clara Computer & High Tech. L.J. 177 (2000).

² U.S. Department of Homeland Security, *Increase in Insider Threat Cases Highlight Significant Risks to Business Networks and Proprietary Information*, September 23, 2014. Retrieved February 3, 2015, from <https://www.ic3.gov/media/2014/140923.aspx>. See also, s. 815.02, F.S. (2014).

³ Section 815.06(7)(b), F.S. (2014).

⁴ 18 U.S.C. §1030(c)(4)(A)(i)(I)-(V).

Additionally, federal appellate circuit courts have split on the application of the CFAA to employee hackers.^{5,6}

Computer Fraud and Abuse Act

The CFAA⁷ provides criminal penalties for individuals who either without authorization, or in excess of authorized access:

- Obtain national security information;
- Access a computer and obtain confidential information;
- Trespass in a government computer;
- Access a computer to commit a fraud;
- Damage a computer;
- Traffic in computer passwords; or
- Make threats involving computers.

The CFAA also provides civil remedies if damages exceed \$5,000, hamper medical care, physically harm a person, or threaten national security, public safety or health.⁸

The CFAA does not define “without authorization,” but does define to “exceed authorized access” as “to access a computer with authorization and to use such access to obtain or alter information in the computer that the accesser is not entitled so to obtain or alter.”⁹

Florida Computer Crimes Act

In 1978, the Legislature created the CCA¹⁰ to address the problem of computer-related crime in government and the private sector.¹¹ The CCA criminalizes certain offenses against intellectual property and offenses against users of computers, computer systems, computer networks, and electronic devices (hereinafter “computer or its related technologies”).

Offenses Against Intellectual Property

A person commits an offense against intellectual property under the CCA when she willfully, knowingly, and without authorization:

- Introduces a contaminant into a computer or its related technologies;
- Modifies, renders unavailable, or destroys data, programs, or supporting documentation in a computer or its related technologies; or

⁵ U.S. Department of Justice, *Prosecuting Computer Crimes* (Office of Legal Education 2009). Retrieved February 3, 2015, from <http://www.justice.gov/criminal/cybercrime/docs/ccmanual.pdf>.

⁶ Compare *United States v. Nosal*, 676 F. 3d 854 (9th Cir. 2012)(Finding that an employee hacker can only exceed authorization by accessing files outside the scope of her use-authorization (e.g., stealing a co-workers password to access information)) with *United States v. Rodriguez*, 628 F. 3d 1258 (11th Cir. 2010)(Finding that an employee hacker who uses information obtained within the scope of her normal use authorization exceeds authorization by using the information in a manner contrary to the business’ interests or use agreement).

⁷ 18 U.S.C. §1030.

⁸ 18 U.S.C. §1030(g).

⁹ 18 U.S.C. §1030(e)(6).

¹⁰ Sections 815.01-815.06, F.S. (2014).

¹¹ Chapter 78-92, L.O.F., section 815.01-02, F.S. (2014).

- Discloses or takes data, programs, or supporting documentation which is a trade secret or is confidential that is in a computer or its related technologies.

Offenses Against Computer Users

A person commits an offense against computer users under the CCA when she willfully, knowingly, and without authorization:

- Accesses, destroys, injures, or damages any computer or its related technologies;
- Disrupts the ability to transmit data to or from an authorized user of a computer or its related technologies;
- Destroys, takes, injures, modifies, or damages equipment or supplies used or intended to be used in a computer or its related technologies;
- Introduces any computer contaminant into any computer or its related technologies; or
- Engages in audio or video surveillance of an individual by accessing any inherent feature or component of a computer or its related technologies, including accessing the data or information thereof that is stored by a third party.

The CCA does not provide a civil remedy for offenses against intellectual property, but it does enable an owner or lessee of an affected computer or its related technologies to bring a civil action¹² for compensatory damages against any person convicted of an offense against computer users under s. 815.06, F.S.¹³ Employees acting under the scope of their authorization are specifically exempted from this civil cause of action under the CCA.¹⁴

The civil action provided for in s. 815.04, F.S., is generally disfavored as a more costly and time-consuming option than necessary because it must be preceded by a criminal conviction under the CCA.¹⁵ As an alternative, litigants generally proceed under a federal CFAA claim.¹⁶

III. Effect of Proposed Changes:

Section 1 creates the “Computer Abuse and Data Recovery Act” in chapter 668 of the Florida Statutes.

Section 2 directs that CADRA must be construed liberally to safeguard owners, operators, or lessees of protected computers used in the operation of a business, and owners of information stored in a protected computer used in the operation of a business, from harm or loss caused by unauthorized access to the computers.

¹² Section 815.06(4), F.S.

¹³ Section 815.06(5)(a), F.S.

¹⁴ Section 815.06(7)(b), F.S.

¹⁵ Robert Kain, *Federal Computer Fraud and Abuse Act: Employee Hacking Legal in California and Virginia, But Illegal in Miami, Dallas, Chicago, and Boston*, 87 Fla. Bar. J., (Jan., 2013). Retrieved February 3, 2015 at <http://www.floridabar.org/DIVCOM/JN/JNJournal01.nsf/8c9f13012b96736985256aa900624829/83a2364f8efc84e385257ae200647255!OpenDocument>.

¹⁶ *Id.*

Section 3 defines terms used in the bill.

Notably, this bill defines “without authorization” as the circumvention of a technological access barrier, usually a password or biometric, without express or implied permission. Therefore, both outside hackers and employee hackers may be civilly liable for their actions under this bill. Conversely, the bill’s definition of “without authorization” imposes a responsibility on businesses to establish and maintain effective technological measures such as passwords, because hackers who “circumvent a technological measure that does not effectively control access to the protected computer” act outside the scope of liability provided for by this bill.

Employees who misuse information they obtained under the authorization granted by their employer are not subject to civil action under this bill.

Section 4 creates s. 668.803, F.S., which provides a civil action available to those injured by an individual who knowingly and with intent to cause harm or loss:

- Obtains information from a protected computer without authorization, and as a result thereof, causes a harm or loss;
- Causes the transmission of a program, code, or command from a protected computer without authorization, and as a result thereof, causes a harm or loss; or
- Traffics in any technological access barrier (e.g., password) through which access to a protected computer may be obtained without authorization.

Section 5 establishes the following civil remedies available to victims of a s. 668.803, F.S., (**Section 4**) violation:

- Recovery of actual damages and the violator’s profits; and
- Injunctive or other equitable relief;

bill also directs courts to award attorney’s fees to the prevailing party in any s. 668.804(2), F.S., (**Section 5**) action.

A victim must commence a civil action under s.668.803, F.S. within 3 years of the violation, the discovery thereof, or the time at which the violation should have been discovered with due diligence. This statute of limitations is shorter than Florida’s 4-year default statute of limitations,¹⁷ but longer than the 2-year statute of limitations provided for in the federal CFAA¹⁸.

Relief provided under this bill is available as a supplement to other remedies under state and federal law. If a criminal proceeding brought under the CCA results in a final judgment or decree in favor of the state, the defendant is estopped from denying or disputing the same matters in any subsequent civil action brought under CADRA.

Section 6 excludes from actions pursuant to this bill any lawfully authorized investigative, protective, or intelligence activity of any law enforcement agency, regulatory agency, or political subdivision of Florida, any other state, the United States, or any foreign country.

Section 7 provides an effective date of October 1, 2015.

¹⁷ Section 95.11(3)(f), F.S.

¹⁸ 18 U.S.C. §1030(g).

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Florida Division of Law Enforcement believes the bill will have no fiscal impact on the agency.¹⁹

VI. Technical Deficiencies:

For the sake of consistency and clarity, “technological measure” in line 80 could be replaced with “technological access barrier.”

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates sections 668.801, 668.602, 668.803, 668.804, and 668.805, F.S.

¹⁹ Division of Law Enforcement, *Senate Bill 222 Agency Analysis* (January 27, 2015) (on file with the Senate Committee on Commerce and Tourism).

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.



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LEGISLATIVE ACTION

Senate

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House

The Committee on Commerce and Tourism (Bean) recommended the following:

Senate Amendment

Delete lines 112 - 114

and insert:

(d) Recover the misappropriated information, program, or code, and all copies thereof, that are subject to the violation.

By Senator Hukill

8-00214A-15

2015222__

A bill to be entitled

An act relating to electronic commerce; providing a directive to the Division of Law Revision and Information; creating the "Computer Abuse and Data Recovery Act"; creating s. 668.801, F.S.; providing a statement of purpose; creating s. 668.802, F.S.; defining terms; creating s. 668.803, F.S.; prohibiting a person from intentionally committing specified acts without authorization with respect to a protected computer; providing penalties for a violation; creating s. 668.804, F.S.; specifying remedies for civil actions brought by persons affected by a violation; providing that specified criminal judgments or decrees against a defendant act as estoppel as to certain matters in specified civil actions; providing that specified civil actions must be filed within certain periods of time; creating s. 668.805, F.S.; providing that the act does not prohibit specified activity by certain state, federal, and foreign law enforcement agencies, regulatory agencies, and political subdivisions; providing an effective date.

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

Section 1. The Division of Law Revision and Information is directed to create part V of chapter 668, Florida Statutes, consisting of ss. 668.801-668.805, Florida Statutes, to be entitled the "Computer Abuse and Data Recovery Act."

Section 2. Section 668.801, Florida Statutes, is created to

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

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read:

668.801 Purpose.—This part shall be construed liberally to:
(1) Safeguard an owner, operator, or lessee of a protected computer used in the operation of a business from harm or loss caused by unauthorized access to such computer.

(2) Safeguard an owner of information stored in a protected computer used in the operation of a business from harm or loss caused by unauthorized access to such computer.

Section 3. Section 668.802, Florida Statutes, is created to read:

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

(1) "Business" means any trade or business regardless of its for-profit or not-for-profit status.

(2) "Computer" means an electronic, magnetic, optical, electrochemical, or other high-speed data processing device that performs logical, arithmetic, or storage functions and includes any data storage facility, data storage device, or communications facility directly related to or which operates in conjunction with the device.

(3) "Harm" means any impairment to the integrity, access, or availability of data, programs, systems, or information.

(4) "Loss" means any of the following:

(a) Any reasonable cost incurred by the owner, operator, or lessee of a protected computer or the owner of stored information, including the reasonable cost of conducting a damage assessment for harm associated with the violation and the reasonable cost for remediation efforts, such as restoring the data, programs, systems, or information to the condition it was in before the violation.

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

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59 (b) Economic damages.

60 (c) Lost profits.

61 (d) Consequential damages including the interruption of
62 service.

63 (e) Profits earned by a violator as a result of the
64 violation.

65 (5) "Protected computer" means a computer that is used in
66 connection with the operation of a business and stores
67 information, programs, or code in connection with the operation
68 of the business in which the stored information, programs, or
69 code can only be accessed by employing a technological access
70 barrier.

71 (6) "Technological access barrier" means a password,
72 security code, token, key fob, access device, or similar
73 measure.

74 (7) "Traffic" means to sell, purchase, or deliver.

75 (8) "Without authorization" means circumvention of a
76 technological access barrier on a protected computer without the
77 express or implied permission of the owner, operator, or lessee
78 of the computer or the express or implied permission of the
79 owner of information stored in the protected computer, but the
80 term does not include circumventing a technological measure that
81 does not effectively control access to the protected computer or
82 the information stored in the protected computer.

83 Section 4. Section 668.803, Florida Statutes, is created to
84 read:

85 668.803 Prohibited acts.—A person who knowingly and with
86 intent to cause harm or loss:

87 (1) Obtains information from a protected computer without

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88 authorization and, as a result, causes harm or loss;

89 (2) Causes the transmission of a program, code, or command
90 from a protected computer without authorization and, as a result
91 of the transmission, causes harm or loss; or

92 (3) Traffics in any technological access barrier through
93 which access to a protected computer may be obtained without
94 authorization,

95
96 is liable to the extent provided in s. 668.804 in a civil action
97 to the owner, operator, or lessee of the protected computer, or
98 the owner of information stored in the protected computer who
99 uses the information in connection with the operation of a
100 business.

101 Section 5. Section 668.804, Florida Statutes, is created to
102 read:

103 668.804 Remedies.—

104 (1) A person who brings a civil action for a violation
105 under s. 668.803 may:

106 (a) Recover actual damages, including the person's lost
107 profits and economic damages.

108 (b) Recover the violator's profits that are not included in
109 the computation of actual damages under paragraph (a).

110 (c) Obtain injunctive or other equitable relief from the
111 court to prevent a future violation of s. 668.803.

112 (d) Recover the misappropriated information and all copies
113 of the misappropriated information that are subject to the
114 violation.

115 (2) A court shall award reasonable attorney fees to the
116 prevailing party in any action arising under this part.

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117 (3) The remedies available for a violation of s. 668.803
118 are in addition to remedies otherwise available for the same
119 conduct under federal or state law.

120 (4) A final judgment or decree in favor of the state in any
121 criminal proceeding under chapter 815 shall estop the defendant
122 in any subsequent action brought pursuant to s. 668.803 as to
123 all matters as to which the judgment or decree would be an
124 estoppel as if the plaintiff had been a party in the previous
125 criminal action.

126 (5) A civil action filed under s. 668.803 must be commenced
127 within 3 years after the violation occurred or within 3 years
128 after the violation was discovered or should have been
129 discovered with due diligence.

130 Section 6. Section 668.805, Florida Statutes, is created to
131 read:

132 668.805 Exclusions.—This part does not prohibit any
133 lawfully authorized investigative, protective, or intelligence
134 activity of any law enforcement agency, regulatory agency, or
135 political subdivision of this state, any other state, the United
136 States, or any foreign country.

137 Section 7. This act shall take effect October 1, 2015.

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 Commerce and Tourism

BILL: SB 384

INTRODUCER: Senator Garcia

SUBJECT: Small Business Saturday Sales Tax Holiday

DATE: February 13, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harmsen	McKay	CM	Pre-meeting
2.			FT	
3.			AP	

I. Summary:

SB 384 establishes a one-day sales tax holiday on Saturday, November 28, 2015. During the holiday, any purchase made at a small business or newly created small business is exempt from the state sales tax and county discretionary sales surtaxes.

II. Present Situation:

Florida levies a six percent sales and use tax on the sale or rental of most tangible personal property, admissions, rentals of transient accommodations, rental of commercial real estate, and a limited number of services. Chapter 212, F.S., contains statutory provisions authorizing the levy and collection of Florida's sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. There are currently more than 200 exemptions.¹ Sales tax is added to the price of the taxable goods or service and collected from the purchaser at the time of sale.

In addition to the state tax, s. 212.055, F.S., authorizes counties to impose eight local discretionary sales surtaxes on all transactions occurring in the county subject to the state tax imposed on sales, use, services, rental, admissions, and other transactions by ch. 212, F.S., and on communications services as defined in ch. 202, F.S.² The discretionary sales surtax is based on the rate in the county where the taxable goods or services are sold, or delivered into, and is levied in addition to the state sales and use tax of six percent.

¹ See Office of Economic and Demographic Research, The Florida Legislature, *Florida Tax Handbook* (2014).

² The tax rates, duration of the surtax, method of imposition, and proceed uses are individually specified in s. 212.055, F.S. General limitations, administration, and collection procedures are set forth in s. 212.054, F.S.

In 2014, the Florida Legislature approved three sales tax holidays:

- Energy Star and WaterSense Holiday, during which the first \$1,500 of a qualifying Energy Star and WaterSense appliance purchase was exempted from sales and use tax.³
- Back to School Sales Tax Holiday, during which the first \$750 of personal computers and related-accessories, \$100 or less on clothing, and \$15 on school supplies was exempted from sales and use tax.⁴
- Hurricane Preparedness Sales Tax Holiday, during which specific hurricane-related supplies were exempt from sales and use tax.⁵

In 2010, American Express instituted a Small Business Saturday incentive for their cardholders who shopped at small, independent business on the Saturday after “Black Friday.”⁶ It is estimated that consumers spent \$5.5 billion at small, independent businesses on Small Business Saturday in 2012.⁷

III. Effect of Proposed Changes:

The bill establishes a one-day sales tax holiday, on Saturday, November 28, 2015, to coincide with “Small Business Saturday.” During the tax holiday, any purchase made at a small business or newly created small business is exempt from the state sales tax and county discretionary sales surtaxes.

The bill defines “small business” as one that remits less than \$200,000 in tax revenues to the Florida Department of Revenue (the “department”) during the previous year. It is estimated that a business that owes and remits the full payment of \$200,000 each year in tax revenues makes \$3.3 million dollars in total annual sales.⁸ Approximately 80.4 percent of Florida businesses that remit taxes to the department remit between \$1.00 and \$200,000 in revenue, and 17-21 percent of Florida businesses remits \$0.00.⁹

A “newly created small business” may qualify if it has been in operation more than three months, but less than one year, and has remitted less than \$50,000 in taxes to the department “in at least three out of the previous 12 months.” It is unclear whether the \$50,000 cap applies to the total quarterly filing, or to each of the three months within a business’ quarterly filing (thus allowing a total quarterly filing of \$149,999.97).

The bill will likely decrease sales tax revenue.

³ Florida Department of Revenue, “2014 Sales Tax Holiday for New Energy Star and WaterSense Products” (9/19/14), available at http://dor.myflorida.com/dor/tips/pdf/tip14a01-06_TIP.pdf (last visited 2/12/2015).

⁴ Florida Department of Revenue, “2014 Back-to-School Sales Tax Holiday” (7/1/14), available at <http://dor.myflorida.com/dor/tips/pdf/tip14a01-04.pdf> (last visited 2/12/2015).

⁵ Florida Department of Revenue, “2014 Hurricane Preparedness Sales Tax Holiday” (5/23/14), available at <http://dor.myflorida.com/dor/tips/pdf/tip14a01-03.pdf> (last visited 2/12/2015).

⁶ American Express, “Small Business Saturday” <https://www.americanexpress.com/us/content/small-business/shop-small/about/?linknav=us-open-shops-small-homepage-about> (last visited 2/12/2015).

⁷ Cynthia Magnuson-Allen, “U.S. Consumers Spent \$5.5 Billion ‘Shopping Small’ on Saturday” 11/27/2012. Available at <http://www.nfib.com/article/m-nfib-and-american-expres-61497/>. Last accessed 2/12/2015.

⁸ Economic and Demographic Research Conference, February 6, 2015, Impact Conference.

⁹ Economic and Demographic Research Conference, February 6, 2015, Impact Conference.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

The fiscal impact of the current version of this bill is indeterminate.

B. Private Sector Impact:

The sales tax holiday may promote retail sales at businesses that qualify under the bill.

C. Government Sector Impact:

The bill appropriates \$200,000 in non-recurring funds to the department for Fiscal Year 2015-2016, for administrative costs. The department estimates its costs of administration will be \$211,775.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The definition of “small business” may benefit larger businesses that remit proportionately less tax compared to their overall sales as a result of their non-taxable sales of, e.g., unprepared food or medicines. Conversely, businesses that remitted \$0 in taxes either because the business was delinquent on its tax payments, or because it was dormant and not actually in operation during the immediately prior year, may qualify under the current definition. Additionally, whether individual units (that remit less than \$200,000 in taxes) of a larger chain retailer (that remits over \$200,000 in taxes) will classify as a small business under the bill is unclear. Further limits on the definition of “small business” may be needed.

As discussed in the Effect of Proposed Changes section, above, “newly created small business” is subject to varying interpretations, and may benefit from a more specific definition.

“Small business” is defined based on the amount of taxes remitted during “the previous year.” For the sake of clarity, “previous year” could be further defined as either a calendar year, fiscal year, or a year beginning and ending on any specific date.

In certain instances, a business owes more taxes than it remits to the department; thus, under the bill, a business that owes \$5 million in taxes but only remitted \$199,999 to the department in the previous year may qualify as a small business. “Remitted” could be replaced with “owed and remitted.”

The term “Small Business Saturday” is trademarked by American Express.¹⁰

Consumers may shift, rather than supplement, their purchases to this sales tax holiday. This may prove especially true on larger ticket price items like furniture, cars, boats, and technology, since there is no price cap on goods subject to this holiday.

VIII. Statutes Affected:

This bill creates an unnumbered section of Florida law.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

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.

¹⁰ See U.S. Patent and Trademark Office, <http://tmsearch.uspto.gov/bin/showfield?f=doc&state=4810:qxjz99.5.2> (last visited 2/13/2015).



781560

LEGISLATIVE ACTION

Senate

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House

The Committee on Commerce and Tourism (Bean) recommended the following:

Senate Amendment (with title amendment)

Delete lines 14 - 29
and insert:

(1) (a) As used in this section, the term "small business"
means a "dealer," as defined in s. 212.06, Florida Statutes,
which:

1. Has registered with the Department of Revenue;
2. Began operation in this state on or before March 3,



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11 2015; and
12 3. Owed and remitted to the department less than \$200,000
13 in tax under chapter 212, Florida Statutes, for the period
14 beginning on:
15 a. October 1, 2014, and ending on September 30, 2015, if
16 the dealer was operating in this state during that entire
17 period; or
18 b. The date that the dealer began operation in this state,
19 if that date occurred after October 1, 2014, and ending on
20 September 30, 2015.
21 (b) If the dealer is eligible to have filed a consolidated
22 return under s. 212.11(1)(e), Florida Statutes, the dealer must
23 have owed and remitted less than \$200,000 to the department in
24 tax under chapter 212, Florida Statutes, for all of the dealer's
25 places of business for the period applicable to the dealer under
26 subparagraph (a)3.
27 (2) The tax levied under chapter 212, Florida Statutes, may
28 not be collected during the period from 12:00 a.m. on November
29 28, 2015, through 11:59 p.m. on November 28, 2015, on the sale
30 at retail, as defined in s. 212.02 (14), Florida Statutes, by a
31 small business of any item or article of tangible personal
32 property, as defined in s. 212.02(19), Florida Statutes, which
33 has a sales price of \$1,000 or less per item or article.

34
35

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

37 And the title is amended as follows:

38 Delete lines 3 - 6

39 and insert:



781560

40 tax holiday; providing a definition for the term
41 "small business"; providing that the tax levied under
42 ch. 212, F.S., may not be collected on the sale of
43 certain items or articles of tangible personal
44 property by a small business during a

By Senator Garcia

38-00265B-15

2015384__

1 A bill to be entitled
 2 An act relating to the Small Business Saturday sales
 3 tax holiday; providing definitions; providing that the
 4 tax levied under ch. 212, F.S., may not be collected
 5 on the sale of items or articles of tangible personal
 6 property by certain small businesses during a
 7 specified period; authorizing the Department of
 8 Revenue to adopt emergency rules; providing an
 9 appropriation; providing an effective date.

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

12
 13 Section 1. Small Business Saturday sales tax holiday.-

14 (1) As used in this section, the term:

15 (a) "Newly created small business" means a business that,
 16 as of November 28, 2015, has been in operation less than 1 year
 17 and has remitted to the Department of Revenue less than \$50,000
 18 in tax due under chapter 212, Florida Statutes, in at least 3
 19 out of the previous 12 months.

20 (b) "Small business" means a business that remitted to the
 21 Department of Revenue less than \$200,000 in tax due under
 22 chapter 212, Florida Statutes, during the previous year.

23 (2) The tax levied under chapter 212, Florida Statutes, may
 24 not be collected during the period from 12:00 a.m. on November
 25 28, 2015, through 11:59 p.m. on November 28, 2015, on the sale
 26 at retail, as defined in s. 212.02(14), Florida Statutes, of any
 27 item or article of tangible personal property, as defined in s.
 28 212.02(19), Florida Statutes, by a small business or newly
 29 created small business.

Page 1 of 2

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

38-00265B-15

2015384__

30 (3) The Department of Revenue may, and all conditions are
 31 deemed to be met to, adopt emergency rules pursuant to ss.
 32 120.536(1) and 120.54, Florida Statutes, to administer this
 33 section.

34 Section 2. For the 2015-2016 fiscal year, the sum of
 35 \$200,000 of nonrecurring funds is appropriated from the General
 36 Revenue Fund to the Department of Revenue for the purpose of
 37 administering this act.

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

Page 2 of 2

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

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 Commerce and Tourism

BILL: SB 456

INTRODUCER: Senator Braynon

SUBJECT: Labor Pools

DATE: February 13, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Siples	McKay	CM	Pre-meeting
2.			BI	
3.			RC	

I. Summary:

SB 456 allows labor pools to offer additional methods to compensate day laborers for services performed. These new methods include an electronic fund transfer to the financial institution designated by the day laborer and a payroll debit card, which does not charge a fee for withdrawal of its contents. The labor pool must notify the day laborer of the payment method it intends to use and provide the day laborer the option to be paid by another authorized method. The bill authorizes the labor pool to provide a wage statement electronically upon written request of the day laborer.

II. Present Situation:

The Labor Pool Act

Part II of ch. 448, F.S., also known as the Labor Pool Act,¹ was enacted in 1995 to protect the health, safety, and well-being of day laborers throughout the state. The act also outlines uniform standards of conduct and practice for labor pools. A labor pool is defined as a business entity that operates a labor hall² by one or more of the following methods:

- Contracting with third-party users to supply day laborers to them on a temporary basis;
- Hiring, employing, recruiting, or contracting with workers to fulfill these contracts for temporary labor; or
- Fulfilling any contracts for day labor in accordance with the act, even if the entity also conducts other business.³

¹ Chapter 95-332, L.O.F.

² Section 448.22(3), F.S., defines a "labor hall" as a central location maintained by a labor pool where day laborers assemble and are dispatched to work for a third-party user.

³ Section 448.22(1), F.S. The act also specifically excludes certain businesses from its provisions: businesses registered as farm labor contractors; employee leasing companies; temporary help services that solely provide white collar employees,

The act limits the methods by which a day laborer may be paid to cash or commonly accepted negotiable instruments⁴ that are payable in cash, on demand at a financial institution, and without discount.⁵ The act prohibits a labor pool from charging a day laborer for directly or indirectly cashing the worker's check.⁶

Payment for Labor

Chapter 532, F.S., governs the issuance of payment for labor in this state. Under the law, payment for labor may be made by order, check, draft, note, memorandum, payroll debit card, or other acknowledgment of indebtedness issued in payment of wages and payable in cash, on demand, without discount, at an established place of business. It further requires the name and address of such business to appear on the payroll debit card.

Payroll Debit Cards

More companies are using payroll debit cards to compensate their employees for their labor. The number of companies using this method to pay employees is expected to reach 10.8 million within the next 5 years.⁷ However, some consumer advocates warn that employees paid by these debit cards may be subjected to fees for transactions, such as withdrawals, balance inquiries, and point of sale purchases.⁸ Some of the payroll debit card issuers may also charge its cardholders overdraft and inactivity fees.

However, payroll debit cards may offer an individual who has limited or no access to a financial institution a safe and convenient way to receive her or his wages.⁹ The Consumers Union and the National Consumer Law Center has issued a Model State Payroll Card Law, which they feel offer a mutually beneficial payroll program for both employers and employees.¹⁰ The model law includes such provisions as:

- Requirement of a voluntary written consent to receive payment by payroll card;

secretarial employees, clerical employees, or skilled laborers; labor union hiring halls; or labor bureau or employment offices operated by a business entity for the sole purpose of employing an individual for its own use. *See* s. 448.23, F.S.

⁴ Section 673.1041(1), F.S., defines negotiable instrument as “an unconditional promise or order to pay a fixed amount of money, with or without interest or other charges described in the promise or order, if it: (a) is payable to the bearer or to order at the time it is issued or first comes into possession of a holder; (b) is payable on demand or at a definite time; and (c) does not state any other undertaking or instruction by the person promising or ordering payment to do any act in addition to the payment of money...”

⁵ Section 448.24(2)(a), F.S.

⁶ Section 448.24(1)(c), F.S.

⁷ Sandra Pedicini, *More Companies Opt to Give Workers Payroll Debit Cards*, ORLANDO SENTINEL, Oct. 6, 2013, available at http://articles.orlandosentinel.com/2013-10-06/business/os-cfb-cover-payroll-cards-20131006_1_debit-cards-payroll-cards-such-cards (last visited Feb. 5, 2015).

⁸ *Id.* See also Jessica Silver-Greenberg and Stephanie Clifford, *Paid via Card, Workers Feel Sting of Fees*, NEW YORK TIMES, June 30, 2013, available at http://www.nytimes.com/2013/07/01/business/as-pay-cards-replace-paychecks-bank-fees-hurt-workers.html?pagewanted=all&_r=1& (last visited Feb. 5, 2015).

⁹ Press Release, American Payroll Association and National Consumer Law Center, *American Payroll Association, National Consumer Law Center Agree Payroll Cards Make Sense for Unbanked If Proper Guidelines Followed*, July 31, 2013, available at https://www.nclc.org/images/pdf/pr-reports/pr_effective-payroll-card2013.pdf (last visited Feb. 5, 2015).

¹⁰ *Id.* See also Consumers Union and National Consumer Law Center, *Model State Payroll Card Law* (Feb. 2011), available at <http://consumersunion.org/wp-content/uploads/2013/02/Payroll-Model-Law.pdf> (last visited Feb. 5, 2015).

- The availability of wages without a fee at least once each pay period;
- A prohibition of certain other fees, such as fees for point of sale transactions, declined transactions, balance inquiry, and account activity;
- A provision of a periodic statement and transaction history;
- Requirement to disclose available payment options to the employee;
- A provisions that allows an employee to change the wage payment method;
- A prohibition on linking the payroll card to any form of credit account or fee-based overdraft program; and
- A requirement that payroll card funds be placed in an FDIC or NCUA insured account.

Federal Payroll Card Regulations

The Electronic Funds Transfer Act (EFTA), Regulation E, governs the use of payroll card accounts.¹¹ The regulation outlines the requirements for financial institutions offering payroll credit accounts.¹² The regulation provides instructions on providing account information to the consumer and general account information and disclosures. Additionally, financial institutions issuing payroll card accounts are instructed on limitations on liability for unauthorized account transactions that are timely reported. The regulation prohibits a financial institution or other person from requiring an individual to receive wages by electronic funds transfer with a particular institution, including payroll cards, as a condition of employment.¹³

III. Effect of Proposed Changes:

Section 1 amends s. 448.24, F.S., to permit labor pools to pay a day laborer by payroll debit card or electronic funds transfer, in addition to the current options of payment by cash or a negotiable instrument that is payable in cash.

The bill provides that before the first pay period, a day laborer must be advised of the method of payment the labor pool uses, and the payment options available. A day laborer must be given the opportunity to opt out of receiving his or her wages by payroll debit card or electronic fund transfer.

If a labor pool opts to pay wages by payroll debit card, the labor pool must:

- Offer to provide wages by electronic fund transfer; and
- Prior to selecting to pay a day laborer by payroll debit card, provide a list of businesses in close proximity of the labor pool that will allow the day laborer to withdraw the contents of the payroll debit card without a fee.

¹¹ 12 C.F.R. s. 1005.2(b)(2). Payroll card account is defined as “an account that is directly or indirectly established through an employer and to which electronic fund transfers of the consumer’s wages, salary, or other employee compensation (such as commissions), are made on a recurring basis, whether the account is operated or managed by the employer, a third-party payroll processor, a depository institution or any other person.”

¹² 12 C.F.R. s. 1005.18. *See also*, Consumer Financial Protection Bureau, *Payroll Credit Accounts (Regulation E)*, CFPB Bulletin 2013-10 (Sept. 13, 2013), available at http://files.consumerfinance.gov/f/201309_cfpb_payroll-card-bulletin.pdf (last visited Feb. 5, 2015).

¹³ 12 C.F.R. s. 1005.10(e)(2).

Current law requires a labor pool to provide the day laborer with a written, itemized statement of wages including all deductions made from his or her wages. The bill authorizes a labor pool to provide this itemized statement in an electronic format, upon written request of the day laborer.

Section 2 provides an effective date of July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

An employee being paid by this method may be able to avoid or reduce check-cashing fees or other fees incurred for accessing wages, if the employee does not have access or has limited access to traditional banking services.

An employer may save costs associated with the issuance of a paper check.

C. Government Sector Impact:

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill does not define “close proximity.” Although the term is used in several statutes to delineate distance,¹⁴ only two provisions provide a definition.¹⁵ Section 627.736(7)(a), F.S., uses

¹⁴ For example, ss. 39.6012, 119.071, 163.3175, 310.101, 310.141, 331.310, 341.031, 380.0552, 403.7211, 561.01, and 856.022, F.S.

¹⁵ Sections 119.071(3)(c)5.b. and 561.01(18), F.S., include in the definition of “entertainment or resort complex” lodging, dining, and recreational facilities adjacent to, contiguous to, or in close proximity to a theme park. Close proximity is defined to include an area within a 5-mile radius of the theme park complex.

the term “area of the closest proximity.” This term was reviewed by the Fifth District Court of Appeal, which found this term to mean the same or closest metropolitan area.¹⁶

The bill requires that a day laborer be provided a list of locations where the contents of the debit card may be withdrawn without a fee. However, it is unclear whether the entire contents of the debit card must be withdrawn in a single occurrence to avoid a fee, or if multiple partial withdrawals are also allowed without a fee.

VIII. Statutes Affected:

This bill substantially amends section 448.24 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.

¹⁶ *Progressive American Insurance Co. v. Belcher*, 496 So.2d 841, 843 (Fla. 5th DCA 1986).

By Senator Braynon

36-00502B-15

2015456__

1 A bill to be entitled
 2 An act relating to labor pools; amending s. 448.24,
 3 F.S.; revising methods by which a labor pool is
 4 required to compensate day laborers; requiring a labor
 5 pool to provide certain notice before a day laborer's
 6 first pay period; specifying requirements for a labor
 7 pool that selects to compensate a day laborer by
 8 payroll debit card; authorizing a labor pool to
 9 deliver a wage statement electronically upon request
 10 by the day laborer; providing an effective date.

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

14 Section 1. Subsection (2) of section 448.24, Florida
 15 Statutes, is amended to read:

16 448.24 Duties and rights.—

17 (2) A labor pool shall:

18 (a) Select one of the following methods of payment to
 19 compensate a day laborer laborers for work performed: in the
 20 form of

21 1. Cash, ~~or~~

22 2. Commonly accepted negotiable instruments that are
 23 payable in cash, on demand at a financial institution, and
 24 without discount.

25 3. Payroll debit card.

26 4. Electronic fund transfer, which must be made to a
 27 financial institution designated by the day laborer.

28 (b) Before a day laborer's first pay period, provide notice
 29 to the day laborer of the method of payment that the labor pool

Page 1 of 3

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36-00502B-15

2015456__

30 intends to use for payroll and the day laborer's options to
 31 elect a different method of payment, and authorize the day
 32 laborer to elect not to be paid by payroll debit card or
 33 electronic fund transfer.

34 (c) If selecting to compensate a day laborer by payroll
 35 debit card:

36 1. Offer the day laborer the option to elect payment by
 37 electronic fund transfer; and

38 2. Before selecting payroll debit card, provide the day
 39 laborer with a list, including the address, of a business that
 40 is in close proximity to the labor pool and that does not charge
 41 a fee to withdraw the contents of the payroll debit card.

42 (d) ~~(b)~~ Compensate day laborers at or above the minimum
 43 wage, in conformance with ~~the provision of~~ s. 448.01. ~~In no~~
 44 event ~~shall any~~ Deductions, other than those authorized
 45 ~~permitted~~ by federal or state law, may not bring the worker's
 46 pay below minimum wage for the hours worked.

47 (e) ~~(e)~~ Comply with all requirements of chapter 440.

48 (f) ~~(d)~~ Insure any motor vehicle owned or operated by the
 49 labor hall and used for the transportation of workers pursuant
 50 to Florida Statutes.

51 (g) ~~(e)~~ At the time of each payment of wages, furnish each
 52 worker a written itemized statement showing in detail each
 53 deduction made from such wages. A labor pool may deliver this
 54 statement electronically upon written request of the day
 55 laborer.

56 (h) ~~(f)~~ Provide each worker with an annual earnings summary
 57 within a reasonable period of time after the end of the
 58 preceding calendar year, but no later than February 1.

Page 2 of 3

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36-00502B-15

2015456__

59

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

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 Commerce and Tourism

BILL: SB 526

INTRODUCER: Senator Grimsley

SUBJECT: Notaries Public

DATE: February 13, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harmsen	McKay	CM	Pre-meeting
2.			CJ	
3.			RC	

I. Summary:

SB 526 allows a law enforcement officer engaged in the performance of official duties to remotely administer an oath either through reliable electronic means, or in the physical presence of a person who swears to an affidavit. Currently, a law enforcement officer may only administer an oath in the physical presence of an affiant.

Additionally, the bill allows law enforcement officers to verify documents pursuant to ss. 92.50 and 92.525, F.S.

II. Present Situation:

Notaries public, governed by ch. 117, F.S., have two distinct roles: to administer oaths, and to acknowledge or verify documents.¹ Law enforcement officers, correctional officers, correctional probation officers, traffic accident investigation officers, and traffic infraction enforcement officers engaged in the performance of their official duties may administer oaths in the same manner as a notary public, but do not have authority to verify documents under current law.²

Administration of Oaths

In 1983, the Legislature allowed that “all law enforcement and correctional officers as defined in s. 943.10, F.S., may administer oaths, to witnesses, in connection with the taking of a sworn statement during a criminal investigation...”³ Application of this law was limited by a 1983 Florida Attorney General Opinion, which opined that a law enforcement officer’s power to administer oaths was exclusive to sworn statements given by witnesses during informal

¹ Sections 117.03-.04, F.S.

² Section 117.10, F.S.

³ Ch. 83-147, Laws of Florida; Section 925.095, F.S. (1983).

investigations, and that specifically, an officer was “not empowered to take sworn statements of another officer or witness for the sole purpose of using that document to establish probable cause or serve as a complaint for direct submission to a court.”⁴

The following year, the Legislature created s. 117.10, F.S., which clearly granted law enforcement officers the power to serve as a notary for the purpose of certifying or attesting to documents in connection with the performance of their official duties.⁵

Section 117.10, F.S., was subsequently amended to include correctional probation officers, traffic accident investigation officers, and traffic infraction enforcement officers. The direct reference to notaries was removed, so the statute now states that law enforcement officers are “authorized to administer oaths when engaged in the performance of official duties.”⁶

Law enforcement officers administer oaths to verify signatures on official documents, such as probable cause affidavits, reports, or sworn complaints.⁷

Sections 668.50 and 117.021, F.S., allow electronic signatures on notarized documents. However, an oath administered by a notary or law enforcement officer must still be administered in person. Therefore, a law enforcement officer affiant may electronically sign his affidavit, but only after he physically meets with a fellow law enforcement officer to swear or affirm the oath required.

Verification of Documents

A verified document has been signed or executed by a person who must state under oath (or affirmation) that the facts or matters made therein are true, or other words to that effect.⁸

A document can be verified in two ways:

- Administration of an oath or affirmation by an officer of the state authorized under s. 92.50, F.S., to administer oaths. Officers currently authorized are judges, clerks or deputy clerks of court, or any notary public; or
- Signing a written declaration, which states “Under penalty of perjury, I declare that I have read the foregoing [document] and that the facts stated in it are true.”⁹ Where a verification of a belief is permitted, the phrase “to the best of my knowledge and belief” may be added to the declaration.

⁴ Fla. AGO 83-85, in response to a request for clarification of s. 925.095, F.S. (1983) from the Havana, Florida, Chief of Police.

⁵ Chapter 84-87, L.O.F., which also repealed s. 925.095, F.S. (1983).

⁶ Section 117.10, F.S.

⁷ Section 117.10, F.S.

⁸ Section 92.525(4)(c), F.S.

⁹ Section 92.525(2), F.S.

Perjury

A person who knowingly makes a false statement under oath regarding any material matter commits perjury, a first degree misdemeanor.¹⁰

A person who knowingly makes a false declaration for the purpose verifying a document under s. 92.525(2), F.S., is subject to prosecution for perjury by false written declaration, a third degree felony.¹¹

III. Effect of Proposed Changes:

Under this bill, law enforcement officers, correctional officers, correctional probation officers, traffic accident investigation officers, and traffic infraction enforcement officers acting in the scope of their authority will be able to remotely administer oaths pursuant to s. 117.10, F.S. This allows law enforcement officers to administer an oath for work purposes either in the presence of the affiant, or by electronic transmittal of the document from the affiant through means compliant with criminal justice information systems security measures¹², defined in s. 117.10(1), F.S. These law enforcement officers are specifically exempted from the s. 117.05(4)(c), F.S. requirement that the affiant personally appear before them at the time of notarization.

The bill allows law enforcement officers, correctional officers, correctional probation officers, traffic accident investigation officers, and traffic infraction enforcement officers, while engaged in the performance of official duties, to verify documents pursuant to 92.525, F.S.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

¹⁰ Section 837.012, F.S.

¹¹ Section 92.525(3), F.S.

¹² The criminal justice information systems (CJIS) security policy is published by the FBI, administered in Florida by the FDLE, and applied to local law enforcement agencies. Phone interview with Charles Schaeffer, February 10, 2015. See also, U.S. Department of Justice, Criminal Justice Information Services Security Policy (August 4, 2014). Retrieved February 10, 2015 from <http://www.fbi.gov/about-us/cjis/cjis-security-policy-resource-center>.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Law enforcement agencies may, but are not required to, incur some costs associated with either implementing new technological systems or updating current systems to become compliant with the criminal justice information system security measures. Some of these costs may be mitigated by a reduced need for excess hours and other costs associated with the current method of officer administration of oaths and document verification.

VI. Technical Deficiencies:

None.

VII. Related Issues:

It is unclear whether section 1 of the bill overcomes the requirement in s. 92.525(1)(a), F.S. that an oath or affirmation for verification purposes be “taken or administered before an officer.”

Section 2 of the bill is repetitive of an exemption already in s. 117.10(2), F.S.

Because a certain class of individuals may administer and swear oaths without the physical presence of another party, enforcement of perjury laws may become more burdensome. The prosecution in perjury cases may have extra hurdles to overcome to prove that the defendant was the person who submitted the false statement under oath.

VIII. Statutes Affected:

This bill substantially amends sections 92.525, 117.05, and 117.10 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.



709170

LEGISLATIVE ACTION

Senate

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. .
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House

The Committee on Commerce and Tourism (Richter) recommended the following:

Senate Amendment (with title amendment)

Delete lines 25 - 45

and insert:

an officer authorized under s. 92.50 to administer oaths;

or

(b) Under oath or affirmation taken or administered by an officer authorized under s. 117.10 to administer oaths; or

(c) By the signing of the written declaration prescribed in



709170

10 subsection (2).

11

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

13 And the title is amended as follows:

14 Delete lines 4 - 7

15 and insert:

16 verifying documents; amending s. 117.10, F.S.;

By Senator Grimsley

21-00715-15

2015526__

1 A bill to be entitled
 2 An act relating to notaries public; amending s.
 3 92.525, F.S.; revising the methods available for
 4 verifying documents; amending s. 117.05, F.S.;
 5 providing an exception to the requirement that a
 6 signer personally appear before a notary public at the
 7 time of notarization; amending s. 117.10, F.S.;
 8 defining the term "reliable electronic means";
 9 authorizing specified officers to administer oaths by
 10 reliable electronic means when engaged in the
 11 performance of official duties; providing an effective
 12 date.
 13
 14 Be It Enacted by the Legislature of the State of Florida:
 15
 16 Section 1. Subsection (1) of section 92.525, Florida
 17 Statutes, is amended to read:
 18 92.525 Verification of documents; perjury by false written
 19 declaration, penalty.-
 20 (1) ~~If when it is~~ authorized or required by law, by rule of
 21 an administrative agency, or by rule or order of court that a
 22 document be verified by a person, the verification may be
 23 accomplished in the following manner:
 24 (a) Under oath or affirmation taken or administered before
 25 an officer authorized under s. 92.50 or s. 117.10 to administer
 26 oaths; or
 27 (b) By the signing of the written declaration prescribed in
 28 subsection (2).
 29 Section 2. Paragraph (c) of subsection (4) of section

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21-00715-15

2015526__

30 117.05, Florida Statutes, is amended to read:
 31 117.05 Use of notary commission; unlawful use; notary fee;
 32 seal; duties; employer liability; name change; advertising;
 33 photocopies; penalties.-
 34 (4) When notarizing a signature, a notary public shall
 35 complete a jurat or notarial certificate in substantially the
 36 same form as those found in subsection (13). The jurat or
 37 certificate of acknowledgment shall contain the following
 38 elements:
 39 (c) That the signer personally appeared before the notary
 40 public at the time of the notarization. This paragraph does not
 41 apply to the administration of an oath by a law enforcement
 42 officer, correctional officer, correctional probation officer,
 43 traffic accident investigation officer, or traffic infraction
 44 enforcement officer through reliable electronic means as
 45 authorized by s. 117.10.
 46 Section 3. Section 117.10, Florida Statutes, is amended to
 47 read:
 48 117.10 Law enforcement and correctional officers;
 49 administration of oaths.-
 50 (1) For purposes of this section, the term "reliable
 51 electronic means" means the signing and transmission of a
 52 document through means compliant with criminal justice
 53 information system security measures. Such signing and
 54 transmission must be made by an affiant to an officer authorized
 55 to administer oaths under subsection (2) under circumstances
 56 that indicate that the document was submitted by the affiant.
 57 (2) Law enforcement officers, correctional officers, and
 58 correctional probation officers, as defined in s. 943.10, and

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21-00715-15

2015526__

59 traffic accident investigation officers and traffic infraction
60 enforcement officers, as described in s. 316.640, are authorized
61 to administer oaths by reliable electronic means or in the
62 physical presence of an affiant when engaged in the performance
63 of official duties. Sections 117.01, 117.04, 117.045, 117.05,
64 and 117.103 do not apply to ~~the provisions of~~ this section. An
65 officer may not notarize his or her own signature.

66 (3) An oath administered pursuant to this section is an
67 acceptable method of verification as provided under s. 92.525.

68 Section 4. This act shall take effect July 1, 2015.



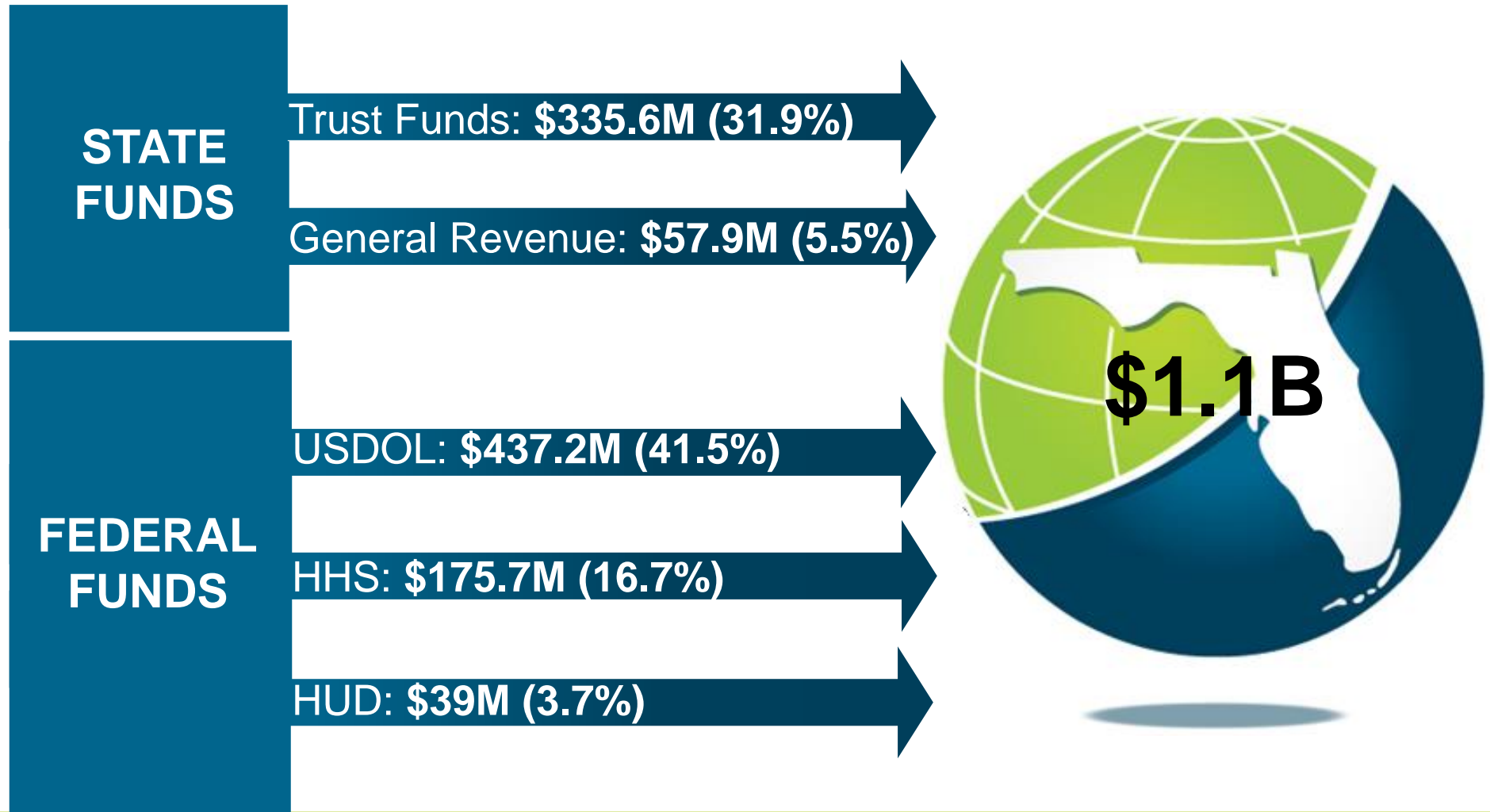
FLORIDA
DEPARTMENT *of*
ECONOMIC
OPPORTUNITY

Program Funding Overview

Dean Izzo, Chief Financial Officer
Senate Commerce and Tourism Committee
February 16, 2015



Budget by Funding Sources



FLORIDA DEPARTMENT of ECONOMIC OPPORTUNITY STRUCTURE

DIVISION of COMMUNITY DEVELOPMENT

*Community Assistance
Community Revitalization
Community Planning
Community Economic Development*

DIVISION of STRATEGIC BUSINESS DEVELOPMENT

*Business & Economic Incentives
Compliance & Accountability
Planning & Partnerships
Film & Entertainment*

DIVISION of WORKFORCE SERVICES

*Labor Market Statistics
One Stop Program Support
Reemployment Assistance*



PARTNERS



PARTNERS



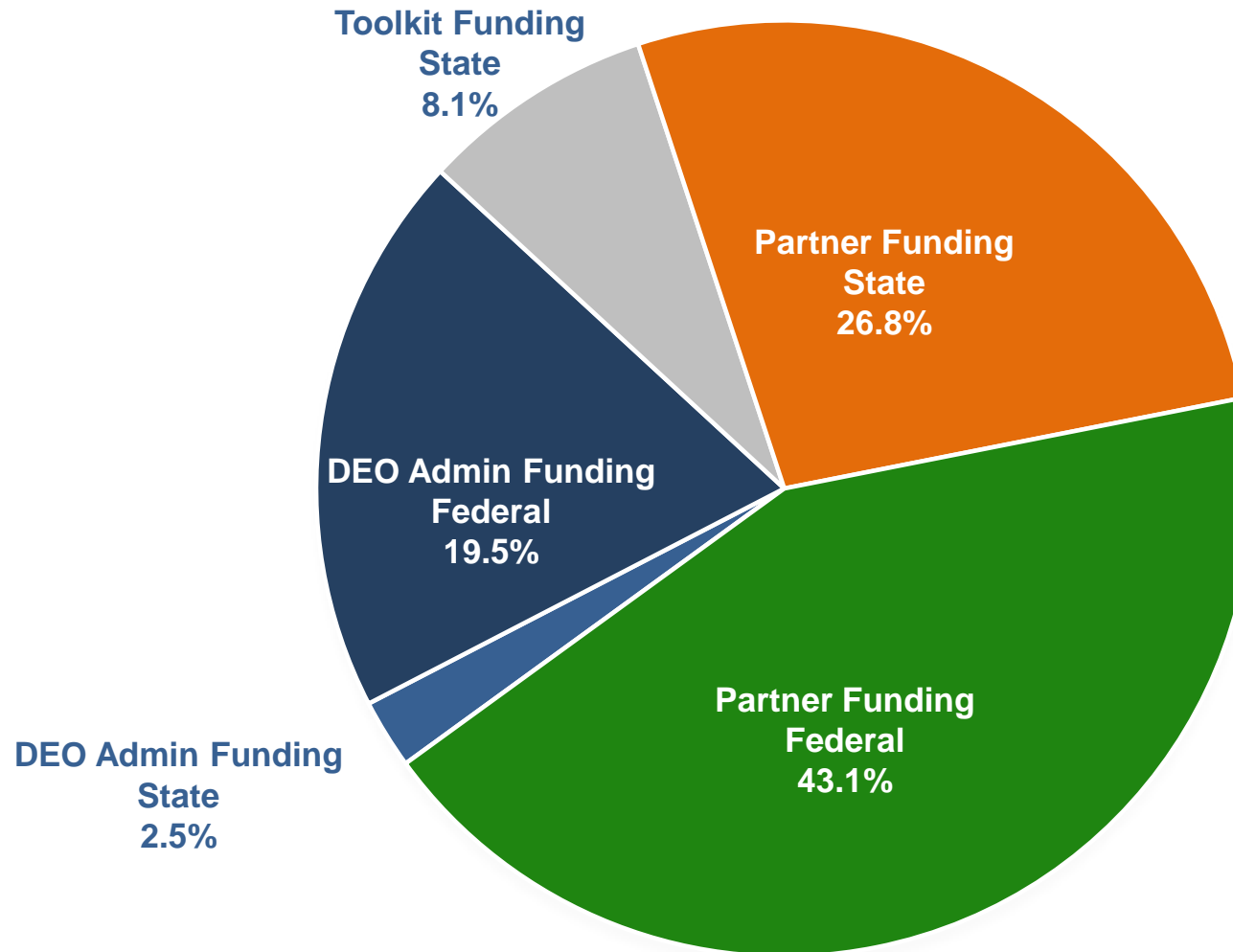
PARTNERS



FLORIDA DEPARTMENT of ECONOMIC OPPORTUNITY



DEO Admin and Partner Funding





❖ Funding:

- ❖ State – \$42.6M
- ❖ Federal – \$298.7M

❖ Major Programs:

- Quick Response Training (QRT) – Reimburses new or expanding businesses for new jobs training.
- STEM State Workforce Training – Provides educational opportunities through grants and scholarships for training in STEM fields.
- Training & Job Placement Grants – Local training initiatives managed by workforce boards that include on-the-job training, employed worker training, internships, and other similar programs.





❖ Funding: State – \$100.8M

❖ Major Programs:

- State Housing Initiatives Partnership (SHIP) – Provides funding to local governments to produce and preserve affordable housing for moderate to very-low income families.
- State Apartment Incentive Loans (SAIL) – Provides low interest loans on a competitive basis as gap financing for apartment development projects.
- Rental and Homeownership Programs – Provides a wide range of grants and assistance programs to renters and potential home buyers.



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❖ Funding: State – \$24.9M

❖ Major Programs:

- **Business Location, Relocation, and Expansion** – Provides guidance, collaboration, and assistance to businesses entering or expanding into Florida.
- **Business Export Development and Expansion** – Provides counseling, financial assistance, exposure, and other assistance to Florida businesses interested in beginning or expanding exports of products or services.
- **Minority and Small Business Entrepreneurship and Capital Support** – Provides information, support, financial assistance and incentives to small and minority enterprises seeking to expand their business.
- **Florida Sports Foundation** – Assists Florida communities with attracting, hosting and retaining sporting events and sports related businesses.
- **Defense Industry Support** – Provides support, assistance, and grants to businesses and local governments working in the defense industry.



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VISITFLORIDA®

❖ Funding: State – \$85M

❖ Major Programs:

- **Tourism Marketing Campaigns** – Engages in national and international marketing of Florida as the world's leading tourism destination through annual, seasonal, and event specific marketing campaigns and promotions.
- **Welcome Centers** – Funds and staffs five Florida Welcome Centers located throughout the state to assist visitors in planning vacations and travel while in the state.



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❖ Funding: State – \$12.5M

❖ Major Programs:

- **Attracting, Retaining, and Expanding Aerospace Businesses –** Provides financial incentives and assistance, consulting, and support for aerospace industry businesses and suppliers.
- **Research and Development –** Conducts and supports public and private aerospace research projects, while supporting commercialization of viable technologies.
- **Infra-Structure Projects –** Provides funding for specific space industry infrastructure projects including construction, modernization, or renovation of launch facilities.



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Q&A

The letters 'Q&A' are rendered in a bold, dark blue, sans-serif font. The letter 'A' is partially obscured by a circular graphic. This graphic is a globe with a green and white grid pattern. A white silhouette of the state of Florida is superimposed on the globe, positioned over the right side of the 'A'.

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