

**Tab 1** CS/CS/SB 130 by CA, CJ, Richter; (Similar to CS/CS/H 0041) Discharging a Firearm

**Tab 2** SB 194 by Hukill; (Identical to H 0565) Redevelopment Trust Fund

**Tab 3** CS/SB 228 by CJ, Bean, Bradley; (Identical to CS/H 0135) Mandatory Minimum Sentences

**Tab 4** SB 288 by Smith; (Identical to H 0497) State Designations

**Tab 5** SB 376 by Hukill; (Compare to CS/H 7003) Individuals with Disabilities

170500 PCS S RCS FP, AGG 11/19 11:50 AM

**Tab 6** SB 388 by Detert; (Compare to CS/H 7003) Individuals with Disabilities

**Tab 7** CS/SB 416 by CA, Flores; (Identical to H 0461) Location of Utilities

**Tab 8** SB 7010 by GO; (Compare to CS/H 7003) Individuals with Disabilities

186950 PCS S RCS FP, AGG 11/19 11:51 AM

382240 PCS:D S RCS FP, Hukill Delete everything after 11/19 11:51 AM

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

**FISCAL POLICY**  
**Senator Flores, Chair**  
**Senator Bradley, Vice Chair**

**MEETING DATE:** Thursday, November 19, 2015  
**TIME:** 9:00—11:00 a.m.  
**PLACE:** Pat Thomas Committee Room, 412 Knott Building

**MEMBERS:** Senator Flores, Chair; Senator Bradley, Vice Chair; Senators Abruzzo, Bean, Clemens, Hays, Hukill, Legg, Margolis, Sachs, and Stargel

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>CS/CS/SB 130</b> Community Affairs / Criminal Justice / Richter (Similar CS/H 41)	Discharging a Firearm; Prohibiting the recreational discharge of a firearm in certain residential areas; providing criminal penalties; providing exceptions, etc.  CJ 09/16/2015 Fav/CS CA 10/06/2015 Fav/CS FP 11/19/2015 Favorable	Favorable Yeas 9 Nays 0
2	<b>SB 194</b> Hukill (Identical H 565)	Redevelopment Trust Fund; Adding certain hospital districts to the list of public bodies or taxing authorities that are exempt from appropriating certain revenues to the redevelopment trust fund, etc.  CA 10/06/2015 Favorable FT 11/02/2015 Favorable FP 11/19/2015 Favorable	Favorable Yeas 9 Nays 0
3	<b>CS/SB 228</b> Criminal Justice / Bean (Identical CS/H 135)	Mandatory Minimum Sentences; Deleting aggravated assault from the list of convictions which carry a minimum term of imprisonment if during the commission of the offense the convicted person possessed a firearm or destructive device; deleting aggravated assault from the list of convictions which carry a minimum term of imprisonment if during the commission of the offense the convicted person possessed a semiautomatic firearm and its high-capacity detachable box magazine or a machine gun, etc.  CJ 10/05/2015 Fav/CS ACJ 11/03/2015 Favorable FP 11/19/2015 Favorable	Favorable Yeas 9 Nays 0
With subcommittee recommendation - Criminal and Civil Justice			
4	<b>SB 288</b> Smith (Identical H 497)	State Designations; Providing an honorary designation of a certain state park in a specified county; directing the Department of Environmental Protection to erect suitable markers, etc.  EP 10/07/2015 Favorable FP 11/19/2015 Favorable	Favorable Yeas 9 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Fiscal Policy

Thursday, November 19, 2015, 9:00—11:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
<b>A proposed committee substitute</b> for the following bill (SB 376) is available:			
5	<b>SB 376</b> Hukill (Compare CS/H 7003)	Individuals with Disabilities; Establishing the Financial Literacy Program for Individuals with Developmental Disabilities within the Department of Financial Services; providing for the participation of banks, credit unions, savings associations, and savings banks; requiring a qualified public depository to participate in the program, etc.  BI 10/20/2015 Favorable AGG 11/03/2015 Fav/CS FP 11/19/2015 Fav/CS	Fav/CS Yeas 9 Nays 0
With subcommittee recommendation - General Government			
6	<b>SB 388</b> Detert (Compare CS/H 7003)	Individuals with Disabilities; Requiring the Department of Economic Opportunity, in consultation with other entities, to create the Florida Unique Abilities Partner Program; defining terms; authorizing a business entity to apply to the department for designation; authorizing the department to allow a designated business entity to display a logo, etc.  CM 10/20/2015 Favorable ATD 11/03/2015 Favorable FP 11/19/2015 Favorable	Favorable Yeas 9 Nays 0
With subcommittee recommendation - Transportation, Tourism, and Economic Development			
7	<b>CS/SB 416</b> Community Affairs / Flores (Identical H 461)	Location of Utilities; Revising the circumstances under which a board of county commissioners is authorized to grant to a person or private corporation a license for specified projects related to lines for the transmission of certain public utilities and communication services; authorizing the Department of Transportation and certain local governmental entities to prescribe and enforce rules or regulations regarding the placement and maintenance of specified structures and lines within the right-of-way limits of roads or publicly owned rail corridors under their respective jurisdictions, etc.  CA 10/20/2015 Fav/CS TR 11/04/2015 Favorable FP 11/19/2015 Favorable	Favorable Yeas 9 Nays 0

**A proposed committee substitute** for the following bill (SB 7010) is available:

**COMMITTEE MEETING EXPANDED AGENDA**

Fiscal Policy

Thursday, November 19, 2015, 9:00—11:00 a.m.

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	<b>SB 7010</b> Governmental Oversight and Accountability (Compare CS/H 7003)	Individuals with Disabilities; Revising the state's equal employment opportunity policy to include individuals who have a disability; requiring the Department of Management Services to develop and implement certain programs geared toward individuals who have a disability; requiring the department to compile and post data regarding the hiring practices of executive agencies regarding the employment of individuals who have a disability; creating the "Employment First Act", etc.  AGG 11/03/2015 Fav/CS FP 11/19/2015 Fav/CS	Fav/CS Yeas 9 Nays 0
With subcommittee recommendation - General Government			

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Other Related Meeting Documents

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An electronic copy of the Appearance Request form is available to download from any Senate Committee page on the Senate's website, [www.flssenat.gov](http://www.flssenat.gov).

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

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

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Prepared By: The Professional Staff of the Committee on Fiscal Policy

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BILL: CS/CS/SB 130

INTRODUCER: Community Affairs Committee; Criminal Justice Committee; and Senator Richter

SUBJECT: Discharging a Firearm

DATE: November 18, 2015

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cellon</u>	<u>Cannon</u>	<u>CJ</u>	<b>Fav/CS</b>
2.	<u>Stearns</u>	<u>Yeatman</u>	<u>CA</u>	<b>Fav/CS</b>
3.	<u>Jones</u>	<u>Hrdlicka</u>	<u>FP</u>	<b>Favorable</b>

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 130 prohibits the recreational discharge of a firearm in areas that are primarily residential. Violation of this prohibition is a first degree misdemeanor punishable by up to a year in jail and a \$1,000 fine.

The bill provides exemptions for the lawful defense of life or property, the accidental discharge of a firearm, or the performance of official duties that require the discharge of a firearm. Additionally, the penalties do not apply if, under the circumstances, the discharge does not pose a reasonably foreseeable risk to life, safety, or property.

**II. Present Situation:**

**Legislative Preemption of the Field of Firearm and Ammunition Regulation**

In 1987 the Florida Legislature created s. 790.33, F.S., which provides:

It is the intent of this section to provide uniform firearms laws in the state; to declare all ordinances and regulations null and void which have been enacted by any jurisdictions other than state and federal, which regulate firearms, ammunition, or components thereof; to prohibit the enactment of any future ordinances or regulations relating to firearms, ammunition, or components thereof

unless specifically authorized by this section or general law; and to require local jurisdictions to enforce state firearms laws.<sup>1</sup>

Section 790.33, F.S. accomplished its stated purpose by “occupying the whole field of regulation of firearms and ammunition,” with the following provision:

PREEMPTION.—Except as expressly provided by the State Constitution or general law, the Legislature hereby declares that it is occupying the whole field of regulation of firearms and ammunition, including the purchase, sale, transfer, taxation, manufacture, ownership, possession, storage, and transportation thereof, to the exclusion of all existing and future county, city, town, or municipal ordinances or any administrative regulations or rules adopted by local or state government relating thereto. Any such existing ordinances, rules or regulations are hereby declared null and void.<sup>2</sup>

Despite s. 790.33, F.S., and a Florida appellate court opinion upholding the statute,<sup>3</sup> local governments enacted, considered enacting, or attempted to enforce existing ordinances that required trigger locks, prohibited concealed carry permit holders from lawfully carrying their firearms on municipal or county property, and banned recreational shooting.<sup>4</sup>

### ***Recent Legislative Change***

The Legislature amended s. 790.33, F.S., in 2011 to create a civil fine of up to \$5,000 for a knowing and willful violation of the preemption law by any elected or appointed local government official or agency head. The amendment also created injunctive relief against the enforcement of any ordinance, regulation, or rule by local governmental entities that violated s. 790.33, F.S.<sup>5</sup>

Subsequent to the 2011 amendment to s. 790.33, F.S., local governments began to examine, reevaluate, and repeal local ordinances related to firearms or ammunition.<sup>6</sup>

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<sup>1</sup> Section 790.33(2)(a), F.S.

<sup>2</sup> Section 790.33(1), F.S.

<sup>3</sup> *National Rifle Association of America, Inc., v. City of South Miami*, 812 So. 2d 504 (Fla. 3d DCA 2002).

<sup>4</sup> See FL AGO 2000-42 (“May a municipality enact an ordinance requiring the use of locking devices on firearms stored within the city?”); FL AGO 2005-40 (“May a county pass an ordinance prohibiting the discharge of a firearm in proximity to persons or property when such discharge endangers the health, welfare, and safety of the citizens of such county?”). Similarly, note that s. 790.333, F.S., provides preemption of “the whole field of regulation of firearms and ammunition use at sport shooting and training ranges, including the environmental effects of projectile deposition at sport shooting and training ranges.” In FL AGO 2008-34, the question “May a county enforce its land development code to prohibit a shooting range in a residential land use district in light of section 790.333(8), Florida Statutes?” was addressed. The Attorney General opined: “To read the preemption provision in section 790.333, Florida Statutes, as a total ban on the application of any zoning or land use regulation upon an existing or proposed sports shooting range would render section 823.16(7), Florida Statutes...of no use or consequence. ...it is my opinion that a county clearly may impose existing zoning and land use regulations upon the siting of a proposed sports shooting range; however, no newly created or amended zoning or land use regulations may be enforced against existing ranges.”

<sup>5</sup> Chapter 2011-109, L.O.F.

<sup>6</sup> FL AGO 2011-17 (“May [a] county regulate the recreational discharge of firearms in residentially zoned areas in light of section 790.33, Florida Statutes?”).

## Discharging a Firearm

Prior to 2012, s. 790.15(1), F.S., did not address discharging a firearm on private property except that it was a first degree misdemeanor to knowingly discharge a firearm over any occupied premises.<sup>7</sup>

In 2012, the Legislature amended s. 790.15(1), F.S., to prohibit “recklessly or negligently discharging a firearm” outdoors on any property used primarily as the site of a dwelling as defined in s. 776.013, F.S., or zoned exclusively for residential use.<sup>8</sup>

## Backyard Gun Ranges

Recently, there have been reports of persons constructing “gun ranges” in their backyards.<sup>9</sup> Many of the persons using backyard gun ranges live in residential neighborhoods, which cause their neighbors to be concerned for their own safety. In December 2013, a man in Volusia County was struck and killed by a stray bullet fired from a neighbor’s yard.<sup>10</sup> According to the news reports, some local law enforcement and their legal counsel found the language “recklessly or negligently discharges a firearm,” in s. 790.15(1), F.S., to be subjective and vague.<sup>11</sup> This interpretation of the language seems to have inhibited law enforcement from taking a proactive approach in the reported circumstances.<sup>12</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 790.15, F.S., to prohibit the recreational discharge of a firearm outdoors, including for target shooting or celebratory shooting, in an area that the person knows or reasonably should know is primarily residential in nature and that has a residential density of one or more dwelling units per acre. A violation of this law is a first degree misdemeanor punishable by up to a year in jail and a \$1,000 fine.

The bill provides exemptions for the lawful defense of life or property, the accidental discharge of a firearm, or the performance of official duties that require the discharge of a firearm. Additionally, the penalties do not apply if, under the circumstances, the discharge does not pose a reasonably foreseeable risk to life, safety, or property.

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<sup>7</sup> Section 790.15(1), F.S., also provides that it is a first degree misdemeanor to knowingly discharge of a firearm in any public place or on the right-of-way of any paved public road, highway, or street or over the right-of-way of any paved public road, highway, or street.

<sup>8</sup> Chapter 2012-108, L.O.F. The term “dwelling” is defined in s. 776.013, F.S., as a building or conveyance of any kind, including any attached porch, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, and is designed to be occupied by people lodging therein at night.

<sup>9</sup> See, e.g., Charles Billi, *Backyard gun range concerns St. Pete neighbors*, WTSP 10 News Tampa Bay Sarasota, (February 3, 2015), available at <http://www.wtsp.com/story/news/local/2015/02/02/man-builds-gun-range-in-his-yard-neighbors-concerned/22777421> (last visited November 16, 2015); Cammy Clark, *Fla. law allows backyard shooting ranges*, Miami Herald, Herald-Tribune, (February 1, 2014), available at <http://www.heraldtribune.com/article/20140201/WIRE/140209997> (last visited November 16, 2015).

<sup>10</sup> Cammy Clark, *Fla. law allows backyard shooting ranges*, Miami Herald, Herald-Tribune, (February 1, 2014), available at <http://www.heraldtribune.com/article/20140201/WIRE/140209997> (last visited November 16, 2015).

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

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

**Section 2** provides that the bill takes effect upon becoming a law.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 790.15 of the Florida Statutes.

**IX. Additional Information:**

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

**CS/CS by Community Affairs on October 6, 2015:**

Provided an exemption for the accidental discharge of a firearm.



**CS by Criminal Justice on September 16, 2015:**

Changed the effective date of the bill from “July 1, 2016” to “upon becoming a law.”

**B. Amendments:**

None.

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

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By the Committees on Community Affairs; and Criminal Justice;  
and Senator Richter

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A bill to be entitled

An act relating to discharging a firearm; amending s.  
790.15, F.S.; prohibiting the recreational discharge  
of a firearm in certain residential areas; providing  
criminal penalties; providing exceptions; providing an  
effective date.

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

Section 1. Subsection (4) is added to section 790.15,  
Florida Statutes, to read:

790.15 Discharging firearm in public or on residential  
property.—

(4) Any person who recreationally discharges a firearm  
outdoors, including for target shooting or celebratory shooting,  
in an area that the person knows or reasonably should know is  
primarily residential in nature and that has a residential  
density of one or more dwelling units per acre, commits a  
misdemeanor of the first degree, punishable as provided in s.  
775.082 or s. 775.083. This subsection does not apply:

(a) To a person lawfully defending life or property or  
performing official duties requiring the discharge of a firearm;

(b) If, under the circumstances, the discharge does not  
pose a reasonably foreseeable risk to life, safety, or property;

or

(c) To a person who accidentally discharges a firearm.

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



The Florida Senate

## Committee Agenda Request

**To:** Senator Anitere Flores, Chair  
Committee on Fiscal Policy

**Subject:** Committee Agenda Request

**Date:** October 7, 2015

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I respectfully request that **Senate Bill #130**, relating to Discharging a Firearm, be placed on the:

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

A handwritten signature in cursive script, appearing to read "Garrett Richter".

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Senator Garrett Richter  
Florida Senate, District 23



# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:  
Ethics and Elections, *Chair*  
Banking and Insurance, *Vice Chair*  
Appropriations  
Appropriations Subcommittee on Health  
and Human Services  
Commerce and Tourism  
Regulated Industries  
Rules

## SENATOR GARRETT RICHTER

*President Pro Tempore*  
23rd District

November 18, 2015

The Honorable Anitere Flores, Chair  
Committee on Fiscal Policy  
225 Knott Building  
404 South Monroe Street  
Tallahassee, FL 32399

Dear Chair Flores:

Senate bill 130 relating to discharging a firearm is scheduled to be heard in the Fiscal Policy committee this upcoming Thursday, November 19th. Due to conflicts in my committee schedule, I will be sending my Legislative Assistant, Michael Nacheff, as a representative to present the bill for your committee's consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Garrett Richter".

Garrett Richter

cc: Jennifer Hrdlicka, Staff Director

REPLY TO:

- 3299 E. Tamiami Trail, Suite 203, Naples, Florida 34112-4961 (239) 417-6205
- 404 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5023
- 25 Homestead Road North, Suite 42 B, Lehigh Acres, Florida 33936 (239) 338-2777

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

11.19.15

Meeting Date

SB 130

Bill Number (if applicable)

Topic BACKYARD GUN RANGE

Amendment Barcode (if applicable)

Name CASEY COOK

Job Title LEGISLATIVE ADVOCATE

Address P.O. BOX 1757

Phone 850.701.3455

Street

TALLAHASSEE FL 32301

Email CCOOK@FLCITIES.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)

11/19/15

Meeting Date

SB 130

Bill Number (if applicable)

Topic Discharge of Firearms

Amendment Barcode (if applicable)

Name Sally Everett

Job Title Dir. Govt Affairs

Address City Hall

Phone

Street

St. Petersburg

Email

City

State

Zip

Speaking:  For  Against  Information

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

Representing City of St. Petersburg

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)

11-19-2015  
Meeting Date

130  
Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name BRIAN PITTS

Job Title Trustee

Address 1119 Newton Ave S  
Street

Phone 727/897-9291

St Petersburg FL 33705  
City State Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing Justice-2-Jesus

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

November 19, 2015

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

130

Meeting Date

Bill Number (if applicable)

Topic Discharging a Firearm

Amendment Barcode (if applicable)

Name Frank Fabrizio

Job Title Chief,

Address 4301 S. Peninsula

Phone 386-236-2160

Street

Ponce Inlet FL 32127

Email ffabrizio@ponce-inlet.org

City

State

Zip

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

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

Representing The Florida Police Chiefs Association

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

Lobbyist registered with Legislature: [ ] Yes [X] 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.)

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Prepared By: The Professional Staff of the Committee on Fiscal Policy

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BILL: SB 194

INTRODUCER: Senator Hukill

SUBJECT: Redevelopment Trust Fund

DATE: November 18, 2015      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Present</u>	<u>Yeatman</u>	<u>CA</u>	<b>Favorable</b>
2.	<u>Babin</u>	<u>Diez-Arguelles</u>	<u>FT</u>	<b>Favorable</b>
3.	<u>Hrdlicka</u>	<u>Hrdlicka</u>	<u>FP</u>	<b>Favorable</b>

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**I. Summary:**

SB 194 exempts hospital districts from making annual appropriations to the redevelopment trust fund of a community redevelopment agency created on or after July 1, 2016.

This bill has no fiscal impact to state funds.

**II. Present Situation:**

**Community Redevelopment Act**

The Community Redevelopment Act<sup>1</sup> authorizes a county or municipality to create community redevelopment agencies (CRAs) as a means of redeveloping slums and blighted areas. In accordance with a community redevelopment plan,<sup>2</sup> CRAs can:

- Enter into contracts;
- Disseminate information;
- Acquire property within a slum or blighted area by voluntary methods;
- Demolish and remove buildings and improvements;
- Construct improvements; and
- Dispose of property at fair value.<sup>3</sup>

Counties and municipalities are prohibited from exercising the authority provided by the Community Redevelopment Act until they adopt an ordinance that declares an area to be a slum or a blighted area.<sup>4</sup>

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<sup>1</sup> Chapter 163, part III, F.S.

<sup>2</sup> Section 163.360, F.S.

<sup>3</sup> Section 163.370, F.S.

<sup>4</sup> Sections 163.355 and 163.360(1), F.S.

A “blighted area” generally includes an area in which there are a substantial number of deteriorated, or deteriorating structures; in which conditions, as indicated by government-maintained statistics or other studies, endanger life or property or are leading to economic distress; and in which other statutorily-defined criteria exist.<sup>5</sup>

### **The TIF Mechanism for Funding CRAs**

CRAs are not permitted to levy or collect taxes; however, the local governing body is permitted to establish a community redevelopment trust fund that is funded through tax increment financing (TIF).<sup>6</sup> The TIF mechanism requires taxing authorities within the CRA to annually appropriate an incremental amount of revenue to the redevelopment trust fund by January 1.<sup>7</sup> This revenue is used to finance redevelopment projects in accordance with a redevelopment plan,<sup>8</sup> which may include bonding.<sup>9</sup> The incremental revenue amount is calculated annually as 95 percent of the difference between:

- The amount of ad valorem taxes levied by each taxing authority on taxable real property within the CRA; and
- The amount of ad valorem taxes that would have been produced on the assessed value of the real property within the CRA in the year prior to the creation of the CRA.<sup>10</sup>

Thus, as the CRA’s property values increase, the tax increment revenue increases and is available to pay for public infrastructure and redevelopment costs of the CRA.

### **TIF Limitations and Exemptions**

For CRAs created before July 1, 2002, taxing districts typically contribute to the redevelopment trust fund for a period equal to the length of any indebtedness pledging the incremental revenues, but not exceeding 30 years, unless the community redevelopment plan is amended.<sup>11</sup> For CRAs created after July 1, 2002, taxing authorities make the annual appropriation for a period not to exceed 40 years after the fiscal year in which the community redevelopment plan is approved or adopted. The following taxing authorities are exempt from contributing to the CRA:<sup>12</sup>

- A special district that levies ad valorem taxes on taxable real property in more than one county.
- A special district for which the sole available source of revenue the district has the authority to levy is ad valorem taxes at the time the ordinance is adopted.
- A library district, except a library district in a jurisdiction where the community redevelopment agency had validated bonds as of April 30, 1984.
- A neighborhood improvement district created under the Safe Neighborhoods Act.
- A metropolitan transportation authority.

<sup>5</sup> See s. 163.340(8), F.S.

<sup>6</sup> Through tax increment financing, a baseline tax amount is chosen, and then in future years, any taxes generated above that baseline amount are transferred into the redevelopment trust fund. Section 163.387, F.S.

<sup>7</sup> Section 163.387(2)(a), F.S.

<sup>8</sup> Section 163.387(1)(a), F.S.

<sup>9</sup> Sections 163.370(2)(f) and 163.385, F.S.

<sup>10</sup> Section 163.387(1)(a), F.S.

<sup>11</sup> Section 163.387(2)(a), F.S.

<sup>12</sup> Section 163.387(2)(c), F.S.

- A water management district created under s. 373.069, F.S.
- A special district specifically exempted by the local governing body that created the CRA, if the exemption is made in accordance with the requirements of s. 163.387(2)(d), F.S., which include a public hearing, public notice, and an interlocal agreement.

### **Hospital Districts**

First created in the 1920s to provide indigent care for county residents, hospital districts now differ greatly in roles, powers, and governance.<sup>13</sup> There are currently six hospital districts created as dependent districts, and 22 created as independent special districts.<sup>14</sup> Independent districts are generally created by special acts of the Legislature, whereas dependent districts are created by local governments with their governing bodies under the control of a county or municipal board. The North Sumter County Hospital District, created in 2004 by special act of the Legislature, is the most recently created hospital district.<sup>15</sup>

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

**Section 1** amends s. 163.387, F.S., to add hospital districts to the list of taxing authorities exempt from contributing to the redevelopment trust fund, but only for CRAs created after July 1, 2016. Hospital districts in CRAs created before July 1, 2016, will continue to contribute to the redevelopment trust fund.

**Section 2** reenacts s. 259.042, F.S., to incorporate provisions related to tax increment financing for conservation lands to the changes made by Section 1 of the bill.

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

### **IV. Constitutional Issues:**

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

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

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

None.

#### **C. Trust Funds Restrictions:**

None.

<sup>13</sup> Florida TaxWatch, *Florida's Fragmented Hospital Taxing District System in Need of Reexamination*, Briefings (Feb. 2009), available at <http://www.floridataxwatch.org/resources/pdf/02242009HospitalDistricts.pdf> (last visited Nov. 13, 2015).

<sup>14</sup> Department of Economic Opportunity, Official List of Special Districts Online, available at <https://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/selectfunctions.cfm> (last visited Nov. 13, 2015).

<sup>15</sup> Chapter 2004-451, L.O.F.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The Department of Revenue and the Department of Economic Opportunity determined that the bill had no impact on their operations.<sup>16</sup>

Community redevelopment areas created after July 1, 2016, will not be able to rely on hospital districts for appropriations to the redevelopment trust fund.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 163.387 of the Florida Statutes.

This bill reenacts section 259.042 of the Florida Statutes.

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

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

None.

**B. Amendments:**

None.

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

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<sup>16</sup> Department of Revenue, *Senate Bill 194 Analysis* (Sept. 18, 2015) (on file with the Senate Fiscal Policy Committee); Department of Economic Opportunity, *Senate Bill 194 Analysis* (Oct. 15, 2015) (on file with the Senate Fiscal Policy Committee).

By Senator Hukill

8-00123B-16

2016194\_\_

1 A bill to be entitled  
 2 An act relating to the redevelopment trust fund;  
 3 amending s. 163.387, F.S.; adding certain hospital  
 4 districts to the list of public bodies or taxing  
 5 authorities that are exempt from appropriating certain  
 6 revenues to the redevelopment trust fund; reenacting  
 7 s. 259.042(9), F.S., relating to tax increment  
 8 financing for conservation lands, to incorporate the  
 9 amendment made by this act to s. 163.387, F.S.;

10 providing an effective date.

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

13  
 14 Section 1. Paragraph (c) of subsection (2) of section  
 15 163.387, Florida Statutes, is amended to read:

16 163.387 Redevelopment trust fund.—

17 (2)

18 (c) The following public bodies or taxing authorities are  
 19 exempt from paragraph (a):

20 1. A special district that levies ad valorem taxes on  
 21 taxable real property in more than one county.

22 2. A special district for which the sole available source  
 23 of revenue the district has the authority to levy is ad valorem  
 24 taxes at the time an ordinance is adopted under this section.  
 25 However, revenues or aid that may be dispensed or appropriated  
 26 to a district as defined in s. 388.011 at the discretion of an  
 27 entity other than such district shall not be deemed available.

28 3. A library district, except a library district in a  
 29 jurisdiction where the community redevelopment agency had

Page 1 of 2

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

8-00123B-16

2016194\_\_

30 validated bonds as of April 30, 1984.

31 4. A neighborhood improvement district created under the  
 32 Safe Neighborhoods Act.

33 5. A metropolitan transportation authority.

34 6. A water management district created under s. 373.069.

35 7. For a community redevelopment agency created on or after  
 36 July 1, 2016, a hospital district that is a special district as  
 37 defined in s. 189.012.

38 Section 2. For the purpose of incorporating the amendment  
 39 made by this act to section 163.387, Florida Statutes, in a  
 40 reference thereto, subsection (9) of section 259.042, Florida  
 41 Statutes, is reenacted to read:

42 259.042 Tax increment financing for conservation lands.—

43 (9) The public bodies and taxing authorities listed in s.  
 44 163.387(2)(c), school districts, and special districts that levy  
 45 ad valorem taxes within a tax increment area are exempt from  
 46 this section.

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

Page 2 of 2

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



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Finance and Tax, *Chair*  
Communications, Energy, and Public Utilities,  
*Vice Chair*  
Appropriations  
Appropriations Subcommittee on Transportation,  
Tourism, and Economic Development  
Banking and Insurance  
Fiscal Policy

### JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

**SENATOR DOROTHY L. HUKILL**  
8th District

November 2, 2015

The Honorable Anitere Flores  
225 Knott Building  
404 S. Monroe Street  
Tallahassee, FL 32399

Re: Senate Bill 194 – Redevelopment Trust Fund

Dear Chairwoman Flores:

Senate Bill 194, relating to Redevelopment Trust Fund has been referred to the Fiscal Policy Committee. I am requesting your consideration on placing SB 194 on your next agenda. Should you need any additional information please do not hesitate to contact my office.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Dorothy L. Hukill".

Dorothy L. Hukill, District 8

cc: Jennifer Hrdlicka, Staff Director of the Fiscal Policy Committee  
Tamra Lyon, Administrative Assistant of the Fiscal Policy Committee

### REPLY TO:

209 Dunlawton Avenue, Unit 17, Port Orange, Florida 32127 (386) 304-7630 FAX: (888) 263-3818  
 Ocala City Hall, 110 SE Watula Avenue, 3rd Floor, Ocala, Florida 34471 (352) 694-0160

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

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

# APPEARANCE RECORD

November 19, 2015

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

194

*Meeting Date*

*Bill Number (if applicable)*

Topic Relating to Redevelopment Trust Fund

*Amendment Barcode (if applicable)*

Name Darrick D. McGhee

Job Title VP of Government Relations - Johnson & Blanton, LLC

Address 537 East Park Avenue

Phone (850) 321-6489

*Street*  
Tallahassee Florida 32301  
*City* *State* *Zip*

Email darrick@teamjb.com

Speaking:  For  Against  Information

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

Representing Halifax Health

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)

11-19-2015

Meeting Date

199

Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name BRIAN Pitts

Job Title Trustee

Address 1119 Newton Ave S.

Phone 727/897-9291

Street

St Petersburg

City

FL

State

33705

Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing Justice-2-Jesus

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)



**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.)

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Prepared By: The Professional Staff of the Committee on Fiscal Policy

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BILL: CS/SB 228

INTRODUCER: Criminal Justice Committee and Senator Bean

SUBJECT: Mandatory Minimum Sentences

DATE: November 18, 2015      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cellon</u>	<u>Cannon</u>	<u>CJ</u>	<b>Fav/CS</b>
2.	<u>Harkness</u>	<u>Sadberry</u>	<u>ACJ</u>	<b>Recommend: Favorable</b>
3.	<u>Jones</u>	<u>Hrdlicka</u>	<u>FP</u>	<b>Favorable</b>

---

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 228 eliminates the minimum mandatory sentences for aggravated assault in the 10-20-Life statute by deleting aggravated assault from the list of crimes to which the law applies.<sup>1</sup>

Under 10-20-Life, a person convicted of one of the specified crimes or the attempt to commit the crime must be sentenced to the following mandatory prison terms:

- Possession of a firearm – 10 years.
- Possession of a semi-automatic/machine gun – 15 years.
- Discharge of a firearm (any type) – 20 years.
- Discharge with great bodily injury or death – 25 years to life.

Under the bill, persons who are convicted of only an aggravated assault offense will no longer qualify for the 10-20-Life mandatory minimum sentences.

The bill also repeals subsection (6) from s. 775.087, F.S. This provision was added to the 10-20-Life statute in 2014, allowing the sentencing court to deviate from the minimum mandatory sentences for the offense of aggravated assault. Under the bill, a person convicted of only aggravated assault will no longer qualify for 10-20-Life sentencing, therefore the repealed language would be moot.

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<sup>1</sup> Sections 775.087(2)(a)1., and 775.087(3)(a)1., F.S.

The Criminal Justice Impact Conference met on October 28, 2015, and determined the bill has a positive, indeterminate fiscal impact.

The bill is effective July 1, 2016.

## II. Present Situation:

### The 10-20-Life Law

The 10-20-Life law, s. 775.087, F.S., was among ten sentencing laws enacted by the 1999 Legislature in response to Florida's rising violent crime rate in the 1990s.<sup>2</sup> Scholars noted that the new laws took sentencing discretion away from judges and, at the same time, discouraged elected state attorneys from plea-bargaining these cases to lesser sentences.<sup>3</sup>

10-20-Life requires a judge to sentence a person convicted of specified offenses to a minimum term of imprisonment if, while committing the offense, the person possesses or discharges a firearm or destructive device or if the discharge of the firearm results in death or great bodily harm.<sup>4</sup>

### *Mandatory Minimum Sentencing Under 10-20-Life*

Under 10-20-Life, a person convicted of one of the specified crimes or the attempt to commit the crime must be sentenced to the following mandatory prison terms:

- Possession of a firearm – 10 years.
- Possession of a semi-automatic/machine gun – 15 years.
- Discharge of a firearm (any type) – 20 years.
- Discharge with great bodily injury or death – 25 years to life.

However, s. 775.087(2)(a)(1), provides a minimum mandatory sentence of three years, instead of the 10 years, for the possession of firearm while committing the offenses of aggravated assault, possession of a firearm by a felon, or burglary of a conveyance.

The specified crimes are:<sup>5</sup>

- a. Murder;
- b. Sexual battery;
- c. Robbery;
- d. Burglary;
- e. Arson;
- f. Aggravated assault;
- g. Aggravated battery;

---

<sup>2</sup> Chapter 99-12, L.O.F., "Whereas" clauses.

<sup>3</sup> Fingerhut, Scola, *Tough Times in the Sunshine State*, The Florida Bar Journal, November, 1999 Volume LXXIII, No. 10, p. 28, available at <https://www.floridabar.org/divcom/jn/jnjournal01.nsf/Author/56453A7242AA141485256ADB005D629E> (last visited Nov. 17, 2015). Until 2011, when s. 27.366, F.S., was amended, 10-20-Life required state attorneys to report every potential 10-20-Life defendant to the presiding officers of the Legislature and the Governor. Current law only requires that the deviation memo be retained in the case file.

<sup>4</sup> The terms "firearm" and "destructive device" are defined in s. 790.001, F.S.

<sup>5</sup> Section 775.087(2)(a)1., F.S.

- h. Kidnapping;
- i. Escape;
- j. Aircraft piracy;
- k. Aggravated child abuse;
- l. Aggravated abuse of an elderly person or disabled adult;
- m. Unlawful throwing, placing, or discharging of a destructive device or bomb;
- n. Carjacking;
- o. Home-invasion robbery;
- p. Aggravated stalking;
- q. Trafficking in cannabis, trafficking in cocaine, capital importation of cocaine, trafficking in illegal drugs, capital importation of illegal drugs, trafficking in phencyclidine, capital importation of phencyclidine, trafficking in methaqualone, capital importation of methaqualone, trafficking in amphetamine, capital importation of amphetamine, trafficking in flunitrazepam, trafficking in gamma-hydroxybutyric acid (GHB), trafficking in 1,4-Butanediol, trafficking in Phenethylamines, or other violation of drug trafficking provisions of s. 893.135(1); or
- r. Possession of a firearm by a felon.<sup>6</sup>

Since the creation of the 10-20-Life minimum mandatory sentencing, over 15,000 inmates have been admitted to prison for offenses under this law.<sup>7</sup> On June 30, 2014, there were approximately 9,957 inmates in the prison population who were sentenced under 10-20-Life.<sup>8</sup>

#### ***Amendment to 10-20-Life***

Section 775.087, F.S., was amended in 2014 to create an exception for sentencing in aggravated assault cases. The exception provides that the court shall not impose the minimum mandatory sentence if the court makes written findings that:

- a) The defendant had a good faith belief that the aggravated assault was justifiable pursuant to ch. 776, F.S.;
- b) The aggravated assault was not committed in the course of committing another criminal offense;
- c) The defendant does not pose a threat to public safety; and
- d) The totality of the circumstances involved in the offense do not justify the imposition of such sentence.<sup>9</sup>

#### ***The Use of 10-20-Life in Cases Involving Self-Defense***

In recent years some high-profile cases and controversy has emerged concerning the use of the 10-20-Life statute when sentencing a defendant who either displays or fires a gun in self-defense. Many of these cases constituted aggravated assault. Defendants who believe they acted in self-defense often times agree to a plea deal, admitting to crimes they do not feel they committed, in

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<sup>6</sup> The offense of possession of a firearm by a convicted felon does not appear in the crimes specified in s. 775.087(3)(a)1., F.S., however, sale, manufacture, delivery, or intent to sell, manufacture, or deliver any controlled substance is specified therein. Section 775.087(3)(a)1.j., F.S.

<sup>7</sup> Criminal Justice Estimating Conference, *Criminal Justice Trends*, p. 53, July 28, 2015, available at <http://edr.state.fl.us/content/conferences/criminaljustice/trends.pdf> (last visited Nov. 17, 2015).

<sup>8</sup> *Id.*

<sup>9</sup> Chapter 2014-195, L.O.F.; s. 775.087(6), F.S.

order to avoid the risk of a trial and a possible minimum mandatory 10 or 20-year prison sentence.<sup>10</sup>

### III. Effect of Proposed Changes:

The bill eliminates the minimum mandatory sentences for aggravated assault in the 10-20-Life statute by deleting aggravated assault from the list of crimes to which 10-20-Life applies.<sup>11</sup> As a result, persons who are convicted of only an aggravated assault offense will no longer qualify for the 10-20-Life penalties.

The bill repeals the exception for sentencing in aggravated assault cases enacted in 2014. As discussed in the present situation, this exception allows the sentencing court to deviate from the minimum mandatory sentences for crimes of aggravated assault if the court makes certain statutory findings based upon mitigating evidence presented at sentencing. Under the bill, because a person convicted of only aggravated assault will no longer qualify for 10-20-Life sentencing, the repealed language would have no further application in cases of aggravated assault committed after the effective date of the bill.

The 10-20-Life statute is referenced in ss. 27.366, 921.0022(2), 921.0024(1)(b), 947.146(3)(b), and 985.557(2)(d), F.S., therefore those sections are amended or reenacted to incorporate or conform the amendments made to s. 775.087, F.S., by the bill.

The bill 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.

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<sup>10</sup> Arguably it was the Marissa Alexander and Ronald Thompson 10-20-Life cases in Florida's Fourth Judicial Circuit and the George Zimmerman "Stand Your Ground"/justifiable use of force case in Sanford that began to highlight for the public the disparate application of these two legal concepts. See Heller, *Use a Gun and You're Done: How 10-20-Life and "Stand Your Ground" Together Have a Disparate Impact on Florida Citizens*, Vol. 43, 2014, Southwestern L.R., available at [http://www.swlaw.edu/pdfs/lr/43\\_3levitt](http://www.swlaw.edu/pdfs/lr/43_3levitt) (last visited Nov. 17, 2015). See also Menzel, 'Worst...case...ever' draws 20-year sentence, outrage, *The St. Augustine Record*, June 22, 2012.

<sup>11</sup> Sections 775.087(2)(a)1., and 775.087(3)(a)1., F.S.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the Office of Economic and Demographic Research, there were 235 inmates sentenced under the 10-20-Life on June 30, 2015, with a primary offense of aggravated assault. This represents roughly 2.3 percent of the 10-20-Life population. Below is a more detailed breakdown of that population.<sup>12</sup>

10-20-Life June 30, 2015, Population with Primary Offense of Aggravated Assault					
Offense	Sentence				
	3 YR-10 YR	10 YR-20 YR	20 YR-25 YR	25 YR-Life	Total
Aggravated assault with weapon - no intent to kill	12	19	168	10	209
Aggravated assault – intent to commit felony	0	1	2	0	3
Aggravated assault on law enforcement officer, firefighter, emergency management services	3	6	14	0	23
Total	15	26	184	10	235

Consequently, the bill will result in a reduction in the number of offenders sentenced to prison under 10-20-Life. The Criminal Justice Impact Conference met on October 28,2015, and determined the bill has a positive, indeterminate fiscal impact due to the reduction in the need for state prison beds.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends sections 775.087 and 985.557 of the Florida Statutes.

The bill reenacts the following sections of the Florida Statutes: 27.366, 921.0022, 921.0024, and 947.146.

<sup>12</sup> Office of Economic and Demographic Research, email to the Senate Criminal Justice Committee, (Oct. 6, 2015) (on file with the Senate Fiscal Policy Committee).

**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 Criminal Justice on October 5, 2015:**

- Aggravated assault is removed from the list of crimes to which the 10-20-Life law applies. This means that a person who commits aggravated assault with a firearm is no longer subject to the minimum mandatory sentence.
- Subsection (6) of s. 775.087, F.S., is repealed. This eliminates language added to the statute in order to give persons convicted of aggravated assault an opportunity to present mitigating evidence at sentencing and to allow the court to deviate from the 10-20-Life minimum mandatory sentence. The language is no longer necessary due to the deletion of aggravated assault from the list of 10-20-Life crimes.
- Section 985.557, F.S., the juvenile direct file statute, is amended to conform a cross-reference to the list of 10-20-Life crimes.
- Sections 27.366, 921.0022(2), 921.0024(1)(b), and 947.146(3)(b), F.S., are reenacted to incorporate the amendments made by the bill to s. 775.087, F.S.
- The reference to the bill as the “Self-Defense Protection Act” is deleted.

- B. **Amendments:**

None.

By the Committee on Criminal Justice; and Senator Bean

591-00708-16

2016228c1

1 A bill to be entitled  
 2 An act relating to the mandatory minimum sentences;  
 3 amending s. 775.087, F.S.; deleting aggravated assault  
 4 from the list of convictions which carry a minimum  
 5 term of imprisonment if during the commission of the  
 6 offense the convicted person possessed a firearm or  
 7 destructive device; deleting aggravated assault from a  
 8 list of convictions which carry a minimum term of  
 9 imprisonment if during the commission of the offense  
 10 the convicted person possessed a firearm or  
 11 destructive device; deleting aggravated assault from  
 12 the list of convictions which carry a minimum term of  
 13 imprisonment if during the commission of the offense  
 14 the convicted person possessed a semiautomatic firearm  
 15 and its high-capacity detachable box magazine or a  
 16 machine gun; deleting a provision prohibiting a court  
 17 from imposing the mandatory minimum sentence for a  
 18 conviction for aggravated assault if the court makes  
 19 specified written findings; conforming cross-  
 20 references; amending s. 985.557, F.S.; conforming a  
 21 cross-reference; reenacting ss. 27.366, 921.0022(2),  
 22 921.0024(1)(b), and 947.146(3)(b), F.S., relating to  
 23 legislative intent and policy in cases meeting the  
 24 criteria of s. 775.087(2) and (3), F.S., the Criminal  
 25 Punishment Code, the Criminal Punishment Code  
 26 worksheet, and the Control Release Authority,  
 27 respectively, to incorporate the amendment made to s.  
 28 775.087, F.S., in references thereto; providing an  
 29 effective date.

Page 1 of 18

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

591-00708-16

2016228c1

30  
 31 Be It Enacted by the Legislature of the State of Florida:  
 32  
 33 Section 1. Subsections (2), (3), and (6) of section  
 34 775.087, Florida Statutes, are amended to read:  
 35 775.087 Possession or use of weapon; aggravated battery;  
 36 felony reclassification; minimum sentence.—  
 37 (2)(a)1. Any person who is convicted of a felony or an  
 38 attempt to commit a felony, regardless of whether the use of a  
 39 weapon is an element of the felony, and the conviction was for:  
 40 a. Murder;  
 41 b. Sexual battery;  
 42 c. Robbery;  
 43 d. Burglary;  
 44 e. Arson;  
 45 ~~f. Aggravated assault;~~  
 46 f.g. Aggravated battery;  
 47 ~~g.h.~~ Kidnapping;  
 48 h.i. Escape;  
 49 ~~i.j.~~ Aircraft piracy;  
 50 ~~j.k.~~ Aggravated child abuse;  
 51 ~~k.l.~~ Aggravated abuse of an elderly person or disabled  
 52 adult;  
 53 ~~l.m.~~ Unlawful throwing, placing, or discharging of a  
 54 destructive device or bomb;  
 55 ~~m.n.~~ Carjacking;  
 56 ~~n.o.~~ Home-invasion robbery;  
 57 ~~o.p.~~ Aggravated stalking;  
 58 p.q. Trafficking in cannabis, trafficking in cocaine,

Page 2 of 18

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

591-00708-16 2016228c1

59 capital importation of cocaine, trafficking in illegal drugs,  
 60 capital importation of illegal drugs, trafficking in  
 61 phencyclidine, capital importation of phencyclidine, trafficking  
 62 in methaqualone, capital importation of methaqualone,  
 63 trafficking in amphetamine, capital importation of amphetamine,  
 64 trafficking in flunitrazepam, trafficking in gamma-  
 65 hydroxybutyric acid (GHB), trafficking in 1,4-Butanediol,  
 66 trafficking in Phenethylamines, or other violation of s.  
 67 893.135(1); or

68 g. Possession of a firearm by a felon

69  
 70 and during the commission of the offense, such person actually  
 71 possessed a "firearm" or "destructive device" as those terms are  
 72 defined in s. 790.001, shall be sentenced to a minimum term of  
 73 imprisonment of 10 years, except that a person who is convicted  
 74 for ~~aggravated assault~~, possession of a firearm by a felon, or  
 75 burglary of a conveyance shall be sentenced to a minimum term of  
 76 imprisonment of 3 years if such person possessed a "firearm" or  
 77 "destructive device" during the commission of the offense.  
 78 However, if an offender who is convicted of the offense of  
 79 possession of a firearm by a felon has a previous conviction of  
 80 committing or attempting to commit a felony listed in s.  
 81 775.084(1)(b)1. and actually possessed a firearm or destructive  
 82 device during the commission of the prior felony, the offender  
 83 shall be sentenced to a minimum term of imprisonment of 10  
 84 years.

85 2. Any person who is convicted of a felony or an attempt to  
 86 commit a felony listed in sub-subparagraphs (a)1.a.-p. ~~(a)1.a.-~~  
 87 ~~q.~~, regardless of whether the use of a weapon is an element of

Page 3 of 18

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

591-00708-16 2016228c1

88 the felony, and during the course of the commission of the  
 89 felony such person discharged a "firearm" or "destructive  
 90 device" as defined in s. 790.001 shall be sentenced to a minimum  
 91 term of imprisonment of 20 years.

92 3. Any person who is convicted of a felony or an attempt to  
 93 commit a felony listed in sub-subparagraphs (a)1.a.-p. ~~(a)1.a.-~~  
 94 ~~q.~~, regardless of whether the use of a weapon is an element of  
 95 the felony, and during the course of the commission of the  
 96 felony such person discharged a "firearm" or "destructive  
 97 device" as defined in s. 790.001 and, as the result of the  
 98 discharge, death or great bodily harm was inflicted upon any  
 99 person, the convicted person shall be sentenced to a minimum  
 100 term of imprisonment of not less than 25 years and not more than  
 101 a term of imprisonment of life in prison.

102 (b) Subparagraph (a)1., subparagraph (a)2., or subparagraph  
 103 (a)3. does not prevent a court from imposing a longer sentence  
 104 of incarceration as authorized by law in addition to the minimum  
 105 mandatory sentence, or from imposing a sentence of death  
 106 pursuant to other applicable law. Subparagraph (a)1.,  
 107 subparagraph (a)2., or subparagraph (a)3. does not authorize a  
 108 court to impose a lesser sentence than otherwise required by  
 109 law.

110  
 111 Notwithstanding s. 948.01, adjudication of guilt or imposition  
 112 of sentence shall not be suspended, deferred, or withheld, and  
 113 the defendant is not eligible for statutory gain-time under s.  
 114 944.275 or any form of discretionary early release, other than  
 115 pardon or executive clemency, or conditional medical release  
 116 under s. 947.149, prior to serving the minimum sentence.

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117 (c) If the minimum mandatory terms of imprisonment imposed  
 118 pursuant to this section exceed the maximum sentences authorized  
 119 by s. 775.082, s. 775.084, or the Criminal Punishment Code under  
 120 chapter 921, then the mandatory minimum sentence must be  
 121 imposed. If the mandatory minimum terms of imprisonment pursuant  
 122 to this section are less than the sentences that could be  
 123 imposed as authorized by s. 775.082, s. 775.084, or the Criminal  
 124 Punishment Code under chapter 921, then the sentence imposed by  
 125 the court must include the mandatory minimum term of  
 126 imprisonment as required in this section.

127 (d) It is the intent of the Legislature that offenders who  
 128 actually possess, carry, display, use, threaten to use, or  
 129 attempt to use firearms or destructive devices be punished to  
 130 the fullest extent of the law, and the minimum terms of  
 131 imprisonment imposed pursuant to this subsection shall be  
 132 imposed for each qualifying felony count for which the person is  
 133 convicted. The court shall impose any term of imprisonment  
 134 provided for in this subsection consecutively to any other term  
 135 of imprisonment imposed for any other felony offense.

136 (3)(a)1. Any person who is convicted of a felony or an  
 137 attempt to commit a felony, regardless of whether the use of a  
 138 firearm is an element of the felony, and the conviction was for:

- 139 a. Murder;
- 140 b. Sexual battery;
- 141 c. Robbery;
- 142 d. Burglary;
- 143 e. Arson;
- 144 ~~f. Aggravated assault;~~
- 145 f.g. Aggravated battery;

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- 146 ~~g.h.~~ Kidnapping;
- 147 ~~h.i.~~ Escape;
- 148 ~~i.j.~~ Sale, manufacture, delivery, or intent to sell,  
 149 manufacture, or deliver any controlled substance;
- 150 ~~j.k.~~ Aircraft piracy;
- 151 ~~k.l.~~ Aggravated child abuse;
- 152 ~~l.m.~~ Aggravated abuse of an elderly person or disabled  
 153 adult;
- 154 ~~m.n.~~ Unlawful throwing, placing, or discharging of a  
 155 destructive device or bomb;
- 156 ~~n.o.~~ Carjacking;
- 157 ~~o.p.~~ Home-invasion robbery;
- 158 ~~p.q.~~ Aggravated stalking; or
- 159 ~~q.r.~~ Trafficking in cannabis, trafficking in cocaine,  
 160 capital importation of cocaine, trafficking in illegal drugs,  
 161 capital importation of illegal drugs, trafficking in  
 162 phencyclidine, capital importation of phencyclidine, trafficking  
 163 in methaqualone, capital importation of methaqualone,  
 164 trafficking in amphetamine, capital importation of amphetamine,  
 165 trafficking in flunitrazepam, trafficking in gamma-  
 166 hydroxybutyric acid (GHB), trafficking in 1,4-Butanediol,  
 167 trafficking in Phenethylamines, or other violation of s.  
 168 893.135(1);
- 169
- 170 and during the commission of the offense, such person possessed  
 171 a semiautomatic firearm and its high-capacity detachable box  
 172 magazine or a machine gun as defined in s. 790.001, shall be  
 173 sentenced to a minimum term of imprisonment of 15 years.
- 174 2. Any person who is convicted of a felony or an attempt to

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175 commit a felony listed in subparagraph (a)1., regardless of  
 176 whether the use of a weapon is an element of the felony, and  
 177 during the course of the commission of the felony such person  
 178 discharged a semiautomatic firearm and its high-capacity box  
 179 magazine or a "machine gun" as defined in s. 790.001 shall be  
 180 sentenced to a minimum term of imprisonment of 20 years.

181 3. Any person who is convicted of a felony or an attempt to  
 182 commit a felony listed in subparagraph (a)1., regardless of  
 183 whether the use of a weapon is an element of the felony, and  
 184 during the course of the commission of the felony such person  
 185 discharged a semiautomatic firearm and its high-capacity box  
 186 magazine or a "machine gun" as defined in s. 790.001 and, as the  
 187 result of the discharge, death or great bodily harm was  
 188 inflicted upon any person, the convicted person shall be  
 189 sentenced to a minimum term of imprisonment of not less than 25  
 190 years and not more than a term of imprisonment of life in  
 191 prison.

192 (b) Subparagraph (a)1., subparagraph (a)2., or subparagraph  
 193 (a)3. does not prevent a court from imposing a longer sentence  
 194 of incarceration as authorized by law in addition to the minimum  
 195 mandatory sentence, or from imposing a sentence of death  
 196 pursuant to other applicable law. Subparagraph (a)1.,  
 197 subparagraph (a)2., or subparagraph (a)3. does not authorize a  
 198 court to impose a lesser sentence than otherwise required by  
 199 law.

200  
 201 Notwithstanding s. 948.01, adjudication of guilt or imposition  
 202 of sentence shall not be suspended, deferred, or withheld, and  
 203 the defendant is not eligible for statutory gain-time under s.

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204 944.275 or any form of discretionary early release, other than  
 205 pardon or executive clemency, or conditional medical release  
 206 under s. 947.149, prior to serving the minimum sentence.

207 (c) If the minimum mandatory terms of imprisonment imposed  
 208 pursuant to this section exceed the maximum sentences authorized  
 209 by s. 775.082, s. 775.084, or the Criminal Punishment Code under  
 210 chapter 921, then the mandatory minimum sentence must be  
 211 imposed. If the mandatory minimum terms of imprisonment pursuant  
 212 to this section are less than the sentences that could be  
 213 imposed as authorized by s. 775.082, s. 775.084, or the Criminal  
 214 Punishment Code under chapter 921, then the sentence imposed by  
 215 the court must include the mandatory minimum term of  
 216 imprisonment as required in this section.

217 (d) It is the intent of the Legislature that offenders who  
 218 possess, carry, display, use, threaten to use, or attempt to use  
 219 a semiautomatic firearm and its high-capacity detachable box  
 220 magazine or a machine gun as defined in s. 790.001 be punished  
 221 to the fullest extent of the law, and the minimum terms of  
 222 imprisonment imposed pursuant to this subsection shall be  
 223 imposed for each qualifying felony count for which the person is  
 224 convicted. The court shall impose any term of imprisonment  
 225 provided for in this subsection consecutively to any other term  
 226 of imprisonment imposed for any other felony offense.

227 (e) As used in this subsection, the term:

228 1. "High-capacity detachable box magazine" means any  
 229 detachable box magazine, for use in a semiautomatic firearm,  
 230 which is capable of being loaded with more than 20 centerfire  
 231 cartridges.

232 2. "Semiautomatic firearm" means a firearm which is capable

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233 of firing a series of rounds by separate successive depressions  
 234 of the trigger and which uses the energy of discharge to perform  
 235 a portion of the operating cycle.

236 ~~(6) Notwithstanding s. 27.366, the sentencing court shall~~  
 237 ~~not impose the mandatory minimum sentence required by subsection~~  
 238 ~~(2) or subsection (3) for a conviction for aggravated assault if~~  
 239 ~~the court makes written findings that:~~

240 ~~(a) The defendant had a good faith belief that the~~  
 241 ~~aggravated assault was justifiable pursuant to chapter 776.~~

242 ~~(b) The aggravated assault was not committed in the course~~  
 243 ~~of committing another criminal offense.~~

244 ~~(c) The defendant does not pose a threat to public safety.~~

245 ~~(d) The totality of the circumstances involved in the~~  
 246 ~~offense do not justify the imposition of such sentence.~~

247 Section 2. Paragraph (d) of subsection (2) of section  
 248 985.557, Florida Statutes, is amended to read:

249 985.557 Direct filing of an information; discretionary and  
 250 mandatory criteria.—

251 (2) MANDATORY DIRECT FILE.—

252 (d)1. With respect to any child who was 16 or 17 years of  
 253 age at the time the alleged offense was committed, the state  
 254 attorney shall file an information if the child has been charged  
 255 with committing or attempting to commit an offense listed in s.  
 256 775.087(2)(a)1.a.-p. s. 775.087(2)(a)1.a.-q., and, during the  
 257 commission of or attempt to commit the offense, the child:

258 a. Actually possessed a firearm or destructive device, as  
 259 those terms are defined in s. 790.001.

260 b. Discharged a firearm or destructive device, as described  
 261 in s. 775.087(2)(a)2.

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262 c. Discharged a firearm or destructive device, as described  
 263 in s. 775.087(2)(a)3., and, as a result of the discharge, death  
 264 or great bodily harm was inflicted upon any person.

265 2. Upon transfer, any child who is:

266 a. Charged under sub-subparagraph 1.a. and who has been  
 267 previously adjudicated or had adjudication withheld for a  
 268 forcible felony offense or any offense involving a firearm, or  
 269 who has been previously placed in a residential commitment  
 270 program, shall be subject to sentencing under s. 775.087(2)(a),  
 271 notwithstanding s. 985.565.

272 b. Charged under sub-subparagraph 1.b. or sub-subparagraph  
 273 1.c., shall be subject to sentencing under s. 775.087(2)(a),  
 274 notwithstanding s. 985.565.

275 3. Upon transfer, any child who is charged under this  
 276 paragraph, but who does not meet the requirements specified in  
 277 subparagraph 2., shall be sentenced under s. 985.565; however,  
 278 if the court imposes a juvenile sanction, the court must commit  
 279 the child to a high-risk or maximum-risk juvenile facility.

280 4. This paragraph shall not apply if the state attorney has  
 281 good cause to believe that exceptional circumstances exist that  
 282 preclude the just prosecution of the child in adult court.

283 5. The Department of Corrections shall make every  
 284 reasonable effort to ensure that any child 16 or 17 years of age  
 285 who is convicted and sentenced under this paragraph be  
 286 completely separated such that there is no physical contact with  
 287 adult offenders in the facility, to the extent that it is  
 288 consistent with chapter 958.

289 Section 3. For the purpose of incorporating the amendment  
 290 made by this act to section 775.087, Florida Statutes, in a

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291 reference thereto, section 27.366, Florida Statutes, is  
 292 reenacted to read:

293 27.366 Legislative intent and policy in cases meeting  
 294 criteria of s. 775.087(2) and (3).—It is the intent of the  
 295 Legislature that convicted criminal offenders who meet the  
 296 criteria in s. 775.087(2) and (3) be sentenced to the minimum  
 297 mandatory prison terms provided therein. It is the intent of the  
 298 Legislature to establish zero tolerance of criminals who use,  
 299 threaten to use, or avail themselves of firearms in order to  
 300 commit crimes and thereby demonstrate their lack of value for  
 301 human life. It is also the intent of the Legislature that  
 302 prosecutors should appropriately exercise their discretion in  
 303 those cases in which the offenders' possession of the firearm is  
 304 incidental to the commission of a crime and not used in  
 305 furtherance of the crime, used in order to commit the crime, or  
 306 used in preparation to commit the crime. For every case in which  
 307 the offender meets the criteria in this act and does not receive  
 308 the mandatory minimum prison sentence, the state attorney must  
 309 explain the sentencing deviation in writing and place such  
 310 explanation in the case file maintained by the state attorney.

311 Section 4. For the purpose of incorporating the amendment  
 312 made by this act to section 775.087, Florida Statutes, in a  
 313 reference thereto, subsection (2) of section 921.0022, Florida  
 314 Statutes, is reenacted to read:

315 921.0022 Criminal Punishment Code; offense severity ranking  
 316 chart.—

317 (2) The offense severity ranking chart has 10 offense  
 318 levels, ranked from least severe, which are level 1 offenses, to  
 319 most severe, which are level 10 offenses, and each felony

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320 offense is assigned to a level according to the severity of the  
 321 offense. For purposes of determining which felony offenses are  
 322 specifically listed in the offense severity ranking chart and  
 323 which severity level has been assigned to each of these  
 324 offenses, the numerical statutory references in the left column  
 325 of the chart and the felony degree designations in the middle  
 326 column of the chart are controlling; the language in the right  
 327 column of the chart is provided solely for descriptive purposes.  
 328 Reclassification of the degree of the felony through the  
 329 application of s. 775.0845, s. 775.0861, s. 775.0862, s.  
 330 775.087, s. 775.0875, s. 794.023, or any other law that provides  
 331 an enhanced penalty for a felony offense, to any offense listed  
 332 in the offense severity ranking chart in this section shall not  
 333 cause the offense to become unlisted and is not subject to the  
 334 provisions of s. 921.0023.

335 Section 5. For the purpose of incorporating the amendment  
 336 made by this act to section 775.087, Florida Statutes, in a  
 337 reference thereto, paragraph (b) of subsection (1) of section  
 338 921.0024, Florida Statutes, is reenacted to read:

339 921.0024 Criminal Punishment Code; worksheet computations;  
 340 scoresheets.—

341 (1)

342 (b) WORKSHEET KEY:

343  
 344 Legal status points are assessed when any form of legal status  
 345 existed at the time the offender committed an offense before the  
 346 court for sentencing. Four (4) sentence points are assessed for  
 347 an offender's legal status.

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349 Community sanction violation points are assessed when a  
 350 community sanction violation is before the court for sentencing.  
 351 Six (6) sentence points are assessed for each community sanction  
 352 violation and each successive community sanction violation,  
 353 unless any of the following apply:

354 1. If the community sanction violation includes a new  
 355 felony conviction before the sentencing court, twelve (12)  
 356 community sanction violation points are assessed for the  
 357 violation, and for each successive community sanction violation  
 358 involving a new felony conviction.

359 2. If the community sanction violation is committed by a  
 360 violent felony offender of special concern as defined in s.  
 361 948.06:

362 a. Twelve (12) community sanction violation points are  
 363 assessed for the violation and for each successive violation of  
 364 felony probation or community control where:

365 I. The violation does not include a new felony conviction;  
 366 and

367 II. The community sanction violation is not based solely on  
 368 the probationer or offender's failure to pay costs or fines or  
 369 make restitution payments.

370 b. Twenty-four (24) community sanction violation points are  
 371 assessed for the violation and for each successive violation of  
 372 felony probation or community control where the violation  
 373 includes a new felony conviction.

374

375 Multiple counts of community sanction violations before the  
 376 sentencing court shall not be a basis for multiplying the  
 377 assessment of community sanction violation points.

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378

379 Prior serious felony points: If the offender has a primary  
 380 offense or any additional offense ranked in level 8, level 9, or  
 381 level 10, and one or more prior serious felonies, a single  
 382 assessment of thirty (30) points shall be added. For purposes of  
 383 this section, a prior serious felony is an offense in the  
 384 offender's prior record that is ranked in level 8, level 9, or  
 385 level 10 under s. 921.0022 or s. 921.0023 and for which the  
 386 offender is serving a sentence of confinement, supervision, or  
 387 other sanction or for which the offender's date of release from  
 388 confinement, supervision, or other sanction, whichever is later,  
 389 is within 3 years before the date the primary offense or any  
 390 additional offense was committed.

391

392 Prior capital felony points: If the offender has one or more  
 393 prior capital felonies in the offender's criminal record, points  
 394 shall be added to the subtotal sentence points of the offender  
 395 equal to twice the number of points the offender receives for  
 396 the primary offense and any additional offense. A prior capital  
 397 felony in the offender's criminal record is a previous capital  
 398 felony offense for which the offender has entered a plea of nolo  
 399 contendere or guilty or has been found guilty; or a felony in  
 400 another jurisdiction which is a capital felony in that  
 401 jurisdiction, or would be a capital felony if the offense were  
 402 committed in this state.

403

404 Possession of a firearm, semiautomatic firearm, or machine gun:  
 405 If the offender is convicted of committing or attempting to  
 406 commit any felony other than those enumerated in s. 775.087(2)

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407 while having in his or her possession: a firearm as defined in  
 408 s. 790.001(6), an additional eighteen (18) sentence points are  
 409 assessed; or if the offender is convicted of committing or  
 410 attempting to commit any felony other than those enumerated in  
 411 s. 775.087(3) while having in his or her possession a  
 412 semiautomatic firearm as defined in s. 775.087(3) or a machine  
 413 gun as defined in s. 790.001(9), an additional twenty-five (25)  
 414 sentence points are assessed.

415  
 416 Sentencing multipliers:

417  
 418 Drug trafficking: If the primary offense is drug trafficking  
 419 under s. 893.135, the subtotal sentence points are multiplied,  
 420 at the discretion of the court, for a level 7 or level 8  
 421 offense, by 1.5. The state attorney may move the sentencing  
 422 court to reduce or suspend the sentence of a person convicted of  
 423 a level 7 or level 8 offense, if the offender provides  
 424 substantial assistance as described in s. 893.135(4).  
 425

426 Law enforcement protection: If the primary offense is a  
 427 violation of the Law Enforcement Protection Act under s.  
 428 775.0823(2), (3), or (4), the subtotal sentence points are  
 429 multiplied by 2.5. If the primary offense is a violation of s.  
 430 775.0823(5), (6), (7), (8), or (9), the subtotal sentence points  
 431 are multiplied by 2.0. If the primary offense is a violation of  
 432 s. 784.07(3) or s. 775.0875(1), or of the Law Enforcement  
 433 Protection Act under s. 775.0823(10) or (11), the subtotal  
 434 sentence points are multiplied by 1.5.  
 435

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436 Grand theft of a motor vehicle: If the primary offense is grand  
 437 theft of the third degree involving a motor vehicle and in the  
 438 offender's prior record, there are three or more grand thefts of  
 439 the third degree involving a motor vehicle, the subtotal  
 440 sentence points are multiplied by 1.5.  
 441

442 Offense related to a criminal gang: If the offender is convicted  
 443 of the primary offense and committed that offense for the  
 444 purpose of benefiting, promoting, or furthering the interests of  
 445 a criminal gang as defined in s. 874.03, the subtotal sentence  
 446 points are multiplied by 1.5. If applying the multiplier results  
 447 in the lowest permissible sentence exceeding the statutory  
 448 maximum sentence for the primary offense under chapter 775, the  
 449 court may not apply the multiplier and must sentence the  
 450 defendant to the statutory maximum sentence.  
 451

452 Domestic violence in the presence of a child: If the offender is  
 453 convicted of the primary offense and the primary offense is a  
 454 crime of domestic violence, as defined in s. 741.28, which was  
 455 committed in the presence of a child under 16 years of age who  
 456 is a family or household member as defined in s. 741.28(3) with  
 457 the victim or perpetrator, the subtotal sentence points are  
 458 multiplied by 1.5.  
 459

460 Adult-on-minor sex offense: If the offender was 18 years of age  
 461 or older and the victim was younger than 18 years of age at the  
 462 time the offender committed the primary offense, and if the  
 463 primary offense was an offense committed on or after October 1,  
 464 2014, and is a violation of s. 787.01(2) or s. 787.02(2), if the

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465 violation involved a victim who was a minor and, in the course  
 466 of committing that violation, the defendant committed a sexual  
 467 battery under chapter 794 or a lewd act under s. 800.04 or s.  
 468 847.0135(5) against the minor; s. 787.01(3)(a)2. or 3.; s.  
 469 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s.  
 470 800.04; or s. 847.0135(5), the subtotal sentence points are  
 471 multiplied by 2.0. If applying the multiplier results in the  
 472 lowest permissible sentence exceeding the statutory maximum  
 473 sentence for the primary offense under chapter 775, the court  
 474 may not apply the multiplier and must sentence the defendant to  
 475 the statutory maximum sentence.

476 Section 6. For the purpose of incorporating the amendment  
 477 made by this act to section 775.087, Florida Statutes, in a  
 478 reference thereto, paragraph (b) of subsection (3) of section  
 479 947.146, Florida Statutes, is reenacted to read:

480 947.146 Control Release Authority.—

481 (3) Within 120 days prior to the date the state  
 482 correctional system is projected pursuant to s. 216.136 to  
 483 exceed 99 percent of total capacity, the authority shall  
 484 determine eligibility for and establish a control release date  
 485 for an appropriate number of parole ineligible inmates committed  
 486 to the department and incarcerated within the state who have  
 487 been determined by the authority to be eligible for  
 488 discretionary early release pursuant to this section. In  
 489 establishing control release dates, it is the intent of the  
 490 Legislature that the authority prioritize consideration of  
 491 eligible inmates closest to their tentative release date. The  
 492 authority shall rely upon commitment data on the offender  
 493 information system maintained by the department to initially

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494 identify inmates who are to be reviewed for control release  
 495 consideration. The authority may use a method of objective risk  
 496 assessment in determining if an eligible inmate should be  
 497 released. Such assessment shall be a part of the department's  
 498 management information system. However, the authority shall have  
 499 sole responsibility for determining control release eligibility,  
 500 establishing a control release date, and effectuating the  
 501 release of a sufficient number of inmates to maintain the inmate  
 502 population between 99 percent and 100 percent of total capacity.  
 503 Inmates who are ineligible for control release are inmates who  
 504 are parole eligible or inmates who:

505 (b) Are serving the mandatory minimum portion of a sentence  
 506 enhanced under s. 775.087(2) or (3), or s. 784.07(3);

507  
 508 In making control release eligibility determinations under this  
 509 subsection, the authority may rely on any document leading to or  
 510 generated during the course of the criminal proceedings,  
 511 including, but not limited to, any presentence or postsentence  
 512 investigation or any information contained in arrest reports  
 513 relating to circumstances of the offense.

514 Section 7. This act shall take effect July 1, 2016.

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The Florida Senate

## Committee Agenda Request

**To:** Senator Anitere Flores, Chair  
Committee on Fiscal Policy

**Subject:** Committee Agenda Request.

**Date:** November 3, 2015

---

I respectfully request that **Senate Bill #228**, relating to Mandatory Minimum Sentencing, be placed on the:

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



---

Senator Aaron Bean  
Florida Senate, District 4



THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

11/19/2015

Meeting Date

228

Bill Number (if applicable)

Topic Mandatory Minimum Sentence

Amendment Barcode (if applicable)

Name Frank Fabrizio

Job Title Chief of Police, Ponce Inlet PD

Address 4301 S. Peninsula  
Street

Phone 386-236-2160

Ponce Inlet FL 32127  
City State Zip

Email ffabrizio@ponce-inlet.org

Speaking:  For  Against  Information

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

Representing The Florida Police Chiefs 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)

November 19, 2015

*Meeting Date*

228

*Bill Number (if applicable)*

Topic Mandatory Minimum Sentences

*Amendment Barcode (if applicable)*

Name Honorable Nancy Daniels

Job Title Public Defender, 2nd Judicial Circuit

Address 301 South Monroe Street

Phone 850.606.1000

*Street*

Tallahassee

Florida

32301

Email nancy.daniels@flpd2.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

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

Representing Florida Public Defender Association, 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.***

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 Fiscal Policy

---

BILL: SB 288

INTRODUCER: Senator Smith

SUBJECT: State Designations

DATE: November 18, 2015

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Istler</u>	<u>Rogers</u>	<u>EP</u>	<b>Favorable</b>
2.	<u>Jones</u>	<u>Hrdlicka</u>	<u>FP</u>	<b>Favorable</b>

---

**I. Summary:**

SB 288 redesignates the John U. Lloyd Beach State Park as the Eula Johnson State Park and directs the Department of Environmental Protection to erect suitable markers designating the state park.

**II. Present Situation:**

A leading civil rights issue in the mid-20th century was the lack of public access to beaches for African-Americans in south Florida. In 1946, a delegation from the Negro Professional and Business Men’s League, Inc., petitioned the Broward County Commission “seeking a ‘public bathing beach for colored people in Broward County.’”<sup>1</sup>

In 1954, Broward County acquired a barrier island site and dedicated it as an African-American beach.<sup>2</sup> However, by 1960, there was still no road access to the beach and no facilities were constructed.<sup>3</sup> On July 4, 1961, Eula Johnson, the president of the local chapter of the NAACP, led the first of a series of protest wade-ins at the white-only Fort Lauderdale beaches.<sup>4</sup> The City of Fort Lauderdale filed a lawsuit requesting an injunction to end the wade-ins.<sup>5</sup> The court denied the city’s request, which effectively ended segregation of public beaches in Broward County.<sup>6</sup>

---

<sup>1</sup> William G. Crawford, Jr., *The Long Hard Fight for Equal Rights: A History of Broward County's Colored Beach and the Fort Lauderdale Beach 'Wade-Ins' of the Summer of 1961*, TEQUESTA: THE JOURNAL OF THE HISTORICAL ASS'N OF S. FLA., 19, 21 (2007), available at <http://www.historymiamiarchives.org/pdfs/Tequesta2007-p19-51.pdf> (last visited Nov. 16, 2015).

<sup>2</sup> See *Id.* at 25.

<sup>3</sup> *Id.* at 30.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at 34

<sup>6</sup> *Id.* at 42.

In 1973, the state purchased the land from Broward County.<sup>7</sup> Chapter 76-300, L.O.F., redesignated the Broward Beach State Recreation Area as the John U. Lloyd Beach State Park in recognition of John U. Lloyd's efforts in the acquisition of the lands.<sup>8</sup> Today, the park encompasses 310 acres, stretching from the Port Everglades Inlet to Dania Beach.<sup>9</sup>

### III. Effect of Proposed Changes:

The bill redesignates the John U. Lloyd Beach State Park as the Eula Johnson State Park.

The bill directs the Department of Environmental Protection to erect suitable markers designating the "Eula Johnson State Park."

The bill 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:

None.

#### C. Government Sector Impact:

The estimated cost to erect the designated markers required under this bill is indeterminate at this time.

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<sup>7</sup> Department of Environmental Protection, *Welcome to the John U. Lloyd Beach State Park*, available at <https://www.floridastateparks.org/park-history/Lloyd-Beach> (last visited Nov. 16, 2015).

<sup>8</sup> Chapter 76-300, L.O.F.

<sup>9</sup> *Supra* note 7.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates an undesignated section of Florida law.

**IX. Additional Information:**

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

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

None.

**B. Amendments:**

None.

By Senator Smith

31-00181A-16

2016288\_\_

1                           A bill to be entitled  
2           An act relating to state designations; providing an  
3           honorary designation of a certain state park in a  
4           specified county; directing the Department of  
5           Environmental Protection to erect suitable markers;  
6           providing an effective date.

7  
8   Be It Enacted by the Legislature of the State of Florida:

9  
10           Section 1. (1) The John U. Lloyd Beach State Park in  
11 Broward County is redesignated as the "Eula Johnson State Park."  
12           (2) The Department of Environmental Protection is directed  
13 to erect suitable markers designating the Eula Johnson State  
14 Park as described in subsection (1).

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

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

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

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Prepared By: The Professional Staff of the Committee on Fiscal Policy

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**BILL:** PCS/SB 376 (170500)

**INTRODUCER:** Fiscal Policy (Recommended by Appropriations Subcommittee on General Government) and Senator Hukill

**SUBJECT:** Individuals with Disabilities

**DATE:** November 18, 2015      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson</u>	<u>Knudson</u>	<u>BI</u>	<u>Favorable</u>
2.	<u>Betta</u>	<u>DeLoach</u>	<u>AGG</u>	<u>Recommend: Fav/CS</u>
3.	<u>Pace</u>	<u>Hrdlicka</u>	<u>FP</u>	<u>Pre-meeting</u>

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

SB 376 creates the Financial Literacy Program for Individuals with Developmental Disabilities within the Department of Financial Services (DFS). The goal of the program is to promote economic independence and successful employment of individuals with developmental disabilities by providing education, outreach, and resources on specific issues. For individuals with developmental disabilities these issues include financial education, financial and health benefit programs and services, job training and employment opportunities, and the impact of earnings and assets on eligibility for federal and state programs. For employers of the state, the issues include strategies to make program and educational materials available to their employees with developmental disabilities.

The bill requires the DFS to establish on its website a clearinghouse for information regarding the program and other resources and to develop a brochure that describes the program. The bill also requires that financial institutions participating in the qualified public depository program participate in the Financial Literacy Program as a condition of eligibility for the qualified public depository program.

The bill appropriates the recurring amount of \$69,570 from the Insurance Regulatory Trust Fund within the DFS.

## II. Present Situation:

### Financial Literacy and Economic Independence

According to the United States Census Bureau, individuals who have a disability make up approximately 13.4 percent of the population of Florida, and 10.1 percent of individuals ages 18 to 64 (working age) have a disability.<sup>1</sup> In 2014, over 20 percent of working aged individuals who have a disability lived below the federal poverty line in Florida, compared with 13.7 percent of individuals without a disability.<sup>2</sup>

Individuals who have a disability experience significant disparities in employment and participation in the workforce.<sup>3</sup> For example, 17.9 percent of individuals who have a disability are employed in Florida, while over 61 percent of those who do not have a disability are employed.<sup>4</sup> Nationally in December 2104, there was an 11.2 percent unemployment rate for individuals who have a disability and a 5.1 percent unemployment rate for individuals without a disability.<sup>5</sup> According to the National Disability Institute (NDI), many of these individuals would like to find employment, but are concerned if they earn more money it will cause them to lose disability and health benefits.<sup>6</sup>

Financial education and literacy are critical components for gaining economic independence. A 2014 report by the National Disability Institute (NDI) evaluated the financial capability among individuals with and without disabilities based on information derived from the FINRA<sup>7</sup> Investor Education Foundation's 2012 National Financial Capability Study.<sup>8</sup> The NDI report found that individuals with disabilities have greater difficulty in meeting monthly expenses, are less likely to have access to emergency funds, are more likely to carry credit card balances and use non-

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<sup>1</sup> U.S. Department of Commerce, U.S. Census Bureau, American Fact Finder, *Disability Characteristics, 2014 American Community Survey 1-year Estimates*, Report S1810, searchable database (select advanced search) available at: <http://factfinder.census.gov/> (last visited Nov. 5, 2015).

<sup>2</sup> U.S. Department of Commerce, U.S. Census Bureau, American Fact Finder, *Selected Economic Characteristics for the Civilian Noninstitutionalized Population by Disability Status, 2014 American Community Survey 1-year Estimates*, Report S1811, searchable database available at: <http://factfinder.census.gov/> (last visited Nov. 5, 2015).

<sup>3</sup> American Institutes for Research, *An Uneven Playing Field: The Lack of Equal Pay for People with Disabilities*, p. 2, December 2014, available at: [http://www.air.org/sites/default/files/Lack%20of%20Equal%20Pay%20for%20People%20with%20Disabilities\\_Dec%2014.pdf](http://www.air.org/sites/default/files/Lack%20of%20Equal%20Pay%20for%20People%20with%20Disabilities_Dec%2014.pdf) (last visited Nov. 5, 2015).

<sup>4</sup> Supra note 2. Note, 78.5 percent of individuals who have a disability are not in the labor force.

<sup>5</sup> U.S. Department of Labor, Bureau of Labor Statistics, *BLS Data Viewer: Labor Force Statistics from the Current Population Survey, Series IDs LNU04074593 and LNU04074597*, (for 2014, not seasonally adjusted), available at: <http://beta.bls.gov/dataViewer/view/641a3c05bb5b4578b313b2f20ca886cc> (last visited Nov. 9, 2015).

<sup>6</sup> National Disability Institute with support from the Florida Development Disabilities Council, *The Changing Face of Benefits Knowledge for Successful Employment and Asset Development*, p. 1, March 2013, available at: [http://www.realeconomicimpact.org/data/files/other%20documents/changing\\_face\\_of\\_benefits\\_2013.pdf](http://www.realeconomicimpact.org/data/files/other%20documents/changing_face_of_benefits_2013.pdf) (last visited Nov. 5, 2015).

<sup>7</sup> FINRA is the Financial Industry Regulatory Authority, which is an independent, not-for-profit organization authorized by Congress that is charged with regulatory oversight of all securities broker-dealers conducting business with the public in the United States.

<sup>8</sup> Nicole E. Conroy, et. al., *Financial Capabilities of Adults with Disabilities, Findings from the FINRA Investor Education Foundation 2012 National Financial Capability Study*, National Disability Institute, July 22, 2014, available at: [http://www.realeconomicimpact.org/data/files/reports/ndi\\_financial\\_capability\\_report\\_july\\_2014.pdf](http://www.realeconomicimpact.org/data/files/reports/ndi_financial_capability_report_july_2014.pdf) (last visited Nov. 11, 2015).



bank methods of borrowing, are less likely to have received financial education, and have lower financial literacy.<sup>9</sup> The report concluded that individuals with disabilities “are generally marginalized from the economic mainstream, as indicated by the notably lower levels of overall financial capability and economic security compared to persons without disabilities.”<sup>10</sup> The report advocated, “innovative approaches that increase access for individuals with disabilities to financial tools and services that foster informed decision making, build financial confidence, and improve financial capability.”<sup>11</sup>

Individuals with disabilities must navigate a complex set of federal and state regulations to access resources and obtain financial and medical benefits. Some individuals are born with disabilities, while others may experience a short-term or long-term disability, whether through accidents, employment-related injuries or illnesses, disease, or aging. Individuals may also have mental disorders or developmental disabilities. The definition of the term “disability,” for purposes of eligibility for state and federal benefits and employment programs, varies among the different programs.

### **Federal Disability Resources**

The Social Security Disability Insurance (SSDI)<sup>12</sup> and Supplemental Security Income (SSI)<sup>13</sup> programs are two types of disability programs administered by the federal Social Security Administration. Applicants for each of the programs must meet strict medical requirements to qualify for disability benefits. Under the programs, disability is defined as the inability to engage in substantial gainful activity (SGA) due to a medically determinable physical or mental impairment expected to result in death or last at least 12 months.<sup>14</sup> Generally, a person who is earning more than a certain monthly amount is considered to be engaging in SGA. The SSI recipients living alone or in a household where all members receive SSI benefits are generally also eligible for Medicaid.

The SSDI program is an insurance program that provides benefits to individuals who have contributed to the Social Security system and meet certain minimum work requirements. In contrast, SSI is a means-tested program for aged, blind, or disabled individuals who meet certain income and resource limitations; however, there are no contribution or minimum work requirements. The SSI program provides cash payments<sup>15</sup> assuring a minimum income for aged, blind, or disabled individuals who have very limited income and assets.<sup>16</sup> As of December 2014,

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<sup>9</sup> *Id.* at 7-8.

<sup>10</sup> *Id.* at 40.

<sup>11</sup> *Id.* at 42.

<sup>12</sup> 42 U.S.C. ss. 401-434.

<sup>13</sup> 42 U.S.C. ss. 1381-1385.

<sup>14</sup> See Social Security Administration, *Disability Evaluation Under Social Security*, available at:

<http://www.socialsecurity.gov/disability/professionals/bluebook/general-info.htm> (last accessed Nov. 9, 2015).

<sup>15</sup> For 2016, the maximum monthly federal benefit rate is \$733 for an eligible individual and \$1,100 for an eligible individual with an eligible spouse. Generally, the maximum monthly payment changes yearly due to changes in the Consumer Price Index. The 2016 schedule is available at: <http://www.socialsecurity.gov/OACT/COLA/SSI.html> (last accessed Nov. 9, 2015).

<sup>16</sup> Countable income is the amount subtracted from the maximum monthly federal benefit rate to determine SSI eligibility and compute monthly payment amount. The countable income limit for SSI eligibility is \$2,000 for individuals and \$3,000 for couples with exclusions. See Social Security Administration, Supplemental Security Income (SSI) Resources, available at <https://www.ssa.gov/ssi/text-resources-ussi.htm> (last accessed Nov. 10, 2015).

there were 560,809 SSI recipients (aged, blind, or disabled) and 560,856 disabled workers that were recipients of SSDI in Florida.<sup>17</sup>

### **State Disability Resources**

Various state agencies provide services, benefits, and resources for individuals with disabilities. These agencies include the Agency for Health Care Administration, the Agency for Persons with Disabilities, the Department of Children and Families, the Department of Economic Opportunity (DEO), and the Department of Education. Many state and regional advocacy groups also provide resources and services.

Section 393.063(9), F.S., defines a developmental disability to mean “a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.”

The Agency for Persons with Disabilities (APD) currently serves approximately 55,000 clients with developmental disabilities.<sup>18</sup> The total population of individuals in Florida with developmental disabilities is indeterminate at this time. However, the APD estimates that the population of individuals with developmental disabilities could be between 300,000 to 600,000.<sup>19</sup>

### ***Department of Financial Services***

The Chief Financial Officer (CFO) of the State of Florida is the head of the Department of Financial Services.<sup>20</sup> The CFO has established various outreach and education programs to increase the financial literacy of Florida residents and to protect them from financial fraud. These initiatives include a comprehensive online financial literacy and education initiative to provide Hispanic Floridians and their families with important personal financial information, a program to educate and protect seniors from financial schemes, and financial education for military service members.<sup>21</sup>

The CFO administers the Florida Security for Public Deposits Act (act),<sup>22</sup> which authorizes local and state governmental units (public depositories) to place public deposits in qualified public depositories (QPD).<sup>23</sup> Public deposits are funds in excess of amounts required to meet

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<sup>17</sup> Social Security Administration *Annual Statistical Supplement, 2015*, available at: <https://www.socialsecurity.gov/policy/docs/statcomps/supplement/2015/7b.html> and <https://www.socialsecurity.gov/policy/docs/statcomps/supplement/2015/5j.html>

#table 5.J2 (last accessed Nov. 9, 2015).

<sup>18</sup> Email from the Agency for Persons with Disabilities, Summary of Active Clients, January 11, 2015 (on file with the Senate Banking and Insurance Committee).

<sup>19</sup> Email from the Agency for Persons with Disabilities, January 13, 2015 (On file with the Senate Banking and Insurance Committee).

<sup>20</sup> Section 20.121(1), F.S.

<sup>21</sup> See Your Money Matter\$, a one-stop website to access the CFO’s financial literacy resources, available at: <http://www.myfloridacfo.com/sitePages/services/flow.aspx?ut=Financial+Literacy> (last accessed on Nov. 9, 2015).

<sup>22</sup> Chapter 280, F.S.

<sup>23</sup> A qualified public depository is organized under the laws of the United States or any state or territory of the United States; has a principal place of business or branch office in this state authorized to receive deposits; has federally-insured deposits, has procedures and practices that accurately report and collateralize public deposits; meets the requirements of the act; and has been designated as a qualified public depository by the CFO. See s. 280.02(26), F.S.

disbursement needs or expenses. A QPD can be a bank, savings bank, or savings association that meets specific criteria, including collateral requirements, under the act. The CFO is responsible for designating financial institutions as qualified public depositories.

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

The bill creates the Financial Literacy Program for Individuals with Developmental Disabilities under the direction of the Chief Financial Officer who heads the Department of Financial Services (DFS). The goal of the program is to promote economic independence and successful employment of individuals with developmental disabilities by providing resources, outreach, and education on specific issues. For individuals with developmental disabilities these issues include financial education, identification of financial and health benefit programs and services, job training and employment opportunities, and the impact of earnings and assets on eligibility for federal and state programs. For employers the issues include strategies to make program and educational materials available to their employees with developmental disabilities.

The bill provides that the DFS, in consultation with public and private stakeholders, will develop and implement the program. Banks, credit unions, savings associations, and savings banks will be key participants in the development and promotion of the program. The DFS will establish a clearinghouse on its website for information regarding the program and other available resources for individuals with developmental disabilities and their employers. The DFS will publish a brochure that describes the program and make the brochure accessible through its website.

The bill requires financial institutions participating in the qualified public depository program to participate in the Financial Literacy Program as condition of eligibility for the qualified public depository program. Within 90 days of the DFS establishing the program and publishing the brochure, each participating financial institution must make the brochures available at each Florida branch office that has in-person teller services by having available copies or printing a copy of the brochure upon request. A financial institution or other program participant is not subject to a civil cause of action arising from the distribution or nondistribution of program information. Each participating financial institution website must also provide a hyperlink to the department's website for the program.

The bill provides \$69,570 of recurring funds from the Insurance Regulatory Trust Fund within the DFS to develop and manage the new program, which includes printing and postage costs for the brochures.

The effective date of the bill is January 1, 2017.

### **IV. Constitutional Issues:**

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

None.

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**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:**

Implementation of the Financial Literacy Program will provide individuals with developmental disabilities an opportunity to obtain a better understanding of financial products and services, financial management, employment options, and federal and state benefits. Employers will also benefit from resources that will facilitate employment of individuals with developmental disabilities.

Financial institutions may incur indeterminate costs associated with providing brochures about the program at their places of business and revising their websites to provide a link to access the Financial Literacy Program's website.

**C. Government Sector Impact:**

The bill provides the recurring amount of \$69,570 from the Insurance Regulatory Trust Fund within the Department of Financial Services (DFS) to implement this program. This appropriation funds the costs associated with printing and shipping 50 brochures to an estimated 4,500 financial institution branch offices in Florida.<sup>24</sup> The bill requires the DFS to make copies of the brochure available to a bank, savings association, or savings bank upon request of such financial institution.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

The bill substantially amends section 280.16 of the Florida Statutes.

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<sup>24</sup> Department of Financial Services, Senate Bill 376 Analysis (Oct. 5, 2015) (on file with the Senate Committee on Banking and Insurance).

The bill creates section 17.68 of the Florida Statutes.

**IX. Additional Information:**

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

**Recommended CS by Appropriations Subcommittee on General Government on November 3, 2015:**

The committee substitute reduces the amount appropriated to the Department of Financial Services to implement the program.

- B. **Amendments:**

None.



594-01065-16

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

A bill to be entitled

An act relating to individuals with disabilities; creating s. 17.68, F.S.; providing legislative findings; establishing the Financial Literacy Program for Individuals with Developmental Disabilities within the Department of Financial Services; requiring the department to develop and implement the program in consultation with specified stakeholders; providing for the participation of banks, credit unions, savings associations, and savings banks; requiring the program to provide information, resources, outreach, and education on specified issues to individuals with developmental disabilities and employers in this state; requiring the department to establish on its website a clearinghouse for information regarding the program and to publish a brochure describing the program; requiring, by a specified date, qualified public depositories to make copies of the department's brochure available and provide a hyperlink on their websites to the department's website for the program; providing that qualified public depositories are not subject to civil liability arising from the distribution and contents of the brochure and the program website information; amending s. 280.16, F.S.; requiring a qualified public depository to participate in the program; providing an appropriation; providing an effective date.



594-01065-16

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

Section 1. Section 17.68, Florida Statutes, is created to read:

17.68 Financial Literacy Program for Individuals with Developmental Disabilities.-

(1) The Legislature finds that the state has a compelling interest in promoting the economic independence and successful employment of individuals with developmental disabilities as defined in s. 393.063. In comparison with the general population, individuals with developmental disabilities experience lower rates of educational achievement, employment, and annual earnings and are more likely to live in poverty. Additionally, such individuals must navigate a complex network of federal and state programs in order to be eligible for financial and health benefits. Thus, it is essential that these individuals have sufficient financial management knowledge and skills to effectively participate in benefit eligibility determination processes and make informed decisions regarding financial services and products provided by financial institutions. Enhancing the financial literacy of such individuals will provide a pathway for economic independence and successful employment.

(2) The Financial Literacy Program for Individuals with Developmental Disabilities is established within the Department of Financial Services. The department, in consultation with public and private stakeholders, shall develop and implement the program, which must be designed to promote the economic



594-01065-16

57 independence and successful employment of individuals with  
58 developmental disabilities. Banks, credit unions, savings  
59 associations, and savings banks will be key participants in the  
60 development and promotion of the program, which must provide  
61 information, resources, outreach, and education in the following  
62 areas:

63 (a) For individuals with developmental disabilities:

64 1. Financial education, including instruction on money  
65 management skills and the effective use of financial services  
66 and products, to promote income preservation and asset  
67 development.

68 2. Identification of available financial and health benefit  
69 programs and services.

70 3. Job training programs and employment opportunities,  
71 including work incentives and state and local workforce  
72 development programs.

73 4. The impact of earnings and assets on eligibility for  
74 federal and state financial and health benefit programs, and  
75 options to manage such impact.

76 (b) For employers in this state, strategies to make program  
77 information and educational materials available to their  
78 employees with developmental disabilities.

79 (3) The department shall:

80 (a) Establish on its website a clearinghouse for  
81 information regarding the program and other resources available  
82 for individuals with developmental disabilities and their  
83 employers.

84 (b) Publish a brochure describing the program, which is  
85 also accessible on its website.



594-01065-16

86 (4) Within 90 days after the department establishes the  
87 website clearinghouse and publishes the brochure, each bank,  
88 savings association, and savings bank that is a qualified public  
89 depository as defined in s. 280.02 shall:

90 (a) Make copies of the department's brochures available,  
91 upon the request of the consumer, at its principal place of  
92 business and each branch office located in this state which has  
93 in-person teller services by having copies of the brochure  
94 available or having the capability to print a copy of the  
95 brochure from the department's website. Upon request, the  
96 department shall provide copies of the brochure to a bank,  
97 savings association, or savings bank.

98 (b) Provide on its website a hyperlink to the department's  
99 website clearinghouse. If the department changes the website  
100 address for the clearinghouse, the bank, savings association, or  
101 savings bank must update the hyperlink within 90 days after  
102 notification by the department of such change.

103 (5) A participating qualified public depository is not  
104 subject to civil liability arising from the distribution or  
105 nondistribution of the brochure or program website information.  
106 The contents of the brochure or the program website information  
107 may not be attributed to a participating qualified public  
108 depository by virtue of its distribution, and do not constitute  
109 financial or investment advice by, nor create a fiduciary duty  
110 on, the participating qualified public depository to the  
111 recipient.

112 Section 2. Paragraph (e) is added to subsection (1) of  
113 section 280.16, Florida Statutes, to read:

114 280.16 Requirements of qualified public depositories;



170500

594-01065-16

115 confidentiality.-

116 (1) In addition to any other requirements specified in this  
117 chapter, qualified public depositories shall:

118 (e) Participate in the Financial Literacy Program for  
119 Individuals with Developmental Disabilities as required under s.  
120 17.68.

121 Section 3. For the 2016-2017 fiscal year, the sum of  
122 \$69,570 in recurring funds from the Insurance Regulatory Trust  
123 Fund is appropriated to the Consumer Assistance Program within  
124 the Department of Financial Services for the purpose of  
125 implementing the program created by this act.

126 Section 4. This act shall take effect January 1, 2017.



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

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

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Prepared By: The Professional Staff of the Committee on Fiscal Policy

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**BILL:** CS/SB 376

**INTRODUCER:** Fiscal Policy Committee (Recommended by Appropriations Subcommittee on General Government) and Senator Hukill

**SUBJECT:** Individuals with Disabilities

**DATE:** November 19, 2015      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson</u>	<u>Knudson</u>	<u>BI</u>	<b>Favorable</b>
2.	<u>Betta</u>	<u>DeLoach</u>	<u>AGG</u>	<b>Recommend: Fav/CS</b>
3.	<u>Pace</u>	<u>Hrdlicka</u>	<u>FP</u>	<b>Fav/CS</b>

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 376 creates the Financial Literacy Program for Individuals with Developmental Disabilities within the Department of Financial Services (DFS). The goal of the program is to promote economic independence and successful employment of individuals with developmental disabilities by providing education, outreach, and resources on specific issues. For individuals with developmental disabilities these issues include financial education, financial and health benefit programs and services, job training and employment opportunities, and the impact of earnings and assets on eligibility for federal and state programs. For employers of the state, the issues include strategies to make program and educational materials available to their employees with developmental disabilities.

The bill requires the DFS to establish on its website a clearinghouse for information regarding the program and other resources and to develop a brochure that describes the program. The bill also requires that financial institutions participating in the qualified public depository program participate in the Financial Literacy Program as a condition of eligibility for the qualified public depository program.

The bill appropriates the recurring amount of \$69,570 from the Insurance Regulatory Trust Fund within the DFS.

## II. Present Situation:

### Financial Literacy and Economic Independence

According to the United States Census Bureau, individuals who have a disability make up approximately 13.4 percent of the population of Florida, and 10.1 percent of individuals ages 18 to 64 (working age) have a disability.<sup>1</sup> In 2014, over 20 percent of working aged individuals who have a disability lived below the federal poverty line in Florida, compared with 13.7 percent of individuals without a disability.<sup>2</sup>

Individuals who have a disability experience significant disparities in employment and participation in the workforce.<sup>3</sup> For example, 17.9 percent of individuals who have a disability are employed in Florida, while over 61 percent of those who do not have a disability are employed.<sup>4</sup> Nationally, in December 2014, there was an 11.2 percent unemployment rate for individuals who have a disability and a 5.1 percent unemployment rate for individuals without a disability.<sup>5</sup> According to the National Disability Institute (NDI), many of these individuals would like to find employment, but are concerned if they earn more money it will cause them to lose disability and health benefits.<sup>6</sup>

Financial education and literacy are critical components for gaining economic independence. A 2014 report by the National Disability Institute (NDI) evaluated the financial capability among individuals with and without disabilities based on information derived from the FINRA<sup>7</sup> Investor Education Foundation's 2012 National Financial Capability Study.<sup>8</sup> The NDI report found that individuals with disabilities have greater difficulty in meeting monthly expenses, are less likely to have access to emergency funds, are more likely to carry credit card balances and use non-

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<sup>1</sup> U.S. Department of Commerce, U.S. Census Bureau, American Fact Finder, *Disability Characteristics, 2014 American Community Survey 1-year Estimates*, Report S1810, searchable database (select advanced search) available at: <http://factfinder.census.gov/> (last visited Nov. 5, 2015).

<sup>2</sup> U.S. Department of Commerce, U.S. Census Bureau, American Fact Finder, *Selected Economic Characteristics for the Civilian Noninstitutionalized Population by Disability Status, 2014 American Community Survey 1-year Estimates*, Report S1811, searchable database available at: <http://factfinder.census.gov/> (last visited Nov. 5, 2015).

<sup>3</sup> American Institutes for Research, *An Uneven Playing Field: The Lack of Equal Pay for People with Disabilities*, p. 2, December 2014, available at: [http://www.air.org/sites/default/files/Lack%20of%20Equal%20Pay%20for%20People%20with%20Disabilities\\_Dec%2014.pdf](http://www.air.org/sites/default/files/Lack%20of%20Equal%20Pay%20for%20People%20with%20Disabilities_Dec%2014.pdf) (last visited Nov. 5, 2015).

<sup>4</sup> Supra note 2. Note, 78.5 percent of individuals who have a disability are not in the labor force.

<sup>5</sup> U.S. Department of Labor, Bureau of Labor Statistics, *BLS Data Viewer: Labor Force Statistics from the Current Population Survey, Series IDs LNU04074593 and LNU04074597*, (for 2014, not seasonally adjusted), available at: <http://beta.bls.gov/dataViewer/view/641a3c05bb5b4578b313b2f20ca886cc> (last visited Nov. 9, 2015).

<sup>6</sup> National Disability Institute with support from the Florida Development Disabilities Council, *The Changing Face of Benefits Knowledge for Successful Employment and Asset Development*, p. 1, March 2013, available at: [http://www.realeconomicimpact.org/data/files/other%20documents/changing\\_face\\_of\\_benefits\\_2013.pdf.pdf](http://www.realeconomicimpact.org/data/files/other%20documents/changing_face_of_benefits_2013.pdf.pdf) (last visited Nov. 5, 2015).

<sup>7</sup> FINRA is the Financial Industry Regulatory Authority, which is an independent, not-for-profit organization authorized by Congress that is charged with regulatory oversight of all securities broker-dealers conducting business with the public in the United States.

<sup>8</sup> Nicole E. Conroy, et. al., *Financial Capabilities of Adults with Disabilities, Findings from the FINRA Investor Education Foundation 2012 National Financial Capability Study*, National Disability Institute, July 22, 2014, available at: [http://www.realeconomicimpact.org/data/files/reports/ndi\\_financial\\_capability\\_report\\_july\\_2014.pdf](http://www.realeconomicimpact.org/data/files/reports/ndi_financial_capability_report_july_2014.pdf) (last visited Nov. 11, 2015).

bank methods of borrowing, are less likely to have received financial education, and have lower financial literacy.<sup>9</sup> The report concluded that individuals with disabilities “are generally marginalized from the economic mainstream, as indicated by the notably lower levels of overall financial capability and economic security compared to persons without disabilities.”<sup>10</sup> The report advocated, “innovative approaches that increase access for individuals with disabilities to financial tools and services that foster informed decision making, build financial confidence, and improve financial capability.”<sup>11</sup>

Individuals with disabilities must navigate a complex set of federal and state regulations to access resources and obtain financial and medical benefits. Some individuals are born with disabilities, while others may experience a short-term or long-term disability, whether through accidents, employment-related injuries or illnesses, disease, or aging. Individuals may also have mental disorders or developmental disabilities. The definition of the term “disability,” for purposes of eligibility for state and federal benefits and employment programs, varies among the different programs.

### **Federal Disability Resources**

The Social Security Disability Insurance (SSDI)<sup>12</sup> and Supplemental Security Income (SSI)<sup>13</sup> programs are two types of disability programs administered by the federal Social Security Administration. Applicants for each of the programs must meet strict medical requirements to qualify for disability benefits. Under the programs, disability is defined as the inability to engage in substantial gainful activity (SGA) due to a medically determinable physical or mental impairment expected to result in death or last at least 12 months.<sup>14</sup> Generally, a person who is earning more than a certain monthly amount is considered to be engaging in SGA. The SSI recipients living alone or in a household where all members receive SSI benefits are generally also eligible for Medicaid.

The SSDI program is an insurance program that provides benefits to individuals who have contributed to the Social Security system and meet certain minimum work requirements. In contrast, SSI is a means-tested program for aged, blind, or disabled individuals who meet certain income and resource limitations; however, there are no contribution or minimum work requirements. The SSI program provides cash payments<sup>15</sup> assuring a minimum income for aged, blind, or disabled individuals who have very limited income and assets.<sup>16</sup> As of December 2014,

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<sup>9</sup> *Id.* at 7-8.

<sup>10</sup> *Id.* at 40.

<sup>11</sup> *Id.* at 42.

<sup>12</sup> 42 U.S.C. ss. 401-434.

<sup>13</sup> 42 U.S.C. ss. 1381-1385.

<sup>14</sup> See Social Security Administration, *Disability Evaluation Under Social Security*, available at:

<http://www.socialsecurity.gov/disability/professionals/bluebook/general-info.htm> (last accessed Nov. 9, 2015).

<sup>15</sup> For 2016, the maximum monthly federal benefit rate is \$733 for an eligible individual and \$1,100 for an eligible individual with an eligible spouse. Generally, the maximum monthly payment changes yearly due to changes in the Consumer Price Index. The 2016 schedule is available at: <http://www.socialsecurity.gov/OACT/COLA/SSI.html> (last accessed Nov. 9, 2015).

<sup>16</sup> Countable income is the amount subtracted from the maximum monthly federal benefit rate to determine SSI eligibility and compute monthly payment amount. The countable income limit for SSI eligibility is \$2,000 for individuals and \$3,000 for couples with exclusions. See Social Security Administration, Supplemental Security Income (SSI) Resources, available at <https://www.ssa.gov/ssi/text-resources-ussi.htm> (last accessed Nov. 10, 2015).

there were 560,809 SSI recipients (aged, blind, or disabled) and 560,856 disabled workers that were recipients of SSDI in Florida.<sup>17</sup>

### **State Disability Resources**

Various state agencies provide services, benefits, and resources for individuals with disabilities. These agencies include the Agency for Health Care Administration, the Agency for Persons with Disabilities, the Department of Children and Families, the Department of Economic Opportunity (DEO), and the Department of Education. Many state and regional advocacy groups also provide resources and services.

Section 393.063(9), F.S., defines a developmental disability to mean “a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.”

The Agency for Persons with Disabilities (APD) currently serves approximately 55,000 clients with developmental disabilities.<sup>18</sup> The total population of individuals in Florida with developmental disabilities is indeterminate at this time. However, the APD estimates that the population of individuals with developmental disabilities could be between 300,000 to 600,000.<sup>19</sup>

### ***Department of Financial Services***

The Chief Financial Officer (CFO) of the State of Florida is the head of the Department of Financial Services.<sup>20</sup> The CFO has established various outreach and education programs to increase the financial literacy of Florida residents and to protect them from financial fraud. These initiatives include a comprehensive online financial literacy and education initiative to provide Hispanic Floridians and their families with important personal financial information, a program to educate and protect seniors from financial schemes, and financial education for military service members.<sup>21</sup>

The CFO administers the Florida Security for Public Deposits Act (act),<sup>22</sup> which authorizes local and state governmental units (public depositors) to place public deposits in qualified public depositories (QPD).<sup>23</sup> Public deposits are funds in excess of amounts required to meet

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<sup>17</sup> Social Security Administration *Annual Statistical Supplement, 2015*, available at: <https://www.socialsecurity.gov/policy/docs/statcomps/supplement/2015/7b.html> and <https://www.socialsecurity.gov/policy/docs/statcomps/supplement/2015/5j.html>

#table 5.J2 (last accessed Nov. 9, 2015).

<sup>18</sup> Email from the Agency for Persons with Disabilities, Summary of Active Clients, January 11, 2015 (on file with the Senate Banking and Insurance Committee).

<sup>19</sup> Email from the Agency for Persons with Disabilities, January 13, 2015 (On file with the Senate Banking and Insurance Committee).

<sup>20</sup> Section 20.121(1), F.S.

<sup>21</sup> See Your Money Matter\$, a one-stop website to access the CFO’s financial literacy resources, available at: <http://www.myfloridacfo.com/sitePages/services/flow.aspx?ut=Financial+Literacy> (last accessed on Nov. 9, 2015).

<sup>22</sup> Chapter 280, F.S.

<sup>23</sup> A qualified public depository is organized under the laws of the United States or any state or territory of the United States; has a principal place of business or branch office in this state authorized to receive deposits; has federally-insured deposits, has procedures and practices that accurately report and collateralize public deposits; meets the requirements of the act; and has been designated as a qualified public depository by the CFO. See s. 280.02(26), F.S.

disbursement needs or expenses. A QPD can be a bank, savings bank, or savings association that meets specific criteria, including collateral requirements, under the act. The CFO is responsible for designating financial institutions as qualified public depositories.

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

The bill creates the Financial Literacy Program for Individuals with Developmental Disabilities under the direction of the Chief Financial Officer who heads the Department of Financial Services (DFS). The goal of the program is to promote economic independence and successful employment of individuals with developmental disabilities by providing resources, outreach, and education on specific issues. For individuals with developmental disabilities these issues include financial education, identification of financial and health benefit programs and services, job training and employment opportunities, and the impact of earnings and assets on eligibility for federal and state programs. For employers the issues include strategies to make program and educational materials available to their employees with developmental disabilities.

The bill provides that the DFS, in consultation with public and private stakeholders, will develop and implement the program. Banks, credit unions, savings associations, and savings banks will be key participants in the development and promotion of the program. The DFS will establish a clearinghouse on its website for information regarding the program and other available resources for individuals with developmental disabilities and their employers. The DFS will publish a brochure that describes the program and make the brochure accessible through its website.

The bill requires financial institutions participating in the qualified public depository program to participate in the Financial Literacy Program as condition of eligibility for the qualified public depository program. Within 90 days of the DFS establishing the program and publishing the brochure, each participating financial institution must make the brochures available at each Florida branch office that has in-person teller services by having available copies or printing a copy of the brochure upon request. A financial institution or other program participant is not subject to a civil cause of action arising from the distribution or nondistribution of program information. Each participating financial institution website must also provide a hyperlink to the department's website for the program.

The bill provides \$69,570 of recurring funds from the Insurance Regulatory Trust Fund within the DFS to develop and manage the new program, which includes printing and postage costs for the brochures.

The effective date of the bill is January 1, 2017.

### **IV. Constitutional Issues:**

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

None.

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**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:**

Implementation of the Financial Literacy Program will provide individuals with developmental disabilities an opportunity to obtain a better understanding of financial products and services, financial management, employment options, and federal and state benefits. Employers will also benefit from resources that will facilitate employment of individuals with developmental disabilities.

Financial institutions may incur indeterminate costs associated with providing brochures about the program at their places of business and revising their websites to provide a link to access the Financial Literacy Program's website.

**C. Government Sector Impact:**

The bill provides the recurring amount of \$69,570 from the Insurance Regulatory Trust Fund within the Department of Financial Services (DFS) to implement this program. This appropriation funds the costs associated with printing and shipping 50 brochures to an estimated 4,500 financial institution branch offices in Florida.<sup>24</sup> The bill requires the DFS to make copies of the brochure available to a bank, savings association, or savings bank upon request of such financial institution.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

The bill substantially amends section 280.16 of the Florida Statutes.

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<sup>24</sup> Department of Financial Services, Senate Bill 376 Analysis (Oct. 5, 2015) (on file with the Senate Committee on Banking and Insurance).

The bill creates section 17.68 of the Florida Statutes.

**IX. Additional Information:**

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

**CS by Fiscal Policy on November 19, 2015:**

As recommended by Appropriations Subcommittee on General Government the committee substitute reduces the amount appropriated to the Department of Financial Services to implement the program.

- B. **Amendments:**

None.

By Senator Hukill

8-00267A-16

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1 A bill to be entitled  
 2 An act relating to individuals with disabilities;  
 3 creating s. 17.68, F.S.; providing legislative  
 4 findings; establishing the Financial Literacy Program  
 5 for Individuals with Developmental Disabilities within  
 6 the Department of Financial Services; requiring the  
 7 department to develop and implement the program in  
 8 consultation with specified stakeholders; providing  
 9 for the participation of banks, credit unions, savings  
 10 associations, and savings banks; requiring the program  
 11 to provide information, resources, outreach, and  
 12 education on specified issues to individuals with  
 13 developmental disabilities and employers in this  
 14 state; requiring the department to establish on its  
 15 website a clearinghouse for information regarding the  
 16 program and to publish a brochure describing the  
 17 program; requiring, by a specified date, qualified  
 18 public depositories to make copies of the department's  
 19 brochure available and provide a hyperlink on their  
 20 websites to the department's website for the program;  
 21 providing that qualified public depositories are not  
 22 subject to civil liability arising from the  
 23 distribution and contents of the brochure and the  
 24 program website information; amending s. 280.16, F.S.;  
 25 requiring a qualified public depository to participate  
 26 in the program; providing an appropriation; providing  
 27 an effective date.  
 28  
 29 Be It Enacted by the Legislature of the State of Florida:

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

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30  
 31 Section 1. Section 17.68, Florida Statutes, is created to  
 32 read:  
 33 17.68 Financial Literacy Program for Individuals with  
 34 Developmental Disabilities.—  
 35 (1) The Legislature finds that the state has a compelling  
 36 interest in promoting the economic independence and successful  
 37 employment of individuals with developmental disabilities as  
 38 defined in s. 393.063. In comparison with the general  
 39 population, individuals with developmental disabilities  
 40 experience lower rates of educational achievement, employment,  
 41 and annual earnings and are more likely to live in poverty.  
 42 Additionally, such individuals must navigate a complex network  
 43 of federal and state programs in order to be eligible for  
 44 financial and health benefits. Thus, it is essential that these  
 45 individuals have sufficient financial management knowledge and  
 46 skills to effectively participate in benefit eligibility  
 47 determination processes and make informed decisions regarding  
 48 financial services and products provided by financial  
 49 institutions. Enhancing the financial literacy of such  
 50 individuals will provide a pathway for economic independence and  
 51 successful employment.  
 52 (2) The Financial Literacy Program for Individuals with  
 53 Developmental Disabilities is established within the Department  
 54 of Financial Services. The department, in consultation with  
 55 public and private stakeholders, shall develop and implement the  
 56 program, which must be designed to promote the economic  
 57 independence and successful employment of individuals with  
 58 developmental disabilities. Banks, credit unions, savings

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



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59 associations, and savings banks will be key participants in the  
 60 development and promotion of the program, which must provide  
 61 information, resources, outreach, and education in the following  
 62 areas:

63 (a) For individuals with developmental disabilities:

64 1. Financial education, including instruction on money  
 65 management skills and the effective use of financial services  
 66 and products, to promote income preservation and asset  
 67 development.

68 2. Identification of available financial and health benefit  
 69 programs and services.

70 3. Job training programs and employment opportunities,  
 71 including work incentives and state and local workforce  
 72 development programs.

73 4. The impact of earnings and assets on eligibility for  
 74 federal and state financial and health benefit programs, and  
 75 options to manage such impact.

76 (b) For employers in this state, strategies to make program  
 77 information and educational materials available to their  
 78 employees with developmental disabilities.

79 (3) The department shall:

80 (a) Establish on its website a clearinghouse for  
 81 information regarding the program and other resources available  
 82 for individuals with developmental disabilities and their  
 83 employers.

84 (b) Publish a brochure describing the program, which is  
 85 also accessible on its website.

86 (4) Within 90 days after the department establishes the  
 87 website clearinghouse and publishes the brochure, each bank,

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88 savings association, and savings bank that is a qualified public  
 89 depository as defined in s. 280.02 shall:

90 (a) Make copies of the department's brochures available,  
 91 upon the request of the consumer, at its principal place of  
 92 business and each branch office located in this state which has  
 93 in-person teller services by having copies of the brochure  
 94 available or having the capability to print a copy of the  
 95 brochure from the department's website. Upon request, the  
 96 department shall provide copies of the brochure to a bank,  
 97 savings association, or savings bank.

98 (b) Provide on its website a hyperlink to the department's  
 99 website clearinghouse. If the department changes the website  
 100 address for the clearinghouse, the bank, savings association, or  
 101 savings bank must update the hyperlink within 90 days after  
 102 notification by the department of such change.

103 (5) A participating qualified public depository is not  
 104 subject to civil liability arising from the distribution or  
 105 nondistribution of the brochure or program website information.  
 106 The contents of the brochure or the program website information  
 107 may not be attributed to a participating qualified public  
 108 depository by virtue of its distribution, and do not constitute  
 109 financial or investment advice by, nor create a fiduciary duty  
 110 on, the participating qualified public depository to the  
 111 recipient.

112 Section 2. Paragraph (e) is added to subsection (1) of  
 113 section 280.16, Florida Statutes, to read:

114 280.16 Requirements of qualified public depositories;  
 115 confidentiality.—

116 (1) In addition to any other requirements specified in this

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117 chapter, qualified public depositories shall:

118 (e) Participate in the Financial Literacy Program for  
119 Individuals with Developmental Disabilities as required under s.  
120 17.68.

121 Section 3. For the 2016-2017 fiscal year, the sums of  
122 \$63,664 in recurring funds and \$73,570 in nonrecurring funds  
123 from the Insurance Regulatory Trust Fund are appropriated to the  
124 Consumer Assistance Program within the Department of Financial  
125 Services, and one full-time equivalent position with associated  
126 salary rate of 41,114 is authorized, for the purpose of  
127 implementing the program created by this act.

128 Section 4. This act shall take effect January 1, 2017.



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Finance and Tax, *Chair*  
Communications, Energy, and Public Utilities,  
*Vice Chair*  
Appropriations  
Appropriations Subcommittee on Transportation,  
Tourism, and Economic Development  
Banking and Insurance  
Fiscal Policy

### JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

**SENATOR DOROTHY L. HUKILL**

8th District

November 3, 2015

The Honorable Anitere Flores  
225 Knott Building  
404 S. Monroe Street  
Tallahassee, FL 32399

Re: Senate Bill 376 – Financial Literacy Program for Individuals with Developmental Disabilities

Dear Chairwoman Flores:

Senate Bill 376, relating Financial Literacy Program for Individuals with Developmental Disabilities has been referred to the Fiscal Policy Committee. I am requesting your consideration on placing SB 376 on your next agenda. Should you need any additional information please do not hesitate to contact my office.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Dorothy L. Hukill".

Dorothy L. Hukill, District 8

cc: Jennifer Hrdlicka, Staff Director of the Fiscal Policy Committee  
Tamra Lyon, Administrative Assistant of the Fiscal Policy Committee

#### REPLY TO:

209 Dunlawton Avenue, Unit 17, Port Orange, Florida 32127 (386) 304-7630 FAX: (888) 263-3818  
 Ocala City Hall, 110 SE Watula Avenue, 3rd Floor, Ocala, Florida 34471 (352) 694-0160

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

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

11-19-18

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

SB376

Bill Number (if applicable)

Meeting Date

Topic SB 376 (2S)

Amendment Barcode (if applicable)

Name Margaret J. Hooper

Job Title Public Policy Coordinator

Address 124 Marriot Drive #203

Phone 850-921-7263

Street

Tallahassee FL 32301

Email Margaret.Hooper@ADDC.org

City

State

Zip

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

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

Representing Florida Developmental Disabilities Council

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)

11-19-2015

Meeting Date

376

Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name BRIAN PITTS

Job Title Trustee

Address 1119 Newton Ave S

Phone 727/897-9291

Street

St Petersburg

City

FL

State

33705

Zip

Email \_\_\_\_\_

Speaking:  <sup>in part</sup> For  Against  Information

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

Representing Justice-2-Jesus

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

**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.)

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Prepared By: The Professional Staff of the Committee on Fiscal Policy

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BILL: SB 388

INTRODUCER: Senator Detert

SUBJECT: Individuals with Disabilities

DATE: November 18, 2015      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McKay</u>	<u>McKay</u>	<u>CM</u>	<b>Favorable</b>
2.	<u>Gusky</u>	<u>Miller</u>	<u>ATD</u>	<b>Recommend: Favorable</b>
3.	<u>Jones</u>	<u>Hrdlicka</u>	<u>FP</u>	<b>Favorable</b>

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**I. Summary:**

SB 388 creates the Florida Unique Abilities Partner Program to recognize business entities that employ individuals who have a disability, contribute to organizations that support the independence of individuals who have a disability, or establish or contribute to the establishment of a program that contributes to the independence of individuals who have a disability. A business that receives the designation must annually re-certify that it continues to meet the criteria for the designation.

The bill requires the Department of Economic Opportunity (DEO) to:

- Work with state agencies and CareerSource Florida, Inc., to create the program;
- Work with disability organizations to develop a logo for the program;
- Maintain a website that provides the list of businesses that have been designated as a Florida Unique Abilities Partner;
- Identify businesses with the designation on the Employ Florida Marketplace system;
- Provide VISIT Florida with the list of businesses that have been designated as a Florida Unique Abilities Partner for consideration for use in any marketing campaigns, especially those targeting individuals who have a disability or their families; and
- Report to the Legislature on its progress in implementing the program by January 1, 2017, and then annually thereafter on the program's progress.

For the 2016-2017 fiscal year, the bill appropriates \$100,000 in recurring funds and \$100,000 in nonrecurring funds from the Special Employment Security Administration Trust Fund to fund the development, implementation, and administration of the Florida Unique Abilities Partner Program.

The bill is effective July 1, 2016.

## II. Present Situation:

According to the United States Census Bureau, individuals who have a disability make up approximately 13.4 percent of the population of Florida, and 10.1 percent of individuals ages 18 to 64 (working age) have a disability.<sup>1</sup> In 2014, over 20 percent of working aged individuals who have a disability lived below the federal poverty line in Florida, compared with 13.7 percent of individuals without a disability.<sup>2</sup>

Individuals who have a disability experience significant disparities in employment and participation in the workforce.<sup>3</sup> For example, 17.9 percent of individuals who have a disability are employed in Florida, while over 61 percent of those who do not have a disability are employed.<sup>4</sup> Nationally, in December 2014 there was an 11.2 percent unemployment rate for individuals who have a disability and a 5 percent unemployment rate for individuals without a disability.<sup>5</sup> According to the National Disability Institute (NDI), many of these individuals would like to find employment, but are concerned if they earn more money it will cause them to lose disability and health benefits.<sup>6</sup>

### Corporate Social Responsibility and Consumer Response

Corporate social responsibility is now a standard practice in the business world.<sup>7</sup> Corporate social responsibility is defined as a company's sense of responsibility toward the community and environment,<sup>8</sup> which may be expressed through support of issues and programs like engaging in ethical supply sourcing or contributing to specific social programs. In 2013, corporations in the United States gave approximately \$18.7 billion, consisting of both cash and non-cash donations, such as product donations and employee volunteer hours.<sup>9</sup> Corporate philanthropy is considered

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<sup>1</sup> U.S. Department of Commerce, U.S. Census Bureau, American Fact Finder, *Disability Characteristics, 2014 American Community Survey 1-year Estimates*, Report S1810, searchable database (select "advanced search") available at <http://factfinder.census.gov/> (last visited Nov. 16, 2015).

<sup>2</sup> U.S. Department of Commerce, U.S. Census Bureau, American Fact Finder, *Selected Economic Characteristics for the Civilian Noninstitutionalized Population by Disability Status, 2014 American Community Survey 1-year Estimates*, Report S1811, searchable database available at <http://factfinder.census.gov/> (last visited Nov. 16, 2015).

<sup>3</sup> American Institutes for Research, *An Uneven Playing Field: The Lack of Equal Pay for People with Disabilities*, p. 2, December 2014, available at [http://www.air.org/sites/default/files/Lack%20of%20Equal%20Pay%20for%20People%20with%20Disabilities\\_Dec%2014.pdf](http://www.air.org/sites/default/files/Lack%20of%20Equal%20Pay%20for%20People%20with%20Disabilities_Dec%2014.pdf) (last visited Nov. 16, 2015).

<sup>4</sup> Supra note 2. Note, 78.5 percent of individuals who have a disability are not in the labor force.

<sup>5</sup> U.S. Department of Labor, Bureau of Labor Statistics, *BLS Data Viewer: Labor Force Statistics from the Current Population Survey, Series IDs LNU04074593 and LNU04074597*, (for 2014, not seasonally adjusted), available at <http://beta.bls.gov/dataViewer/view/641a3c05bb5b4578b313b2f20ca886cc> (last visited Nov. 16, 2015).

<sup>6</sup> National Disability Institute with support from the Florida Development Disabilities Council, *The Changing Face of Benefits Knowledge for Successful Employment and Asset Development*, p. 1, March 2013, available at [http://www.realeconomicimpact.org/data/files/other%20documents/changing\\_face\\_of\\_benefits\\_2013.pdf.pdf](http://www.realeconomicimpact.org/data/files/other%20documents/changing_face_of_benefits_2013.pdf.pdf) (last visited Nov. 16, 2015).

<sup>7</sup> Illia, Laura et al., *Communicating Corporate Social Responsibility to a Cynical Public*, MIT SLOAN MANAGEMENT REVIEW, Feb. 21, 2013, available at [http://sloanreview.mit.edu/article/communicating-corporate-social-responsibility-to-a-cynical-public/?use\\_credit=db34fbf0a135038c9c9102e028c614be](http://sloanreview.mit.edu/article/communicating-corporate-social-responsibility-to-a-cynical-public/?use_credit=db34fbf0a135038c9c9102e028c614be) (last visited Nov. 16, 2015).

<sup>8</sup> BusinessDictionary.com, available at <http://www.businessdictionary.com/definition/corporate-social-responsibility.html> (last visited Nov. 16, 2015).

<sup>9</sup> Adams, Susan, *America's Most Generous Companies*, FORBES, July 15, 2014, available at <http://www.forbes.com/sites/susanadams/2014/07/15/americas-most-generous-companies/> (last visited Nov. 16, 2015).

advantageous to a business because it provides the company with a bolstered public image, improved community relations, and increased employee morale.<sup>10</sup>

Studies suggest that people value businesses that support causes that are important to them. A recent Nielsen survey found that 55 percent of global respondents indicated a willingness to pay extra for goods and services from businesses that are committed to making a positive social and environmental impact.<sup>11</sup> Consumers are becoming “more deliberate and purposeful” in their shopping decisions by patronizing businesses that have similar values to their own.<sup>12</sup> Consumers are also more likely to be loyal to those brands that share their values or are engaged in the support of those causes that are important to them.<sup>13</sup> People may even base their employment decisions on such values.<sup>14</sup>

### III. Effect of Proposed Changes:

**Section 1** of the bill creates the Florida Unique Abilities Partner Program to be administered by the Department of Economic Opportunity (DEO). The purpose of the program is to recognize businesses that demonstrate a commitment to the independence of individuals who have a disability. The DEO must consult with the Agency for Persons with Disabilities, the Divisions of Vocational Rehabilitation and Blind Services of the Department of Education, and CareerSource Florida, Inc., in creating the program.

The bill defines “individuals who have a disability” as persons who have a physical or intellectual impairment that substantially limits one or more major life activities, persons who have a history or record of such an impairment, or persons who are perceived by others as having such an impairment.

In order to be designated as a Florida Unique Abilities Partner, a business must submit an application to the DEO, indicating that the business would qualify for the designation by:

- Employing individuals who have a disability;
- Contributing to local or national disability organizations; or
- Contributing to or establishing a program that contributes to the independence of individuals who have a disability.

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<sup>10</sup> Montini, Laura, *Corporate Altruism Is on the Rise (Infographic)*, INC., Aug. 27, 2014, available at <http://www.inc.com/laura-montini/infographic/the-benefits-of-community-service.html> (last visited Nov. 16, 2015).

<sup>11</sup> The Nielsen Company, *Doing Well by Doing Good* (June 2014), available at <http://www.nielsen.com/content/dam/corporate/us/en/reports-downloads/2014%20Reports/global-corporate-social-responsibility-report-june-2014.pdf> (last visited Nov. 16, 2015).

<sup>12</sup> Solomon, Micah, *Six Customer Trends That Will Build or Break Your Business As We Enter 2015*, FORBES, Dec. 25, 2014, available at <http://www.forbes.com/sites/micahsolomon/2014/12/25/six-deep-customer-trends-that-will-build-or-break-your-business-as-we-enter-2015/> (last visited Nov. 16, 2015).

<sup>13</sup> Irwin, Julie, *Ethical Consumerism Isn't Dead, It Just Needs Better Marketing*, HARVARD BUSINESS REVIEW, Jan. 12, 2015, available at <https://hbr.org/2015/01/ethical-consumerism-isnt-dead-it-just-needs-better-marketing> (last visited Nov. 16, 2015).

<sup>14</sup> Supra note 11.



At a minimum, to qualify for the designation, a business must:

- Employ at least one Florida resident, who has a disability, for at least 9 months before applying for the designation; the DEO may not require the employer to provide any personally identifiable information about its employees;
- Make a financial or in-kind contribution, including employee volunteer hours, to a local or national disability organization or a contribution in support of individuals who have a disability;<sup>15</sup> or
- Establish or contribute to the establishment of a program that contributes to the independence of individuals who have a disability.<sup>16</sup>

The DEO may also consider nominations from members of the community regarding a local business entity's qualification for designation as a Florida Unique Abilities Partner. The nomination must identify the business entity's achievements in one or more of the above-referenced categories. Upon receipt of a nomination, the DEO must determine whether the nominee meets the requirements of the program based on the information provided and may request additional information from the nominee if needed. If the nominee meets the requirements, the DEO must notify the nominated business and provide the business the qualifying criteria asserted in the nomination. The nominee has 30 days from the receipt of notice to certify that the information in the notice is true and correct and to either accept or decline the nomination. If a business does not accept the nomination within 30 days of receiving notice, the DEO may not award the designation.

A business must annually certify that it continues to meet the requirements to be designated a Florida Unique Abilities Partner. Failure to submit the annual certification will result in the removal of the business' designation. A business may elect to discontinue its use of the designation by notifying the DEO of such decision.

The DEO must adopt procedures for the application, nomination, and designation processes for the Florida Unique Abilities Partner Program. The bill specifies that the DEO's designation under this program does not constitute final agency action, and therefore is not subject to the Florida Administrative Procedures Act in ch. 120, F.S.

The bill directs the DEO, in partnership with the disability community, to develop a logo that may be used to identify a business that has been designated as a Florida Unique Abilities Partner. The DEO is responsible for developing guidelines and requirements for the use and display of the Florida Unique Abilities Partner Program logo. A business that has not received the designation or has elected to discontinue its designation may not display the logo.

The DEO must maintain a website that, at a minimum, provides:

- The list of businesses, by county, that currently have the Florida Unique Abilities Partners designation, updated quarterly;

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<sup>15</sup> Contributions must be documented by providing copies of written receipts, program materials, or letters of acknowledgment from recipients, volunteers, or donees. A business entity with 100 or fewer employees must make a financial or in-kind contribution of at least \$1,000, and a business entity with more than 100 employees must make a financial or in-kind contribution of at least \$5,000.

<sup>16</sup> *Id.*

- Information on the eligibility requirements for the designation and the methods of application and nomination; and
- The best practices for businesses to facilitate the inclusion of individuals who have a disability, updated annually.

The website may provide links to the websites of organizations or other resources that will aid business entities in the employment or support individuals who have a disability. The Agency for Persons with Disabilities must provide a link to the DEO website for the Florida Unique Abilities Partner Program on its website. On the Employ Florida Marketplace website or successor system, the DEO and CareerSource Florida, Inc., must identify the employers that currently have a designation as a Florida Unique Abilities Partner.

The DEO is required to provide a list of businesses that have a designation as a Florida Unique Abilities Partner to VISIT Florida<sup>17</sup> on a quarterly basis. VISIT Florida must consider using the program and the designees in marketing campaigns, including campaigns that target individuals who have a disability or their families.

The DEO must report its progress in implementing the Florida Unique Abilities Partner Program to the Legislature by January 1, 2017. Beginning in 2017, the DEO must describe the progress and use of the program in its annual report required under s. 20.60, F.S.<sup>18</sup>

**Section 2** amends s. 20.60, F.S., to add the Florida Unique Abilities Partner Program to the list of programs the DEO must include in its annual report.

**Section 3** provides an appropriation to the DEO to develop, implement, and administer the Florida Unique Abilities Partner Program in Fiscal Year 2016-2017 (*See* Section V).

**Section 4** provides an effective date of July 1, 2016, unless the bill expressly provides otherwise. The requirement that the DEO include information regarding the Florida Unique Abilities Partner Program in the department's annual report has an effective date of January 1, 2017.

#### IV. Constitutional Issues:

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

None.

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

None.

##### C. Trust Funds Restrictions:

None.

<sup>17</sup> VISIT Florida is statutorily referred to as the Florida Tourism Industry Marketing Corporation. *See* s. 288.1226, F.S.

<sup>18</sup> The DEO's annual report is due to the Legislature on November 1 of each year.

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

None.

**B. Private Sector Impact:**

Under the Florida Unique Abilities Partner Program a business that receives a designation may experience greater patronage due to the designation. Local or national disability organizations may receive additional donations from businesses seeking a designation under the program.

**C. Government Sector Impact:**

For the 2016-2017 fiscal year, the bill appropriates \$100,000 in recurring funds and \$100,000 in nonrecurring funds from the Special Employment Security Administration Trust Fund for the development, implementation, and administration of the Florida Unique Abilities Partner Program. Sufficient revenue is available in that fund to support the recurring and nonrecurring appropriations.

According to the DEO, there will be costs associated with staff time to develop the program, process applications, determine compliance, and designate businesses, and also staff time for IT personnel to create, maintain, and update the website that is required by the bill.<sup>19</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The bill directs the DEO to adopt rules to administer the program.

Under the Americans with Disabilities Act (ADA), employers are prohibited from inquiring about whether a person has a disability or the nature of a disability prior to employment.<sup>20</sup> However, an employer may inquire about the applicant's ability to perform job-related functions. Upon employment, an employer may require a medical examination it is required of all employees, is job-related, and consistent with business necessity. Any medical information obtained from the medical examination must be maintained in a separate file. If an employee requests a reasonable accommodation, an employer is permitted to request documentation sufficient to substantiate the need for the reasonable accommodation.<sup>21</sup>

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<sup>19</sup> The Department of Economic Opportunity, *2015 Senate Bill Analysis for Senate Bill 1246* (Mar. 5, 2015), which included substantively similar provisions (on file with the Senate Commerce and Tourism Committee).

<sup>20</sup> See 42 U.S.C. s. 12112.

<sup>21</sup> EEOC, No. 915.002, *EEOC Enforcement Guidance of Disability-Related Inquiries and Medical Examinations of Employees Under the Americans with Disabilities Act (ADA)*, July 27, 2000, available at <http://www.eeoc.gov/policy/docs/guidance-inquiries.html> (last visited Nov. 16, 2015).

**VIII. Statutes Affected:**

This bill substantially amends section 20.60 of the Florida Statutes.

This bill creates an unnumbered 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.

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

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By Senator Detert

28-00549-16

2016388\_\_

1 A bill to be entitled  
 2 An act relating to individuals with disabilities;  
 3 requiring the Department of Economic Opportunity, in  
 4 consultation with other entities, to create the  
 5 Florida Unique Abilities Partner Program; defining  
 6 terms; authorizing a business entity to apply to the  
 7 department for designation; requiring the department  
 8 to consider nominations of business entities for  
 9 designation; requiring the department to adopt  
 10 procedures for application, nomination, and  
 11 designation processes; establishing criteria for a  
 12 business entity to be designated as a Florida Unique  
 13 Abilities Partner; requiring a business entity to  
 14 certify that it continues to meet the established  
 15 criteria for designation each year; requiring the  
 16 department to remove the designation if a business  
 17 entity does not submit yearly certification of  
 18 continued eligibility; authorizing a business entity  
 19 to discontinue its designated status; requiring the  
 20 department, in consultation with the disability  
 21 community, to develop a logo for business entities  
 22 designated as Florida Unique Abilities Partners;  
 23 requiring the department to adopt guidelines and  
 24 requirements for the use of the logo; authorizing the  
 25 department to allow a designated business entity to  
 26 display a logo; prohibiting the use of a logo if a  
 27 business entity does not have a current designation;  
 28 requiring the department to maintain a website with  
 29 specified information; requiring the Agency for

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

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30 Persons with Disabilities to provide a link on its  
 31 website to the department's website for the program;  
 32 requiring the department to provide the Florida  
 33 Tourism Industry Marketing Corporation with certain  
 34 information; requiring the department and CareerSource  
 35 Florida, Inc., to identify employment opportunities  
 36 posted by business entities that receive the Florida  
 37 Unique Abilities Partner designation on the workforce  
 38 information system; requiring a report to the  
 39 Legislature; providing report requirements; requiring  
 40 the department to adopt rules; amending s. 20.60,  
 41 F.S.; revising requirements for the department's  
 42 annual report to conform to changes made by the act;  
 43 providing appropriations; providing effective dates.  
 44

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

46  
 47 Section 1. Florida Unique Abilities Partner Program.—  
 48 (1) CREATION AND PURPOSE.—The Department of Economic  
 49 Opportunity shall establish the Florida Unique Abilities Partner  
 50 Program to designate a business entity as a Florida Unique  
 51 Abilities Partner if the business entity demonstrates  
 52 commitment, through employment or support, to the independence  
 53 of individuals who have a disability. The department shall  
 54 consult with the Agency for Persons with Disabilities, the  
 55 Division of Vocational Rehabilitation of the Department of  
 56 Education, the Division of Blind Services of the Department of  
 57 Education, and CareerSource Florida, Inc., in creating the  
 58 program.

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59 (2) DEFINITIONS.—As used in this section, the term:  
 60 (a) “Department” means the Department of Economic  
 61 Opportunity.  
 62 (b) “Individuals who have a disability” means persons who  
 63 have a physical or intellectual impairment that substantially  
 64 limits one or more major life activities, persons who have a  
 65 history or record of such an impairment, or persons who are  
 66 perceived by others as having such an impairment.  
 67 (3) DESIGNATION.—  
 68 (a) A business entity may apply to the department to be  
 69 designated as a Florida Unique Abilities Partner, based on the  
 70 business entity’s achievements in at least one of the following  
 71 categories:  
 72 1. Employment of individuals who have a disability.  
 73 2. Contributions to local or national disability  
 74 organizations.  
 75 3. Contributions to, or the establishment of, a program  
 76 that contributes to the independence of individuals who have a  
 77 disability.  
 78 (b) As an alternative to application by a business entity,  
 79 the department must consider nominations from members of the  
 80 community where the business entity is located. The nomination  
 81 must identify the business entity’s achievements in at least one  
 82 of the categories provided in paragraph (a).  
 83 (c) The name, location, and contact information of the  
 84 business entity must be included in the business entity’s  
 85 application or nomination.  
 86 (d) The department shall adopt procedures for the  
 87 application, nomination, and designation processes for the

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88 Florida Unique Abilities Partner Program. Designation as a  
 89 Florida Unique Abilities Partner does not establish or involve  
 90 licensure, does not affect the substantial interests of a party,  
 91 and does not constitute a final agency action. The Florida  
 92 Unique Abilities Partner Program and designation are not subject  
 93 to chapter 120, Florida Statutes.  
 94 (4) ELIGIBILITY AND AWARD.—In determining the eligibility  
 95 for the designation of a business entity as a Florida Unique  
 96 Abilities Partner, the department shall consider, at a minimum,  
 97 the following criteria:  
 98 (a) For a designation based on an application by a business  
 99 entity, the business entity must certify that:  
 100 1. It employs at least one individual who has a disability.  
 101 Such employees must be residents of this state and must have  
 102 been employed by the business entity for at least 9 months  
 103 before the business entity’s application for the designation.  
 104 The department may not require the employer to provide  
 105 personally identifiable information about its employees;  
 106 2. It has made contributions to local and national  
 107 disability organizations or contributions in support of  
 108 individuals who have a disability. Contributions may be  
 109 accomplished through financial or in-kind contributions,  
 110 including employee volunteer hours. Contributions must be  
 111 documented by providing copies of written receipts or letters of  
 112 acknowledgment from recipients or donees. A business entity with  
 113 100 or fewer employees must make a financial or in-kind  
 114 contribution of at least \$1,000, and a business entity with more  
 115 than 100 employees must make a financial or in-kind contribution  
 116 of at least \$5,000; or

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117 3. It has established, or has contributed to the  
 118 establishment of, a program that contributes to the independence  
 119 of individuals who have a disability. Contributions must be  
 120 documented by providing copies of written receipts, a summary of  
 121 the program, program materials, or letters of acknowledgment  
 122 from program participants or volunteers. A business entity with  
 123 100 or fewer employees must make a financial or in-kind  
 124 contribution of at least \$1,000 in the program, and a business  
 125 entity with more than 100 employees must make a financial or in-  
 126 kind contribution of at least \$5,000.

127  
 128 A business entity that applies to the department to be  
 129 designated as a Florida Unique Abilities Partner shall be  
 130 awarded the designation upon meeting the requirements of this  
 131 section.

132 (b) For a designation based upon receipt of a nomination of  
 133 a business entity:

134 1. The department shall determine whether the nominee,  
 135 based on the information provided by the nominating person or  
 136 entity, meets the requirements of paragraph (a). The department  
 137 may request additional information from the nominee.

138 2. If the nominee meets the requirements, the department  
 139 shall provide notice, including the qualification criteria  
 140 provided in the nomination, to the nominee regarding the  
 141 nominee's eligibility to be awarded a designation as a Florida  
 142 Unique Abilities Partner.

143 3. The nominee shall be provided 30 days after receipt of  
 144 the notice to certify that the information in the notice is true  
 145 and accurate and accept the nomination, to provide corrected

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146 information for consideration by the department and indicate an  
 147 intention to accept the nomination, or to decline the  
 148 nomination. If the nominee accepts the nomination, the  
 149 department shall award the designation. The department may not  
 150 award the designation if the nominee declines the nomination or  
 151 has not accepted the nomination within 30 days of receiving  
 152 notice.

153 (5) ANNUAL CERTIFICATION.—After an initial designation as a  
 154 Florida Unique Abilities Partner, a business entity must certify  
 155 each year that it continues to meet the criteria for the  
 156 designation. If the business entity does not submit the yearly  
 157 certification of continued eligibility, the department shall  
 158 remove the designation. The business entity may elect to  
 159 discontinue its designation status at any time by notifying the  
 160 department of such decision.

161 (6) LOGO DEVELOPMENT.—

162 (a) The department, in consultation with members of the  
 163 disability community, shall develop a logo that identifies a  
 164 business entity that is designated as a Florida Unique Abilities  
 165 Partner.

166 (b) The department shall adopt guidelines and requirements  
 167 for the use of the logo, including how the logo may be used in  
 168 advertising. The department may allow a business entity to  
 169 display a Florida Unique Abilities Partner logo upon  
 170 designation. A business entity that has not been designated as a  
 171 Florida Unique Abilities Partner or has elected to discontinue  
 172 its designated status may not display the logo.

173 (7) WEBSITE.—The department shall maintain a website for  
 174 the program. At a minimum, the website must provide a list of

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175 business entities, by county, which currently have the Florida  
 176 Unique Abilities Partner designation, updated quarterly;  
 177 information regarding the eligibility requirements for the  
 178 designation and the method of application or nomination; and  
 179 best practices for business entities to facilitate the inclusion  
 180 of individuals who have a disability, updated annually. The  
 181 website may provide links to the websites of organizations or  
 182 other resources that will aid business entities to employ or  
 183 support individuals who have a disability.

184 (8) INTERAGENCY COLLABORATION.—

185 (a) The Agency for Persons with Disabilities shall provide  
 186 a link on its website to the department's website for the  
 187 Florida Unique Abilities Partner Program.

188 (b) On a quarterly basis, the department shall provide the  
 189 Florida Tourism Industry Marketing Corporation with a current  
 190 list of all businesses that are designated as Florida Unique  
 191 Abilities Partners. The Florida Tourism Industry Marketing  
 192 Corporation must consider the Florida Unique Abilities Partner  
 193 Program in the development of marketing campaigns, and  
 194 specifically in any targeted marketing campaign for individuals  
 195 who have a disability or their families.

196 (c) The department and CareerSource Florida, Inc., shall  
 197 identify employment opportunities posted by business entities  
 198 that currently have the Florida Unique Abilities Partner  
 199 designation on the workforce information system under s.  
 200 445.011, Florida Statutes.

201 (9) REPORT.—

202 (a) By January 1, 2017, the department shall provide a  
 203 report to the President of the Senate and the Speaker of the

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204 House of Representatives on the status of the implementation of  
 205 this section, including the adoption of rules, development of  
 206 the logo, and development of application procedures.

207 (b) Beginning in 2017 and each year thereafter, the  
 208 department's annual report required under s. 20.60, Florida  
 209 Statutes, must describe in detail the progress and use of the  
 210 program. At a minimum, the report must include, for the most  
 211 recent year: the number of applications and nominations  
 212 received; the number of nominations accepted and declined; the  
 213 number of designations awarded; annual certifications; the use  
 214 of information provided under subsection (8); and any other  
 215 information deemed necessary to evaluate the program.

216 (10) RULES.—The department shall adopt rules to administer  
 217 this section.

218 Section 2. Effective January 1, 2017, paragraph (b) of  
 219 subsection (10) of section 20.60, Florida Statutes, is amended  
 220 to read:

221 20.60 Department of Economic Opportunity; creation; powers  
 222 and duties.—

223 (10) The department, with assistance from Enterprise  
 224 Florida, Inc., shall, by November 1 of each year, submit an  
 225 annual report to the Governor, the President of the Senate, and  
 226 the Speaker of the House of Representatives on the condition of  
 227 the business climate and economic development in the state.

228 (b) The report must incorporate annual reports of other  
 229 programs, including:

230 1. The displaced homemaker program established under s.

231 446.50.

232 2. Information provided by the Department of Revenue under



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s. 290.014.

3. Information provided by enterprise zone development agencies under s. 290.0056 and an analysis of the activities and accomplishments of each enterprise zone.

4. The Economic Gardening Business Loan Pilot Program established under s. 288.1081 and the Economic Gardening Technical Assistance Pilot Program established under s. 288.1082.

5. A detailed report of the performance of the Black Business Loan Program and a cumulative summary of quarterly report data required under s. 288.714.

6. The Rural Economic Development Initiative established under s. 288.0656.

7. The Florida Unique Abilities Partner Program.

Section 3. For the 2016-2017 fiscal year, the sums of \$100,000 in recurring funds and \$100,000 in nonrecurring funds from the Special Employment Security Administration Trust Fund are appropriated to the Department of Economic Opportunity, for the purpose of funding the development, implementation, and administration of the Florida Unique Abilities Partner Program created by this act.

Section 4. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2016.



The Florida Senate

## Committee Agenda Request

**To:** Senator Anitere Flores, Chair  
Committee on Fiscal Policy

**Subject:** Committee Agenda Request

**Date:** November 4, 2015

---

I respectfully request that **Senate Bill #388**, relating to Individuals with Disabilities, be placed on the:

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

A handwritten signature in cursive script, reading "Nancy C. Detert".

---

Senator Nancy C. Detert  
Florida Senate, District 28



# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

## COMMITTEES:

Commerce and Tourism, *Chair*  
Education Pre-K - 12, *Vice Chair*  
Appropriations Subcommittee on Transportation,  
Tourism, and Economic Development  
Banking and Insurance  
Children, Families, and Elder Affairs

## JOINT COMMITTEE:

Joint Administrative Procedures Committee

**SENATOR NANCY C. DETERT**

28th District

November 18, 2015

The Honorable Anitere Flores  
Chair  
Senate Fiscal Policy Committee  
225 Knott Building  
404 S. Monroe Street  
Tallahassee, FL 32399-1100

Dear Madame Chair:

Thank you for hearing my SB 388-Individuals with Disabilities in Fiscal Policy tomorrow. I need to be in the Senate Children, Families, and Elder Affairs Committee as I have a bill on the agenda which has several amendments to it, and I need to be there to address those.

In the event that I am unable to get to your committee in time, I respectfully request that you allow my aide, Charlie Anderson, to present my SB 388 to your committee.

I appreciate your consideration of this request.

Sincerely,

A handwritten signature in cursive script that reads "Nancy C. Detert".

Nancy C. Detert

NCD/ca

cc: Jennifer Hrdlicka, Staff Director

## REPLY TO:

- 417 Commercial Court, Suite D, Venice, Florida 34292 (941) 480-3547 FAX: (941) 480-3549
- 416 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5028

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

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

THE FLORIDA SENATE  
**APPEARANCE RECORD**

11-19-15  
Meeting Date

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

SB 388  
Bill Number (if applicable)

Topic SB 388

Amendment Barcode (if applicable)

Name Margaret S. Hooper

Job Title Public Policy Coordinator

Address 124 Marriott Drive #203

Phone 850-921-7263

Tallahassee FL 32301

City State Zip

Email MargaretD@FD02

018

Speaking:  For  Against  Information

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

Representing Florida Developmental Disabilities 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.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

11-19-2015

Meeting Date

388

Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name BRIAN PITTS

Job Title Trustee

Address 1119 Newton Ave S  
Street

Phone 727/897-9291

St Petersburg FL 33705  
City State Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing Justice-2-Jesus

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

**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 Fiscal Policy

---

BILL: CS/SB 416

INTRODUCER: Community Affairs Committee and Senator Flores

SUBJECT: Location of Utilities

DATE: November 18, 2015

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	<b>Fav/CS</b>
2.	Price	Eichin	TR	<b>Favorable</b>
3.	Pace	Hrdlicka	FP	<b>Favorable</b>

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 416 requires a state or local government to bear the responsibility for the cost of relocating utility facilities in a public easement, absent an agreement to the contrary. Specifically, the bill provides that a governmental authority must bear the cost of utility work required to eliminate an unreasonable interference if the utility is located within an existing and valid utility easement granted by recorded plat, regardless of whether such land was subsequently acquired by the governmental authority, by dedication, transfer of fee, or otherwise.

Currently, both statute and common law require a utility to pay for the cost of relocating its facilities within a public easement, absent an agreement to the contrary. Both the statute and common law were reaffirmed in a recent court case by the Second District Court of Appeals requiring a utility to pay for the cost of relocating its utility facilities.

The bill also reduces a county's authority to grant licenses for lines to only locations under, on, over, across, or *within the right-of-way limits* of a county highway or public road, as opposed to under, on, over, across and *along* such highways or roads.

According to the Florida Department of Transportation (FDOT), the bill is expected to have an indeterminate negative fiscal impact on state expenditures relating to the cost of utility relocation on state roads. To the extent funds are expended for such relocations, projects currently planned in the Work Program may need to be adjusted.

The bill is also expected to have an indeterminate negative fiscal impact on local governments that may now be responsible for the cost of utility relocations.

## II. Present Situation:

### **Specific Grant of Authority to Counties to Issue Licenses to Utilities**

Section 125.42, F.S., gives counties specific authority to grant a license to any person or private corporation to construct, maintain, repair, operate, and remove, within the unincorporated areas of a county, water, sewage, gas, power, telephone, other public utilities, and television transmission lines located “under, on, over, across and along” any county road or highway.<sup>1</sup> The statutory phrase “under, on, over, across and along” county roads or highways has been in the statute since 1947.<sup>2</sup>

### **Specific Grant of Authority to Regulate the Placement and Maintenance of Utility Lines**

Chapter 337, F.S., relates to public contracts and the acquisition, disposal, and use of property. The FDOT and local governmental entities<sup>3</sup> prescribe and enforce reasonable rules or regulations related to the placement and maintenance of the utility lines along, across, or on any public road or rail corridor.<sup>4</sup> “Utility” in this context means any electric transmission, telephone, telegraph, or other communication services lines; pole lines; poles; railways; ditches; sewers; water, heat or gas mains; pipelines; fences; gasoline tanks and pumps; or other structures that the statute refers to as a “utility.”<sup>5</sup> Florida local governments have enacted ordinances regulating utilities located within city rights-of-way or public easements.<sup>6</sup>

### **Payment for Moving or Removing Utilities and Exceptions**

Since 1957, Florida law expressly has provided that in the event of widening, repair, or reconstruction of a county’s public road or highway, the licensee, i.e., the utility provider, must move or remove the lines at no cost to the county.<sup>7</sup> In 2009, that requirement was made subject to a provision in s. 337.403(1), F.S., relating to agreements entered into after July 1, 2009.<sup>8</sup> In 2014, it was made subject to an additional requirement that the authority<sup>9</sup> find the utility is “unreasonably interfering” with the convenient, safe, or continuous use, or the maintenance, improvement, extension, or expansion, of such public road or publicly owned rail corridor.<sup>10</sup>

Additionally, beginning in 1957, Florida statutorily required utilities to bear the costs of relocating a utility placed upon, under, over, or along any public road the authority finds

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<sup>1</sup> Section 125.42(1), F.S.

<sup>2</sup> Chapter 23850, ss. 1-3, Laws of Fla., now codified at s. 125.42, F.S.

<sup>3</sup> These are referred in ss. 337.401-337.404, F.S., as an “authority.” s. 337.401(1)(a), F.S.

<sup>4</sup> Section 337.401, F.S.

<sup>5</sup> Section 337.401(1) (a), F.S.

<sup>6</sup> See City of Cape Coral Code of Ordinances, ch. 25; City of Jacksonville Code of Ordinances, Title XXI, ch. 711; City of Orlando Code of Ordinances, Ch. 23, all of which include public easements within the definition of right-of-way.

<sup>7</sup> Chapter 57-777, s. 1, Laws of Fla., now codified at s. 125.42(5), F.S.

<sup>8</sup> Chapter 2009-85, s. 2, Laws of Fla., now codified at s. 125.42(5), F.S.

<sup>9</sup> “[A]uthority” means the FDOT and local governmental entities. Section 337.401(1), F.S.

<sup>10</sup> Chapter 2014-169, s. 1, Laws of Fla., now codified at s. 125.42(5), F.S.

unreasonably interferes in any way with the convenient, safe, or continuous use, or the maintenance, improvement, extension or expansion of a road.<sup>11</sup> In 1994, that law was amended to include utilities placed upon, under, over, or along any publicly owned rail corridor.<sup>12</sup> Utility owners, upon 30 days' notice, must eliminate the unreasonable interference within a reasonable time or an agreed time, at their own expense.<sup>13</sup> The general rule remains that utilities bear the costs of relocating a utility unless governmental participation in such costs is agreed upon. Since 1987, numerous exceptions to that general rule have been enacted, and can be found in s. 337.403(1)(a)-(i), F.S.

### Utility Relocation under Common Law and the *Cape Coral* Decision

Legal scholarship has addressed the common law implications of utility relocation.<sup>14</sup> Under common law, a utility will bear the costs of moving or relocating its utility lines or facilities if they are within the right-of-way or a public utility easement, unless an agreement exists providing otherwise or a *private* easement exists in which the utility locates and runs its lines or facilities.

An easement<sup>15</sup> differs from a right-of-way.<sup>16</sup> An easement gives a reserved right to use property in a specified manner,<sup>17</sup> but “does not involve title to or an estate in the land itself.”<sup>18</sup> In accordance with s. 177.081(3), F.S., in the case of a platted public easement, the reserved right to use the property is granted *to the public* for the specified use.

On the other hand, the term right-of-way “has been construed to mean ... a right of passage over the land of another .... It does not necessarily mean a legal and enforceable incorporeal [or intangible] right such as an easement.”<sup>19</sup>

In 2014, the Florida Second District Court of Appeal (DCA) ruled in *Lee County Electric Cooperative, Inc. v. City of Cape Coral* that the requirement for utilities to pay for relocation within a right-of-way is well established in the common law.<sup>20</sup> That court found that, absent another arrangement by agreement between a governmental entity and the utility, or a statute

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<sup>11</sup> Chapter 57-1978, s. 1, Laws of Fla., now codified at s. 337.403, F.S.

<sup>12</sup> Chapter 1994-247, s. 28, Laws of Fla., now codified at s. 337.403(1), F.S.

<sup>13</sup> Section 337.403(1), F.S.

<sup>14</sup> Michael L. Stokes, *Moving the Lines: The Common Law of Utility Relocation*, 45 Val. U.L. Rev. 457 (Winter, 2011).

<sup>15</sup> See s. 177.031(7)(a), F.S. An easement is defined as any strip of land created by a subdivider for public or private utilities, drainage, sanitation, or other specified uses having limitations, the title to which shall remain in the name of the property owner, subject to the right of use designated in the reservation of the servitude.

<sup>16</sup> See s. 177.031(16), F.S. A right-of-way is defined as land dedicated, deeded, used, or to be used for a street, alley, walkway, boulevard, drainage facility, access for ingress and egress, or other purpose by the public, certain designated individuals, or governing bodies.

<sup>17</sup> *Southeast Seminole Civic Ass'n v. Adkins*, 604 So. 2d 523, 527 (Fla. 5<sup>th</sup> DCA 1992) (“[E]asements are mere rights to make certain limited use of lands and at common law, they did not have, and in the absence of contractual provisions, do not have, obligations corollary to the easement rights.”).

<sup>18</sup> *Estate of Johnston v. TPE Hotels, Inc.*, 719 So. 2d 22, 26 (Fla. 5<sup>th</sup> DCA 1998) (citations omitted).

<sup>19</sup> *City of Miami Beach v. Carner*, 579 So. 2d 248, 253 (Fla. 3<sup>d</sup> DCA 1991).

<sup>20</sup> *Lee County Electric Coop., Inc. v. City of Cape Coral*, 159 So. 3d 126, 130 (Fla. 2<sup>d</sup> DCA 2014), *review denied*, 151 So. 3d 1226 (Fla. 2014), quoting *Norfolk Redevelopment & Hous. Auth. v. Chesapeake & Potomac Tel. Co. of Va.*, 464 U.S. 30, 35 (1983).



dictating otherwise, the common law principle governs.<sup>21</sup> This case involved a platted public utility easement on each side of the boundary for each home site in a subdivision, in which the electric utility had installed lines and other equipment.

The easement was “along” the public right-of-way and was dedicated *to the public*, not to any utility owner, for the purpose of furnishing utilities. No reserved right to use the property was granted to the Lee County Electric Cooperative by virtue of the platted public easement. The municipality and the utility had a franchise agreement granting the utility the right to operate its electric utility in the public easement. Although many agreements do, the subject franchise agreement did not address who would be responsible for the cost of moving the utility’s equipment if the municipality required the utility to do so. The Second DCA held that the utility would bear the burden of the cost of moving a utility line located within a public utility easement to another public utility easement as part of the municipality’s expansion of an existing road.<sup>22</sup>

### III. Effect of Proposed Changes:

Generally, the bill shifts utility relocation costs from the utility owner and its users to taxpayers when a utility line must be relocated from a public easement. The bill reduces the responsibility of a utility provider to pay for relocating a utility located upon, under, over, *or along* the road or rail corridor, limiting such responsibility to those utilities located upon, under, over, or *within the right-of-way limits* of the road or rail corridor. Relocation costs of utilities located in public easements located along a road or corridor will become the responsibility of the government.

**Section 1** amends s. 125.42, F.S., relating to licenses for water, sewage, gas, power, telephone, other public utilities, and television lines. The bill reduces a county’s authority to grant licenses for lines to only locations under, on, over, across, or within the right-of-way limits of a county highway or public road, as opposed to “under, on, over, across and along” such highways or roads. Specifically, the bill provides that the authority of a county to grant a license to construct, maintain, repair, operate, or remove, within the unincorporated areas of the county, lines for the transmission of water, sewage, gas, power, telephone, other public utilities, television lines, and other communications services<sup>23</sup> is limited to those lines located within the right-of-way limits of any county roads or highways. Accordingly, this change narrows a county’s ability to grant licenses to construct such lines within a public easement, running along a road or highway but not within the actual right-of-way.

The bill also makes a conforming change, substituting a reference to ss. 337.403(1)(d) through (i), F.S., with ss. 337.403(1)(d) through (j), F.S., to correspond with the new exception set forth in Section 3 of the bill.

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<sup>21</sup> *Id.*

<sup>22</sup> *Id.* at 133. In reaching this conclusion, the Second DCA distinguished *Panhandle E. Pipe Line Co.*, noting that case concerned “a private easement the utility purchased from a property owner, rather than pursuant to a franchise agreement that allows the utility to use public property.” *Id.* at 129. The Second DCA in its opinion also distinguished an earlier Second DCA case, *Pinellas County v. General Tel. Co. of Fla.*, 229 So. 2d 9 (Fla. 2d DCA 1969). In *Pinellas County*, without citing or discussing relevant cases or statutes, the court determined that the utility, which had a franchise agreement with the city of St. Petersburg, had a property right in the agreement, and held that the county had to pay the utility’s costs in moving its telephone lines located within a right-of-way of an alley dedicated to the city and which was within property the county was purchasing as part of a county building construction.

<sup>23</sup> The bill adds “other communications services” to the list of utilities in current law. *See* s. 207.11(1), F.S.

**Section 2** amends s. 337.401, F.S., relating to FDOT and local government jurisdiction and control of public roads or rail corridors. The bill narrows the authority of the FDOT and local governmental entities to prescribe and enforce rules or regulations related to the placing and maintaining of a utility<sup>24</sup> to across, on, or *within the right-of-way limits*, as opposed to *along*, across, or on any public road or publicly owned rail corridor. By deleting the word “along” and changing the language to “right-of-way,” the bill appears to eliminate the FDOT and local governments' authority to prescribe and enforce rules and regulations regarding the placement and maintenance of utilities within a public easement. The bill also changes the expression “other structures referred to as a utility” to mean those structures referred to in ss. 337.401-337.404, F.S., instead of just those found in s. 337.401, F.S.

**Section 3** amends s. 337.403, F.S., relating to alleviating an interference that a utility causes to a public road or publicly owned rail corridor. The bill limits the responsibility of utility providers to pay for relocating their lines and facilities under certain circumstances. Specifically, the bill limits the responsibility of a utility provider to pay for relocating a utility that is located upon, under, over, or *within the right-of-way limits* of the road or rail corridor, rather than upon, under, over, or *along* the road or rail corridor.

Furthermore, if a utility is located within an existing and valid utility easement granted by recorded plat, regardless of whether such land was subsequently acquired by the governmental authority, by dedication, transfer of fee, or otherwise, the authority must bear the cost of the utility work required to eliminate an unreasonable interference. The bill also provides that if an authority is required to bear such a cost, the authority is required to pay the entire expense properly attributable to such work after deducting any increase in the value of a new facility and any salvage value derived from an old facility.

These changes overturn the results reached by the Second DCA in *Lee County Electric Cooperative, Inc. v. City of Cape Coral*, which held that the cost of relocating utilities from a public easement in the absence of a permit or other agreement is the responsibility of the utility owner.<sup>25</sup> Under the bill, if a utility is located in a public easement and no permit or agreement is in place to address relocation, the state or local government will be required to pay relocation costs because the utility is located *along* a public right-of-way.

The provisions extend beyond the issue before the court in the Lee County case. For example, current law defers to private property rights by requiring the state or local government to pay for relocation when a utility is located on a *private* easement, i.e., on property for which the utility has paid for the right to use or occupy. The bill's provisions seemingly extend private property rights to public property by requiring the governmental entity to pay for utility relocation even when the governmental entity possesses a *public* easement, i.e., property dedicated *to the public* in general, not to any specific utility owner, effectively bestowing a compensable property right to private users of a public easement, even when such users were granted the right to use the public property without compensation.

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<sup>24</sup> Section 337.401(1)(a), F.S., provides that utilities include “electric transmission, telephone, telegraph, or other communication services lines; pole lines; poles; railways; ditches; sewers; water, heat or gas mains; pipelines; fences; gasoline tanks and pumps; or other structures referred to in this section as the ‘utility’.”

<sup>25</sup> *Lee County Electric Coop., Inc.*, 159 So. 3d at 133.

**Section 4** provides that the Legislature finds that the bill fulfills an important state interest by clarifying a utility's responsibility for relocation of its facilities.

**Section 5** provides that the act shall take effect upon becoming a law.

#### **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."

The bill applies to all persons similarly situated, including the state and local governments. The bill includes a legislative finding that the bill fulfills an important state interest.

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

None.

##### **C. Trust Funds Restrictions:**

None.

#### **V. Fiscal Impact Statement:**

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

The bill would have an indeterminate positive impact on the private sector, depending upon the number of eligible reimbursements for relocation made to utilities by the FDOT, local governments, or other entities.

##### **C. Government Sector Impact:**

State and local governments would bear costs associated with relocation of utilities previously borne by the utility and its customers. State and local governments would be required to bear the cost of utility work when a utility is located within an existing and valid utility easement granted by recorded plat, regardless of how such land was subsequently acquired by the local government, even where the state or local government subsequently acquired the property by outright purchase.

While the extent is unknown, potential negative fiscal impacts appear to exist, given that utility facilities are located along the public right-of-way throughout the state. The increased responsibility of state and local governments, and nonusers of utilities, to bear the cost of utility relocation previously borne by the utility owner and its users may delay or even prevent needed transportation improvements, particularly for local governments.

According to the FDOT the bill is expected to have an indeterminate negative fiscal impact on state expenditures relating to the cost of utility relocation on state roads.<sup>26</sup> To the extent funds are expended for such relocations, projects currently planned in the Work Program may need to be adjusted.

The bill is also expected to have an indeterminate negative fiscal impact on local governments, based on the number of situations in which local governments will be responsible for the cost of certain utility relocations.<sup>27</sup>

#### **VI. Technical Deficiencies:**

None.

#### **VII. Related Issues:**

The provisions extend beyond the issue before the court in the Lee County case. For example, current law defers to private property rights by requiring the state or local government to pay for relocation when a utility is located on a *private* easement, i.e., on property for which the utility has paid for the right to use or occupy. The bill's provisions seemingly extend private property rights to public property by requiring the governmental entity to pay for utility relocation even when the governmental entity possesses a *public* easement, i.e., property dedicated to *the public* in general, not to any specific utility owner, effectively bestowing a compensable property right to private users of a public easement, even when such users were granted the right to use the public property without compensation.

#### **VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 125.42, 337.401, and 337.403.

#### **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 October 20, 2015:**

Removes two provisions that prohibited a municipality or county from requiring a utility or a provider of communication services to provide proprietary maps of facilities that were previously subject to a permit from the authority. The bill also removes several provisions regarding the allocations of costs when relocation of a utility is required.

<sup>26</sup> Florida Dep't of Transportation, *2016 Legislative Bill Analysis SB 416*, at 3 (October 28, 2015).

<sup>27</sup> *Id.*

Specifically, the bill removes a provision that required an authority to bear the cost of relocating a utility if the authority required the relocation of the utility for purposes other than an unreasonable interference with the use, maintenance, improvement, extension, or expansion of a publicly owned road or publicly owned rail corridor. The bill also removes a provision that required an entity other than the authority to bear the cost of relocating a utility if the relocation was required as a condition or result of a project by that entity. Furthermore, the bill removes several corresponding provisions relating to the impairment of the rights of a holder of a private railroad right-of-way; the obligations of a holder of a private railroad right-of-way; and contracts between an authority and a utility before October 1, 2015.

**B. Amendments:**

None.

By the Committee on Community Affairs; and Senator Flores

578-00904-16

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1 A bill to be entitled  
 2 An act relating to the location of utilities; amending  
 3 s. 125.42, F.S.; revising the circumstances under  
 4 which a board of county commissioners is authorized to  
 5 grant to a person or private corporation a license for  
 6 specified projects related to lines for the  
 7 transmission of certain public utilities and  
 8 communication services; conforming a cross-reference;  
 9 amending s. 337.401, F.S.; authorizing the Department  
 10 of Transportation and certain local governmental  
 11 entities to prescribe and enforce rules or regulations  
 12 regarding the placement and maintenance of specified  
 13 structures and lines within the right-of-way limits of  
 14 roads or publicly owned rail corridors under their  
 15 respective jurisdictions; conforming cross-references;  
 16 amending s. 337.403, F.S.; specifying that the owner  
 17 of a utility located within certain right-of-way  
 18 limits must initiate and bear the cost necessary to  
 19 alleviate any interference to the use of certain  
 20 public roads or rail corridors under certain  
 21 circumstances; conforming a cross-reference; requiring  
 22 the authority to bear the cost of the utility work  
 23 necessary to eliminate an unreasonable interference if  
 24 the utility is lawfully located within a certain  
 25 utility easement, subject to certain deductions;  
 26 providing findings of an important state interest;  
 27 providing an effective date.  
 28  
 29 Be It Enacted by the Legislature of the State of Florida:

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

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30  
 31 Section 1. Section 125.42, Florida Statutes, is amended to  
 32 read:  
 33 125.42 Water, sewage, gas, power, telephone, other utility,  
 34 and television lines within the right-of-way limits of ~~along~~  
 35 county roads and highways.-  
 36 (1) The board of county commissioners, with respect to  
 37 property located without the corporate limits of any  
 38 municipality, is authorized to grant a license to any person or  
 39 private corporation to construct, maintain, repair, operate, and  
 40 remove lines for the transmission of water, sewage, gas, power,  
 41 telephone, other public utilities, ~~and~~ television, or other  
 42 communications services as defined in s. 202.11(1) under, on,  
 43 over, across, or within the right-of-way limits of ~~and along~~ any  
 44 county highway or any public road or highway acquired by the  
 45 county or public by purchase, gift, devise, dedication, or  
 46 prescription. However, the board of county commissioners shall  
 47 include in any instrument granting such license adequate  
 48 provisions:  
 49 (a) To prevent the creation of any obstructions or  
 50 conditions which are or may become dangerous to the traveling  
 51 public;  
 52 (b) To require the licensee to repair any damage or injury  
 53 to the road or highway by reason of the exercise of the  
 54 privileges granted in any instrument creating such license and  
 55 to repair the road or highway promptly, restoring it to a  
 56 condition at least equal to that which existed immediately prior  
 57 to the infliction of such damage or injury;  
 58 (c) Whereby the licensee shall hold the board of county

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59 commissioners and members thereof harmless from the payment of  
60 any compensation or damages resulting from the exercise of the  
61 privileges granted in any instrument creating the license; and

62 (d) As may be reasonably necessary, for the protection of  
63 the county and the public.

64 (2) A license may be granted in perpetuity or for a term of  
65 years, subject, however, to termination by the licensor, in the  
66 event the road or highway is closed, abandoned, vacated,  
67 discontinued, or reconstructed.

68 (3) The board of county commissioners is authorized to  
69 grant exclusive or nonexclusive licenses for the purposes stated  
70 herein for television.

71 (4) This law is intended to provide an additional method  
72 for the granting of licenses and shall not be construed to  
73 repeal any law now in effect relating to the same subject.

74 (5) In the event of widening, repair, or reconstruction of  
75 any such road, the licensee shall move or remove such water,  
76 sewage, gas, power, telephone, and other utility lines and  
77 television lines at no cost to the county should they be found  
78 by the county to be unreasonably interfering, except as provided  
79 in s. 337.403(1)(d)-(j) ~~s. 337.403(1)(d)-(i)~~.

80 Section 2. Paragraph (a) of subsection (1) of section  
81 337.401, Florida Statutes, is amended to read:

82 337.401 Use of right-of-way for utilities subject to  
83 regulation; permit; fees.—

84 (1) (a) The department and local governmental entities,  
85 referred to in this section and in ss. 337.402, 337.403, and  
86 337.404 ~~ss. 337.401-337.404~~ as the "authority," that have  
87 jurisdiction and control of public roads or publicly owned rail

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88 corridors are authorized to prescribe and enforce reasonable  
89 rules or regulations with reference to the placing and  
90 maintaining ~~along~~, across, ~~or~~ on, or within the right-of-way  
91 limits of any road or publicly owned rail corridors under their  
92 respective jurisdictions any electric transmission, telephone,  
93 telegraph, or other communications services lines; pole lines;  
94 poles; railways; ditches; sewers; water, heat, or gas mains;  
95 pipelines; fences; gasoline tanks and pumps; or other structures  
96 referred to in this section and in ss. 337.402, 337.403, and  
97 337.404 as the "utility." The department may enter into a  
98 permit-delegation agreement with a governmental entity if  
99 issuance of a permit is based on requirements that the  
100 department finds will ensure the safety and integrity of  
101 facilities of the Department of Transportation; however, the  
102 permit-delegation agreement does not apply to facilities of  
103 electric utilities as defined in s. 366.02(2).

104 Section 3. Subsection (1) of section 337.403, Florida  
105 Statutes, is amended to read:

106 337.403 Interference caused by utility; expenses.—

107 (1) If a utility that is placed upon, under, over, or  
108 within the right-of-way limits of ~~along~~ any public road or  
109 publicly owned rail corridor is found by the authority to be  
110 unreasonably interfering in any way with the convenient, safe,  
111 or continuous use, or the maintenance, improvement, extension,  
112 or expansion, of such public road or publicly owned rail  
113 corridor, the utility owner shall, upon 30 days' written notice  
114 to the utility or its agent by the authority, initiate the work  
115 necessary to alleviate the interference at its own expense  
116 except as provided in paragraphs (a)-(j) ~~(a)-(i)~~. The work must

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117 be completed within such reasonable time as stated in the notice  
 118 or such time as agreed to by the authority and the utility  
 119 owner.

120 (a) If the relocation of utility facilities, as referred to  
 121 in s. 111 of the Federal-Aid Highway Act of 1956, Pub. L. No.  
 122 84-627, is necessitated by the construction of a project on the  
 123 federal-aid interstate system, including extensions thereof  
 124 within urban areas, and the cost of the project is eligible and  
 125 approved for reimbursement by the Federal Government to the  
 126 extent of 90 percent or more under the Federal Aid Highway Act,  
 127 or any amendment thereof, then in that event the utility owning  
 128 or operating such facilities shall perform any necessary work  
 129 upon notice from the department, and the state shall pay the  
 130 entire expense properly attributable to such work after  
 131 deducting therefrom any increase in the value of a new facility  
 132 and any salvage value derived from an old facility.

133 (b) When a joint agreement between the department and the  
 134 utility is executed for utility work to be accomplished as part  
 135 of a contract for construction of a transportation facility, the  
 136 department may participate in those utility work costs that  
 137 exceed the department's official estimate of the cost of the  
 138 work by more than 10 percent. The amount of such participation  
 139 is limited to the difference between the official estimate of  
 140 all the work in the joint agreement plus 10 percent and the  
 141 amount awarded for this work in the construction contract for  
 142 such work. The department may not participate in any utility  
 143 work costs that occur as a result of changes or additions during  
 144 the course of the contract.

145 (c) When an agreement between the department and utility is

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146 executed for utility work to be accomplished in advance of a  
 147 contract for construction of a transportation facility, the  
 148 department may participate in the cost of clearing and grubbing  
 149 necessary to perform such work.

150 (d) If the utility facility was initially installed to  
 151 exclusively serve the authority or its tenants, or both, the  
 152 authority shall bear the costs of the utility work. However, the  
 153 authority is not responsible for the cost of utility work  
 154 related to any subsequent additions to that facility for the  
 155 purpose of serving others. For a county or municipality, if such  
 156 utility facility was installed in the right-of-way as a means to  
 157 serve a county or municipal facility on a parcel of property  
 158 adjacent to the right-of-way and if the intended use of the  
 159 county or municipal facility is for a use other than  
 160 transportation purposes, the obligation of the county or  
 161 municipality to bear the costs of the utility work shall extend  
 162 only to utility work on the parcel of property on which the  
 163 facility of the county or municipality originally served by the  
 164 utility facility is located.

165 (e) If, under an agreement between a utility and the  
 166 authority entered into after July 1, 2009, the utility conveys,  
 167 subordinates, or relinquishes a compensable property right to  
 168 the authority for the purpose of accommodating the acquisition  
 169 or use of the right-of-way by the authority, without the  
 170 agreement expressly addressing future responsibility for the  
 171 cost of necessary utility work, the authority shall bear the  
 172 cost of removal or relocation. This paragraph does not impair or  
 173 restrict, and may not be used to interpret, the terms of any  
 174 such agreement entered into before July 1, 2009.



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175 (f) If the utility is an electric facility being relocated  
 176 underground in order to enhance vehicular, bicycle, and  
 177 pedestrian safety and in which ownership of the electric  
 178 facility to be placed underground has been transferred from a  
 179 private to a public utility within the past 5 years, the  
 180 department shall incur all costs of the necessary utility work.

181 (g) An authority may bear the costs of utility work  
 182 required to eliminate an unreasonable interference when the  
 183 utility is not able to establish that it has a compensable  
 184 property right in the particular property where the utility is  
 185 located if:

186 1. The utility was physically located on the particular  
 187 property before the authority acquired rights in the property;

188 2. The utility demonstrates that it has a compensable  
 189 property right in adjacent properties along the alignment of the  
 190 utility or, after due diligence, certifies that the utility does  
 191 not have evidence to prove or disprove that it has a compensable  
 192 property right in the particular property where the utility is  
 193 located; and

194 3. The information available to the authority does not  
 195 establish the relative priorities of the authority's and the  
 196 utility's interests in the particular property.

197 (h) If a municipally owned utility or county-owned utility  
 198 is located in a rural area of opportunity, as defined in s.  
 199 288.0656(2), and the department determines that the utility is  
 200 unable, and will not be able within the next 10 years, to pay  
 201 for the cost of utility work necessitated by a department  
 202 project on the State Highway System, the department may pay, in  
 203 whole or in part, the cost of such utility work performed by the

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204 department or its contractor.

205 (i) If the relocation of utility facilities is necessitated  
 206 by the construction of a commuter rail service project or an  
 207 intercity passenger rail service project and the cost of the  
 208 project is eligible and approved for reimbursement by the  
 209 Federal Government, then in that event the utility owning or  
 210 operating such facilities located by permit on a department-  
 211 owned rail corridor shall perform any necessary utility  
 212 relocation work upon notice from the department, and the  
 213 department shall pay the expense properly attributable to such  
 214 utility relocation work in the same proportion as federal funds  
 215 are expended on the commuter rail service project or an  
 216 intercity passenger rail service project after deducting  
 217 therefrom any increase in the value of a new facility and any  
 218 salvage value derived from an old facility. In no event shall  
 219 the state be required to use state dollars for such utility  
 220 relocation work. This paragraph does not apply to any phase of  
 221 the Central Florida Commuter Rail project, known as SunRail.

222 (j) If a utility is lawfully located within an existing and  
 223 valid utility easement granted by recorded plat, regardless of  
 224 whether such land was subsequently acquired by the authority by  
 225 dedication, transfer of fee, or otherwise, the authority must  
 226 bear the cost of the utility work required to eliminate an  
 227 unreasonable interference. The authority shall pay the entire  
 228 expense properly attributable to such work after deducting any  
 229 increase in the value of a new facility and any salvage value  
 230 derived from an old facility.

231 Section 4. The Legislature finds that a proper and  
 232 legitimate state purpose is served by clarifying a utility's

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233 responsibility for relocating its facilities within a utility  
234 easement granted by recorded plat. Therefore, the Legislature  
235 determines and declares that this act fulfills an important  
236 state interest.

237 Section 5. This act shall take effect upon becoming a law.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

11-19-15  
Meeting Date

416  
Bill Number (if applicable)

Topic Relocation of Utilities

Amendment Barcode (if applicable)

Name Casey Reed

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Tallahassee FL 32301  
City State Zip

Email CR8243@ATH.com

Speaking:  For  Against  Information

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

Representing AT&T

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

11/19/2015

Meeting Date

Topic UTILITY RELOCATION

Bill Number CS/SB 416  
*(if applicable)*

Name TRACY HATCH

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

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TALLAHASSEE

FL

32301

E-mail th9467@att.com

City

State

Zip

Speaking:  For  Against  Information

Representing

ATT

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

11/19

Meeting Date

SR 416

Bill Number (if applicable)

Topic Location of Utilities

Amendment Barcode (if applicable)

Name Brewster Bevis

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Street

Tally

FL

32301

City

State

Zip

Email bbevis@aif.com

Speaking:  For  Against  Information

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

Representing Associated Industries of Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

November 19, 2015

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

CS/SB 416

*Meeting Date*

*Bill Number (if applicable)*

Topic Location of Utilities

*Amendment Barcode (if applicable)*

Name Frank C. Walker, III

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Address 136 S. Bronough Street

Phone 850.521.1200

*Street*

Tallahassee

Florida

32301

Email fwalker@flchamber.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

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

Representing Florida Chamber of Commerce

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

416

Bill Number (if applicable)

Meeting Date

Topic Telecom

Amendment Barcode (if applicable)

Name Doug Mannheimer

Job Title attny

Address 215 S. Monroe St. Suite 400

Phone

Street

Tall.

City

Fl

State

32302

Zip

Email

Speaking:  For  Against  Information

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

Representing Sprint

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

11/19/15

*Meeting Date*

416

*Bill Number (if applicable)*

Topic Location of Utilities

*Amendment Barcode (if applicable)*

Name Jim Smith

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*Street*

Tallahassee

FL

32301

Email james.smith@centurylink.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

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

Representing CenturyLink

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/14/14)



THE FLORIDA SENATE

APPEARANCE RECORD

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11/19/15

416

Meeting Date

Bill Number (if applicable)

Topic Utilities Relocation

Amendment Barcode (if applicable)

Name Charles Dudley

Job Title General Counsel

Address 108 S. Monroe St.

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Street

City

Tall. FL 32301

State

Zip

Email cdudley@flapartners.com

Speaking:  For  Against  Information

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

Representing FL Cable Telecom. Assoc.

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE

APPEARANCE RECORD

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

11/19/15

Meeting Date

SB 416

Bill Number (if applicable)

Topic SB 416 Relocation of Utilities

Amendment Barcode (if applicable)

Name Brett Bacot

Job Title Lobbyist

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Phone 850-681-0411

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FL

32301

Email brett.bacot@bipc.com

City

State

Zip

Speaking:  For  Against  Information

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

Representing City of Ft. Myers

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE

APPEARANCE RECORD

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11-19-15

Meeting Date

SB 416

Bill Number (if applicable)

Topic UTILITY RELOCATION

Amendment Barcode (if applicable)

Name JIM BURCH

Job Title CITY COUNCIL MEMBER CAPE CORAL

Address PO BOX 150027

Phone 239-574-0437

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CAPE CORAL

FL

33905

Email Jburch@capecoral.net

City

State

Zip

Speaking:  For  Against  Information

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

Representing CAPE CORAL

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE

APPEARANCE RECORD

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11-19-15

Meeting Date

SB 414

Bill Number (if applicable)

Topic LOCATION OF UTILITIES

Amendment Barcode (if applicable)

Name MEGAN SYRANE-SAMPLES

Job Title LEGISLATIVE ADVOCATE

Address P.O. BOX 1757

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Street

TALLAHASSEE

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32301

City

State

Zip

Email MSIRYANESAMPLES@FLCITIES.COM

Speaking:  For  Against  Information

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

Representing FLORIDA LEAGUE OF CITIES

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

11-19-2015

Meeting Date

416

Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name BRIAN PITTS

Job Title Trustee

Address 1119 Newton Ave S  
Street

Phone 727/897-9291

FL 33705  
City State Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing Justice-2-Jesus

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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S-001 (10/14/14)



LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
11/19/2015	.	
	.	
	.	

The Committee on Fiscal Policy (Hukill) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Section 17.68, Florida Statutes, is created to read:

17.68 Financial Literacy Program for Individuals with Developmental Disabilities.-

(1) The Legislature finds that the state has a compelling interest in promoting the economic independence and successful



11 employment of individuals with developmental disabilities as  
12 defined in s. 393.063. In comparison with the general  
13 population, individuals with developmental disabilities  
14 experience lower rates of educational achievement, employment,  
15 and annual earnings and are more likely to live in poverty.  
16 Additionally, such individuals must navigate a complex network  
17 of federal and state programs in order to be eligible for  
18 financial and health benefits. Thus, it is essential that these  
19 individuals have sufficient financial management knowledge and  
20 skills to effectively participate in benefit eligibility  
21 determination processes and make informed decisions regarding  
22 financial services and products provided by financial  
23 institutions. Enhancing the financial literacy of such  
24 individuals will provide a pathway for economic independence and  
25 successful employment.

26 (2) The Financial Literacy Program for Individuals with  
27 Developmental Disabilities is established within the Department  
28 of Financial Services. The department, in consultation with  
29 public and private stakeholders, shall develop and implement the  
30 program, which must be designed to promote the economic  
31 independence and successful employment of individuals with  
32 developmental disabilities. Banks, credit unions, savings  
33 associations, and savings banks will be key participants in the  
34 development and promotion of the program, which must provide  
35 information, resources, outreach, and education in the following  
36 areas:

37 (a) For individuals with developmental disabilities:  
38 1. Financial education, including instruction on money  
39 management skills and the effective use of financial services



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40 and products, to promote income preservation and asset  
41 development.  
42 2. Identification of available financial and health benefit  
43 programs and services.  
44 3. Job training programs and employment opportunities,  
45 including work incentives and state and local workforce  
46 development programs.  
47 4. The impact of earnings and assets on eligibility for  
48 federal and state financial and health benefit programs, and  
49 options to manage such impact.  
50 (b) For employers in this state, strategies to make program  
51 information and educational materials available to their  
52 employees with developmental disabilities.  
53 (3) The department shall:  
54 (a) Establish on its website a clearinghouse for  
55 information regarding the program and other resources available  
56 for individuals with developmental disabilities and their  
57 employers.  
58 (b) Publish a brochure describing the program, which is  
59 also accessible on its website.  
60 (4) Within 90 days after the department establishes the  
61 website clearinghouse and publishes the brochure, each bank,  
62 savings association, and savings bank that is a qualified public  
63 depository as defined in s. 280.02 shall:  
64 (a) Make copies of the department's brochures available,  
65 upon the request of the consumer, at its principal place of  
66 business and each branch office located in this state which has  
67 in-person teller services by having copies of the brochure  
68 available or having the capability to print a copy of the



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69 brochure from the department's website. Upon request, the  
70 department shall provide copies of the brochure to a bank,  
71 savings association, or savings bank.  
72 (b) Provide on its website a hyperlink to the department's  
73 website clearinghouse. If the department changes the website  
74 address for the clearinghouse, the bank, savings association, or  
75 savings bank must update the hyperlink within 90 days after  
76 notification by the department of such change.  
77 (5) A participating qualified public depository is not  
78 subject to civil liability arising from the distribution or  
79 nondistribution of the brochure or program website information.  
80 The contents of the brochure or the program website information  
81 may not be attributed to a participating qualified public  
82 depository by virtue of its distribution, and do not constitute  
83 financial or investment advice by, nor create a fiduciary duty  
84 on, the participating qualified public depository to the  
85 recipient.  
86 Section 2. Effective January 1, 2017, paragraph (b) of  
87 subsection (10) of section 20.60, Florida Statutes, is amended  
88 to read:  
89 20.60 Department of Economic Opportunity; creation; powers  
90 and duties.—  
91 (10) The department, with assistance from Enterprise  
92 Florida, Inc., shall, by November 1 of each year, submit an  
93 annual report to the Governor, the President of the Senate, and  
94 the Speaker of the House of Representatives on the condition of  
95 the business climate and economic development in the state.  
96 (b) The report must incorporate annual reports of other  
97 programs, including:



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98 1. The displaced homemaker program established under s.  
99 446.50.  
100 2. Information provided by the Department of Revenue under  
101 s. 290.014.  
102 3. Information provided by enterprise zone development  
103 agencies under s. 290.0056 and an analysis of the activities and  
104 accomplishments of each enterprise zone.  
105 4. The Economic Gardening Business Loan Pilot Program  
106 established under s. 288.1081 and the Economic Gardening  
107 Technical Assistance Pilot Program established under s.  
108 288.1082.  
109 5. A detailed report of the performance of the Black  
110 Business Loan Program and a cumulative summary of quarterly  
111 report data required under s. 288.714.  
112 6. The Rural Economic Development Initiative established  
113 under s. 288.0656.  
114 7. The Florida Unique Abilities Partner Program.  
115 Section 3. Section 110.107, Florida Statutes, is reordered  
116 and amended to read:  
117 110.107 Definitions.—As used in this chapter, the term:  
118 ~~(5)(1)~~ "Department" means the Department of Management  
119 Services.  
120 ~~(28)(2)~~ "Secretary" means the Secretary of Management  
121 Services.  
122 ~~(11)(3)~~ "Furlough" means a temporary reduction in the  
123 regular hours of employment in a pay period, or temporary leave  
124 without pay for one or more pay periods, with a commensurate  
125 reduction in pay, which is necessitated by a projected deficit  
126 in any fund that supports salary and benefit appropriations. The



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127 deficit must be projected by the Revenue Estimating Conference  
128 pursuant to s. 216.136(3).  
129 ~~(30)(4)~~ "State agency" or "agency" means any official,  
130 officer, commission, board, authority, council, committee, or  
131 department of the executive branch or the judicial branch of  
132 state government as defined in chapter 216.  
133 ~~(21)(5)~~ "Position" means the work, consisting of duties and  
134 responsibilities, assigned to be performed by an officer or  
135 employee.  
136 ~~(10)(6)~~ "Full-time position" means a position authorized  
137 for the entire normally established work period, whether daily,  
138 weekly, monthly, or annually.  
139 ~~(18)(7)~~ "Part-time position" means a position authorized  
140 for less than the entire normally established work period,  
141 whether daily, weekly, monthly, or annually.  
142 ~~(16)(8)~~ "Occupation" means all positions that ~~which~~ are  
143 sufficiently similar in knowledge, skills, ~~and~~ abilities, and  
144 the sufficiently similar as to kind or subject matter of work.  
145 ~~(17)(9)~~ "Occupational group" means a group of occupations  
146 that ~~which~~ are sufficiently similar in the kind of work  
147 performed to warrant the use of the same performance factors in  
148 determining the level of complexity for all occupations in that  
149 occupational group.  
150 ~~(3)(10)~~ "Classification plan" means a formal description of  
151 the concepts, rules, job family definitions, occupational group  
152 characteristics, and occupational profiles used in the  
153 classification of positions.  
154 ~~(20)(11)~~ "Pay plan" means a formal description of the  
155 philosophy, methods, procedures, and salary schedules for





156 competitively compensating employees at market-based rates for  
157 work performed.  
158 ~~(27)-(12)~~ "Salary schedule" means an official document that  
159 ~~which~~ contains a complete list of occupation titles, broadband  
160 level codes, and pay bands.  
161 ~~(1)-(13)~~ "Authorized position" means a position included in  
162 an approved budget. In counting the number of authorized  
163 positions, part-time positions may be converted to full-time  
164 equivalents.  
165 ~~(8)-(14)~~ "Established position" means an authorized position  
166 that ~~which~~ has been classified in accordance with a  
167 classification and pay plan as provided by law.  
168 ~~(22)-(15)~~ "Position number" means the identification number  
169 assigned to an established position.  
170 ~~(26)-(16)~~ "Reclassification" means the changing of an  
171 established position in one broadband level in an occupational  
172 group to a higher or lower broadband level in the same  
173 occupational group or to a broadband level in a different  
174 occupational group.  
175 ~~(24)-(17)~~ "Promotion" means the changing of the  
176 classification of an employee to a broadband level having a  
177 higher maximum salary; or the changing of the classification of  
178 an employee to a broadband level having the same or a lower  
179 maximum salary but a higher level of responsibility.  
180 ~~(4)-(18)~~ "Demotion" means the changing of the classification  
181 of an employee to a broadband level having a lower maximum  
182 salary; or the changing of the classification of an employee to  
183 a broadband level having the same or a higher maximum salary but  
184 a lower level of responsibility.



185 ~~(32)-(19)~~ "Transfer" means moving an employee from one  
186 geographic location of the state to a different geographic  
187 location more than in excess of 50 miles from the employee's  
188 current work location.  
189 ~~(25)-(20)~~ "Reassignment" means moving an employee from a  
190 position in one broadband level to a different position in the  
191 same broadband level or to a different broadband level having  
192 the same maximum salary.  
193 ~~(6)-(21)~~ "Dismissal" means a disciplinary action taken by an  
194 agency pursuant to s. 110.227 against an employee which results  
195 resulting in the termination of his or her employment.  
196 ~~(31)-(22)~~ "Suspension" means a disciplinary action taken by  
197 an agency pursuant to s. 110.227 against an employee which ~~to~~  
198 temporarily relieves ~~relieve~~ the employee of his or her duties  
199 and places ~~place~~ him or her on leave without pay.  
200 ~~(15)-(23)~~ "Layoff" means termination of employment due to a  
201 shortage of funds or work, or a material change in the duties or  
202 organization of an agency, including the outsourcing or  
203 privatization of an activity or function previously performed by  
204 career service employees.  
205 ~~(7)-(24)~~ "Employing agency" means any agency authorized to  
206 employ personnel to carry out the responsibilities of the agency  
207 under the provisions of chapter 20 or other law ~~statutory~~  
208 ~~authority~~.  
209 ~~(29)-(25)~~ "Shared employment" means part-time career  
210 employment in which ~~whereby~~ the duties and responsibilities of a  
211 full-time position in the career service are divided among part-  
212 time employees who are eligible for the position and who receive  
213 career service benefits and wages pro rata. The term does not ~~is~~



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214 ~~no case shall "shared employment"~~ include the employment of  
215 persons paid from other-personal-services funds.  
216 ~~(9)(26)~~ "Firefighter" means a firefighter certified under  
217 chapter 633.  
218 ~~(14)(27)~~ "Law enforcement or correctional officer" means a  
219 law enforcement officer, special agent, correctional officer,  
220 correctional probation officer, or institutional security  
221 specialist ~~required to be certified~~ under chapter 943.  
222 ~~(23)(28)~~ "Professional health care provider" means  
223 registered nurses, physician's assistants, dentists,  
224 psychologists, nutritionists or dietitians, pharmacists,  
225 psychological specialists, physical therapists, and speech and  
226 hearing therapists.  
227 ~~(13)(29)~~ "Job family" means a defined grouping of one or  
228 more occupational groups.  
229 ~~(19)(30)~~ "Pay band" means the minimum salary, the maximum  
230 salary, and intermediate rates ~~that which~~ are payable for work  
231 in a specific broadband level.  
232 ~~(2)(31)~~ "Broadband level" means all positions ~~that which~~  
233 are sufficiently similar in knowledge, skills, and abilities;  
234 ~~the, and sufficiently similar as to~~ kind or subject matter of  
235 work; ~~the,~~ level of difficulty or the level of responsibility;  
236 ~~responsibilities,~~ and the qualification requirements of the work  
237 so as to warrant the same treatment with respect as to title,  
238 pay band, and other personnel transactions.  
239 (12) "Individual who has a disability" means a person who  
240 has a physical or intellectual impairment that substantially  
241 limits one or more major life activities; a person who has a  
242 history or record of such an impairment; or a person who is



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243 perceived by others as having such an impairment.  
244 Section 4. Subsections (1) and (2) of section 110.112,  
245 Florida Statutes, are amended, present subsections (3) through  
246 (6) of that section are redesignated as subsections (4) through  
247 (7), respectively, and a new subsection (3) is added to that  
248 section, to read:  
249 110.112 Affirmative action; equal employment opportunity.-  
250 (1) It is shall be the policy of this the state to assist  
251 in providing the assurance of equal employment opportunity  
252 through programs of affirmative and positive action that will  
253 allow full utilization of women, and minorities, and individuals  
254 who have a disability.  
255 (2) (a) The head of each executive agency shall develop and  
256 implement an affirmative action plan in accordance with rules  
257 adopted by the department and approved by a majority vote of the  
258 Administration Commission before their adoption.  
259 (b) Each executive agency shall establish annual goals for  
260 ensuring full utilization of groups underrepresented in the  
261 agency's its workforce, including women, minorities, and  
262 individuals who have a disability, as compared to the relevant  
263 labor market, as defined by the agency. Each executive agency  
264 shall design its affirmative action plan to meet its established  
265 goals.  
266 (c) Each executive agency shall annually report to the  
267 department regarding the agency's progress toward increasing  
268 employment among women, minorities, and individuals who have a  
269 disability.  
270 (d) ~~(e)~~ An affirmative action-equal employment opportunity  
271 officer shall be appointed by the head of each executive agency.



272 The affirmative action-equal employment opportunity officer's  
273 responsibilities must include determining annual goals,  
274 monitoring agency compliance, and providing consultation to  
275 managers regarding progress, deficiencies, and appropriate  
276 corrective action.

277 (e)-(d) The department shall report information in its  
278 annual workforce report relating to the implementation,  
279 continuance, updating, and results of each executive agency's  
280 affirmative action plan for the previous fiscal year. The annual  
281 workforce report must also include data for each executive  
282 agency relating to employment levels among women, minorities,  
283 and individuals who have a disability.

284 (f)-(e) The department shall provide to all supervisory  
285 personnel of the executive agencies training in the principles  
286 of equal employment opportunity and affirmative action, the  
287 development and implementation of affirmative action plans, and  
288 the establishment of annual affirmative action goals. The  
289 department may contract for training services, and each  
290 participating agency shall reimburse the department for costs  
291 incurred through such contract. After the department approves  
292 the contents of the training program for the agencies, the  
293 department may delegate this training to the executive agencies.

294 (3) (a) The department, in consultation with the Agency for  
295 Persons with Disabilities, the Division of Vocational  
296 Rehabilitation and the Division of Blind Services of the  
297 Department of Education, the Department of Economic Opportunity,  
298 and the Executive Office of the Governor, shall develop and  
299 implement programs that incorporate internships, mentoring, on-  
300 the-job training, unpaid work experience, situational



301 assessments, and other innovative strategies that are  
302 specifically geared toward individuals who have a disability.

303 (b) By January 1, 2017, the department shall develop  
304 mandatory training programs for human resources personnel and  
305 hiring managers of executive agencies which support the  
306 employment of individuals who have a disability.

307 (c)1. By January 1, 2017, each executive agency shall  
308 develop an agency-specific plan that addresses how to promote  
309 employment opportunities for individuals who have a disability.

310 2. The department shall assist executive agencies in the  
311 implementation of agency-specific plans. The department shall  
312 regularly report to the Governor, the President of the Senate,  
313 and the Speaker of the House of Representatives the progress of  
314 executive agencies in implementing these plans. Such reports  
315 shall be made at least biannually.

316 (d) The department shall compile data regarding the hiring  
317 practices of executive agencies with regard to individuals who  
318 have a disability and make such data available on its website.

319 (e) The department shall assist executive agencies in  
320 identifying and implementing strategies for retaining employees  
321 who have a disability which include, but are not limited to,  
322 training programs, funding reasonable accommodations, increasing  
323 access to appropriate technologies, and ensuring accessibility  
324 of physical and virtual workplaces.

325 (f) The department shall adopt rules relating to forms that  
326 provide for the voluntary self-identification of individuals who  
327 have a disability who are employed by an executive agency.

328 (g) This subsection does not create any substantive or  
329 procedural right or benefit enforceable at law or in equity



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330 against the state or a state agency, or an officer, employee, or  
331 agent thereof.

332 Section 5. Paragraph (e) is added to subsection (1) of  
333 section 280.16, Florida Statutes, to read:

334 280.16 Requirements of qualified public depositories;  
335 confidentiality.—

336 (1) In addition to any other requirements specified in this  
337 chapter, qualified public depositories shall:

338 (e) Participate in the Financial Literacy Program for  
339 Individuals with Developmental Disabilities as required under s.  
340 17.68.

341 Section 6. Subsection (9) of section 393.063, Florida  
342 Statutes, is amended to read:

343 393.063 Definitions.—For the purposes of this chapter, the  
344 term:

345 (9) "Developmental disability" means a disorder or syndrome  
346 that is attributable to intellectual disability, cerebral palsy,  
347 autism, Down syndrome, spina bifida, or Prader-Willi syndrome;  
348 that manifests before the age of 18; and that constitutes a  
349 substantial handicap that can reasonably be expected to continue  
350 indefinitely.

351 Section 7. Employment First Act.—

352 (1) SHORT TITLE.—This section may be cited as the  
353 "Employment First Act."

354 (2) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds  
355 that employment is the most direct and cost-effective means to  
356 assist an individual in achieving independence and fulfillment;  
357 however, individuals with disabilities are confronted by unique  
358 barriers to employment which inhibit their opportunities to



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359 compete fairly in the labor force. It is the intent of the  
360 Legislature to provide a framework for a long-term commitment to  
361 improving employment outcomes for individuals with disabilities  
362 in this state through the implementation of this act.

363 (3) PURPOSE.—The purpose of this act is to prioritize  
364 employment of individuals with disabilities and to change the  
365 employment system to better integrate individuals with  
366 disabilities into the workforce. This act encourages a  
367 collaborative effort between state agencies and organizations to  
368 achieve better employment outcomes for individuals with  
369 disabilities.

370 (4) INTERAGENCY COOPERATIVE AGREEMENT.—The following state  
371 agencies and organizations, and others, as appropriate, shall  
372 develop an interagency cooperative agreement to implement this  
373 act:

374 (a) The Division of Vocational Rehabilitation of the  
375 Department of Education.

376 (b) The Division of Blind Services of the Department of  
377 Education.

378 (c) The Bureau of Exceptional Education and Student  
379 Services of the Department of Education.

380 (d) The Agency for Persons with Disabilities.

381 (e) The Substance Abuse and Mental Health Program of the  
382 Department of Children and Families.

383 (f) The Department of Economic Opportunity.

384 (g) CareerSource Florida, Inc.

385 (h) The Florida Developmental Disabilities Council.

386 (i) The Florida Association of Rehabilitation Facilities.

387 (j) Other appropriate organizations.



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388 (5) ROLES, RESPONSIBILITIES, AND OBJECTIVES.—The  
389 interagency cooperative agreement must identify the roles and  
390 responsibilities of the state agencies and organizations  
391 identified in subsection (4) and the objectives of the  
392 interagency cooperative agreement, which must include all of the  
393 following:

394 (a) Establishing a commitment by leadership of the state  
395 agencies and organizations to maximize resources and  
396 coordination to improve employment outcomes for individuals with  
397 disabilities who seek publicly funded services.

398 (b) Developing strategic goals and benchmarks to assist the  
399 state agencies and organizations in the implementation of this  
400 agreement.

401 (c) Identifying financing and contracting methods that will  
402 help to prioritize employment for individuals with disabilities  
403 by state agencies and organizations.

404 (d) Establishing training methods to better integrate  
405 individuals with disabilities into the workforce.

406 (e) Ensuring collaborative efforts between multiple  
407 agencies to achieve the purposes of this act.

408 (f) Promoting service innovations to better assist  
409 individuals with disabilities in the workplace.

410 (g) Identifying accountability measures to ensure the  
411 sustainability of this agreement.

412 Section 8. Florida Unique Abilities Partner Program.—

413 (1) CREATION AND PURPOSE.—The Department of Economic  
414 Opportunity shall establish the Florida Unique Abilities Partner  
415 Program to designate a business entity as a Florida Unique  
416 Abilities Partner if the business entity demonstrates



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417 commitment, through employment or support, to the independence  
418 of individuals who have a disability. The department shall  
419 consult with the Agency for Persons with Disabilities, the  
420 Division of Vocational Rehabilitation of the Department of  
421 Education, the Division of Blind Services of the Department of  
422 Education, and CareerSource Florida, Inc., in creating the  
423 program.

424 (2) DEFINITIONS.—As used in this section, the term:

425 (a) "Department" means the Department of Economic  
426 Opportunity.

427 (b) "Individuals who have a disability" means persons who  
428 have a physical or intellectual impairment that substantially  
429 limits one or more major life activities, persons who have a  
430 history or record of such an impairment, or persons who are  
431 perceived by others as having such an impairment.

432 (3) DESIGNATION.—

433 (a) A business entity may apply to the department to be  
434 designated as a Florida Unique Abilities Partner, based on the  
435 business entity's achievements in at least one of the following  
436 categories:

437 1. Employment of individuals who have a disability.

438 2. Contributions to local or national disability  
439 organizations.

440 3. Contributions to, or the establishment of, a program  
441 that contributes to the independence of individuals who have a  
442 disability.

443 (b) As an alternative to application by a business entity,  
444 the department must consider nominations from members of the  
445 community where the business entity is located. The nomination



446 must identify the business entity's achievements in at least one  
447 of the categories provided in paragraph (a).

448 (c) The name, location, and contact information of the  
449 business entity must be included in the business entity's  
450 application or nomination.

451 (d) The department shall adopt procedures for the  
452 application, nomination, and designation processes for the  
453 Florida Unique Abilities Partner Program. Designation as a  
454 Florida Unique Abilities Partner does not establish or involve  
455 licensure, does not affect the substantial interests of a party,  
456 and does not constitute a final agency action. The Florida  
457 Unique Abilities Partner Program and designation are not subject  
458 to chapter 120, Florida Statutes.

459 (4) ELIGIBILITY AND AWARD.-In determining the eligibility  
460 for the designation of a business entity as a Florida Unique  
461 Abilities Partner, the department shall consider, at a minimum,  
462 the following criteria:

463 (a) For a designation based on an application by a business  
464 entity, the business entity must certify that:

465 1. It employs at least one individual who has a disability.  
466 Such employees must be residents of this state and must have  
467 been employed by the business entity for at least 9 months  
468 before the business entity's application for the designation.

469 The department may not require the employer to provide  
470 personally identifiable information about its employees;

471 2. It has made contributions to local and national  
472 disability organizations or contributions in support of  
473 individuals who have a disability. Contributions may be  
474 accomplished through financial or in-kind contributions,



475 including employee volunteer hours. Contributions must be  
476 documented by providing copies of written receipts or letters of  
477 acknowledgment from recipients or donees. A business entity with  
478 100 or fewer employees must make a financial or in-kind  
479 contribution of at least \$1,000, and a business entity with more  
480 than 100 employees must make a financial or in-kind contribution  
481 of at least \$5,000; or

482 3. It has established, or has contributed to the  
483 establishment of, a program that contributes to the independence  
484 of individuals who have a disability. Contributions must be  
485 documented by providing copies of written receipts, a summary of  
486 the program, program materials, or letters of acknowledgment  
487 from program participants or volunteers. A business entity with  
488 100 or fewer employees must make a financial or in-kind  
489 contribution of at least \$1,000 in the program, and a business  
490 entity with more than 100 employees must make a financial or in-  
491 kind contribution of at least \$5,000.

492 A business entity that applies to the department to be  
493 designated as a Florida Unique Abilities Partner shall be  
494 awarded the designation upon meeting the requirements of this  
495 section.

496 (b) For a designation based upon receipt of a nomination of  
497 a business entity:

498 1. The department shall determine whether the nominee,  
499 based on the information provided by the nominating person or  
500 entity, meets the requirements of paragraph (a). The department  
501 may request additional information from the nominee.

502 2. If the nominee meets the requirements, the department  
503



504 shall provide notice, including the qualification criteria  
505 provided in the nomination, to the nominee regarding the  
506 nominee's eligibility to be awarded a designation as a Florida  
507 Unique Abilities Partner.

508 3. The nominee shall be provided 30 days after receipt of  
509 the notice to certify that the information in the notice is true  
510 and accurate and accept the nomination, to provide corrected  
511 information for consideration by the department and indicate an  
512 intention to accept the nomination, or to decline the  
513 nomination. If the nominee accepts the nomination, the  
514 department shall award the designation. The department may not  
515 award the designation if the nominee declines the nomination or  
516 has not accepted the nomination within 30 days of receiving  
517 notice.

518 (5) ANNUAL CERTIFICATION.—After an initial designation as a  
519 Florida Unique Abilities Partner, a business entity must certify  
520 each year that it continues to meet the criteria for the  
521 designation. If the business entity does not submit the yearly  
522 certification of continued eligibility, the department shall  
523 remove the designation. The business entity may elect to  
524 discontinue its designation status at any time by notifying the  
525 department of such decision.

526 (6) LOGO DEVELOPMENT.—

527 (a) The department, in consultation with members of the  
528 disability community, shall develop a logo that identifies a  
529 business entity that is designated as a Florida Unique Abilities  
530 Partner.

531 (b) The department shall adopt guidelines and requirements  
532 for the use of the logo, including how the logo may be used in



533 advertising. The department may allow a business entity to  
534 display a Florida Unique Abilities Partner logo upon  
535 designation. A business entity that has not been designated as a  
536 Florida Unique Abilities Partner or has elected to discontinue  
537 its designated status may not display the logo.

538 (7) WEBSITE.—The department shall maintain a website for  
539 the program. At a minimum, the website must provide a list of  
540 business entities, by county, which currently have the Florida  
541 Unique Abilities Partner designation, updated quarterly;  
542 information regarding the eligibility requirements for the  
543 designation and the method of application or nomination; and  
544 best practices for business entities to facilitate the inclusion  
545 of individuals who have a disability, updated annually. The  
546 website may provide links to the websites of organizations or  
547 other resources that will aid business entities to employ or  
548 support individuals who have a disability.

549 (8) INTERAGENCY COLLABORATION.—

550 (a) The Agency for Persons with Disabilities shall provide  
551 a link on its website to the department's website for the  
552 Florida Unique Abilities Partner Program.

553 (b) On a quarterly basis, the department shall provide the  
554 Florida Tourism Industry Marketing Corporation with a current  
555 list of all businesses that are designated as Florida Unique  
556 Abilities Partners. The Florida Tourism Industry Marketing  
557 Corporation must consider the Florida Unique Abilities Partner  
558 Program in the development of marketing campaigns, and  
559 specifically in any targeted marketing campaign for individuals  
560 who have a disability or their families.

561 (c) The department and CareerSource Florida, Inc., shall



562 identify employment opportunities posted by business entities  
563 that currently have the Florida Unique Abilities Partner  
564 designation on the workforce information system under s.  
565 445.011, Florida Statutes.

566 (9) REPORT.—

567 (a) By January 1, 2017, the department shall provide a  
568 report to the President of the Senate and the Speaker of the  
569 House of Representatives on the status of the implementation of  
570 this section, including the adoption of rules, development of  
571 the logo, and development of application procedures.

572 (b) Beginning in 2017 and each year thereafter, the  
573 department's annual report required under s. 20.60, Florida  
574 Statutes, must describe in detail the progress and use of the  
575 program. At a minimum, the report must include, for the most  
576 recent year: the number of applications and nominations  
577 received; the number of nominations accepted and declined; the  
578 number of designations awarded; annual certifications; the use  
579 of information provided under subsection (8); and any other  
580 information deemed necessary to evaluate the program.

581 (10) RULES.—The department shall adopt rules to administer  
582 this section.

583 Section 9. For the 2016-2017 fiscal year, the sum of  
584 \$69,570 in recurring funds from the Insurance Regulatory Trust  
585 Fund is appropriated to the Consumer Assistance Program within  
586 the Department of Financial Services for the purpose of  
587 implementing the Financial Literacy Program for Individuals with  
588 Developmental Disabilities created by this act.

589 Section 10. For the 2016-2017 fiscal year, the following  
590 sums are appropriated for the purpose of implementing the



591 amendments made by this act to s. 110.112, Florida Statutes,  
592 relating to the employment of individuals who have a disability:

593 (1) The sums of \$138,692 in recurring funds and \$26,264 in  
594 nonrecurring funds are appropriated from the State Personnel  
595 System Trust Fund to the Department of Management Services, and  
596 two full-time equivalent positions with associated salary rate  
597 of 92,762 are authorized.

598 (2) The recurring sums of \$74,234 from the General Revenue  
599 Fund and \$64,458 from trust funds and the nonrecurring sums of  
600 \$14,051 from the General Revenue Fund and \$12,213 from trust  
601 funds are appropriated to Administered Funds for distribution  
602 among agencies for the increase in the human resource  
603 assessment.

604 Section 11. For the 2016-2017 fiscal year, the sums of  
605 \$100,000 in recurring funds and \$100,000 in nonrecurring funds  
606 from the Special Employment Security Administration Trust Fund  
607 are appropriated to the Department of Economic Opportunity, for  
608 the purpose of funding the development, implementation, and  
609 administration of the Florida Unique Abilities Partner Program  
610 created by this act.

611 Section 12. Except as otherwise expressly provided in this  
612 act, this act shall take effect July 1, 2016.

613  
614 ===== T I T L E A M E N D M E N T =====

615 And the title is amended as follows:

616 Delete everything before the enacting clause

617 and insert:

618 A bill to be entitled

619 An act relating to individuals with disabilities;





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620 creating s. 17.68, F.S.; providing legislative  
621 findings; establishing the Financial Literacy Program  
622 for Individuals with Developmental Disabilities within  
623 the Department of Financial Services; requiring the  
624 department to develop and implement the program in  
625 consultation with specified stakeholders; providing  
626 for the participation of banks, credit unions, savings  
627 associations, and savings banks; requiring the program  
628 to provide information, resources, outreach, and  
629 education on specified issues to individuals with  
630 developmental disabilities and employers in this  
631 state; requiring the department to establish on its  
632 website a clearinghouse for information regarding the  
633 program and to publish a brochure describing the  
634 program; requiring, by a specified date, qualified  
635 public depositories to make copies of the department's  
636 brochure available and provide a hyperlink on their  
637 websites to the department's website for the program;  
638 providing that qualified public depositories are not  
639 subject to civil liability arising from the  
640 distribution and contents of the brochure and the  
641 program website information; amending s. 20.60, F.S.;  
642 revising requirements for the Department of Economic  
643 Opportunity's annual report to conform to changes made  
644 by the act; reordering and amending s. 110.107, F.S.;  
645 revising definitions and defining the term "individual  
646 who has a disability"; amending s. 110.112, F.S.;  
647 revising the state's equal employment opportunity  
648 policy to include individuals who have a disability;



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649 requiring each executive agency to annually report to  
650 the Department of Management Services regarding the  
651 agency's progress in increasing employment among  
652 certain underrepresented groups; revising the required  
653 content of the department's annual workforce report;  
654 requiring the department to develop and implement  
655 certain programs geared toward individuals who have a  
656 disability; requiring the department to develop  
657 training programs by a specified date; requiring each  
658 executive agency to develop a plan regarding the  
659 employment of individuals who have a disability by a  
660 specified date; requiring the department to report to  
661 the Governor and the Legislature regarding  
662 implementation; requiring the department to compile  
663 and post data regarding the hiring practices of  
664 executive agencies regarding the employment of  
665 individuals who have a disability; requiring the  
666 department to assist executive agencies in identifying  
667 strategies to retain employees who have a disability;  
668 requiring the department to adopt certain rules;  
669 specifying that the act does not create any  
670 enforceable right or benefit; amending s. 280.16,  
671 F.S.; requiring a qualified public depository to  
672 participate in the Financial Literacy Program for  
673 Individuals with Developmental Disabilities; amending  
674 s. 393.063, F.S.; revising the definition of the term  
675 "developmental disability" to include Down syndrome;  
676 creating the "Employment First Act"; providing  
677 legislative findings and intent; providing a purpose;



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678 requiring specified state agencies and organizations  
679 to develop and implement an interagency cooperative  
680 agreement; requiring the interagency cooperative  
681 agreement to provide the roles, responsibilities, and  
682 objectives of state agencies and organizations;  
683 requiring the Department of Economic Opportunity, in  
684 consultation with other entities, to create the  
685 Florida Unique Abilities Partner Program; defining  
686 terms; authorizing a business entity to apply to the  
687 department for designation; requiring the department  
688 to consider nominations of business entities for  
689 designation; requiring the department to adopt  
690 procedures for application, nomination, and  
691 designation processes; establishing criteria for a  
692 business entity to be designated as a Florida Unique  
693 Abilities Partner; requiring a business entity to  
694 certify that it continues to meet the established  
695 criteria for designation each year; requiring the  
696 department to remove the designation if a business  
697 entity does not submit yearly certification of  
698 continued eligibility; authorizing a business entity  
699 to discontinue its designated status; requiring the  
700 department, in consultation with the disability  
701 community, to develop a logo for business entities  
702 designated as Florida Unique Abilities Partners;  
703 requiring the department to adopt guidelines and  
704 requirements for the use of the logo; authorizing the  
705 department to allow a designated business entity to  
706 display a logo; prohibiting the use of a logo if a



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707 business entity does not have a current designation;  
708 requiring the department to maintain a website with  
709 specified information; requiring the Agency for  
710 Persons with Disabilities to provide a link on its  
711 website to the department's website for the program;  
712 requiring the department to provide the Florida  
713 Tourism Industry Marketing Corporation with certain  
714 information; requiring the department and CareerSource  
715 Florida, Inc., to identify employment opportunities  
716 posted by business entities that receive the Florida  
717 Unique Abilities Partner designation on the workforce  
718 information system; requiring a report to the  
719 Legislature; providing report requirements; requiring  
720 the department to adopt rules; providing  
721 appropriations; providing effective dates.

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

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

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Prepared By: The Professional Staff of the Committee on Fiscal Policy

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**BILL:** PCS/SB 7010 (186950)

**INTRODUCER:** Fiscal Policy (Recommended by Appropriations Subcommittee on General Government) and Governmental Oversight and Accountability Committee

**SUBJECT:** Individuals with Disabilities

**DATE:** November 18, 2015      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Peacock</u>	<u>McVaney</u>		<b>GO Submitted as Committee Bill</b>
1.	<u>Davis</u>	<u>DeLoach</u>	<u>AGG</u>	<b>Recommend: Fav/CS</b>
2.	<u>Pace</u>	<u>Hrdlicka</u>	<u>FP</u>	<b>Pre-meeting</b>

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

PCS/SB 7010 modifies the State of Florida's employment policy to provide enhanced opportunities for persons who have a disability to be employed by executive branch agencies. Specifically, the bill requires each executive agency to:

- Establish annual goals in its affirmative action plan that ensures full utilization of underrepresented groups in agency's workforce, including individuals who have a disability;
- Report annually its progress toward increasing employment of individuals who have a disability; and
- Develop by January 1, 2017, an agency-specific plan on promoting employment opportunities for individuals who have a disability.

Additionally, the bill directs the Department of Management Services (DMS) to:

- Develop and implement programs geared toward individuals who have a disability in consultation with Agency for Persons with Disabilities, Division of Vocational Rehabilitation and Division of Blind Services of the Department of Education, Department of Economic Opportunity, and the Executive Office of the Governor;
- Develop mandatory training programs for human resources personnel and hiring managers of executive agencies that support the employment of individuals who have a disability;
- Assist executive agencies with implementing the agency-specific plans and strategies for retaining employees who have a disability;

- Compile data on hiring practices of executive agencies regarding hiring of individuals who have a disability and post this information on the agency's website; and
- Adopt rules relating to forms providing for voluntary self-identification of individuals who have a disability who are employed by executive agency.

The bill creates the Employment First Act requiring an interagency cooperative agreement among specified state agencies and organizations to ensure a long-term commitment to improve employment for individuals who have a disability.

The bill appropriates \$138,692 in recurring funds and \$26,264 in nonrecurring funds from the State Personnel System Trust Fund to the Department of Management Services and authorizes two full time equivalent (FTE) positions for the DMS to implement this act. In addition, the recurring sums of \$74,234 from the General Revenue Fund and \$64,458 from trust funds and the nonrecurring sums of \$14,051 from the General Revenue Fund and \$12,213 from trust funds are appropriated to Administered Funds for distribution among agencies for the increase in the human resource assessment.

The bill provides an effective date of July 1, 2016.

## II. Present Situation:

According to the United States Census Bureau, individuals who have a disability make up approximately 13.4 percent of the population of Florida, and 10.1 percent of individuals ages 18 to 64 (working age) have a disability.<sup>1</sup> In 2014, over 20 percent of working aged individuals who have a disability lived below the federal poverty line in Florida, compared with 13.7 percent of individuals without a disability.<sup>2</sup>

Individuals who have a disability experience significant disparities in employment and participation in the workforce.<sup>3</sup> For example, 17.9 percent of individuals who have a disability are employed in Florida, while over 61 percent of those who do not have a disability are employed.<sup>4</sup> Nationally in December 2104, there was an 11.2 percent unemployment rate for individuals who have a disability and a 5.1 percent unemployment rate for individuals without a disability.<sup>5</sup> According to the National Disability Institute (NDI), many of these individuals would

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<sup>1</sup> U.S. Department of Commerce, U.S. Census Bureau, American Fact Finder, *Disability Characteristics, 2014 American Community Survey 1-year Estimates*, Report S1810, searchable database (select advanced search) available at <http://factfinder.census.gov/> (last visited Nov. 5, 2015).

<sup>2</sup> U.S. Department of Commerce, U.S. Census Bureau, American Fact Finder, *Selected Economic Characteristics for the Civilian Noninstitutionalized Population by Disability Status, 2014 American Community Survey 1-year Estimates*, Report S1811, searchable database available at <http://factfinder.census.gov/> (last visited Nov. 5, 2015).

<sup>3</sup> American Institutes for Research, *An Uneven Playing Field: The Lack of Equal Pay for People with Disabilities*, p. 2, December 2014, available at [http://www.air.org/sites/default/files/Lack%20of%20Equal%20Pay%20for%20People%20with%20Disabilities\\_Dec%202014.pdf](http://www.air.org/sites/default/files/Lack%20of%20Equal%20Pay%20for%20People%20with%20Disabilities_Dec%202014.pdf) (last visited Nov. 5, 2015).

<sup>4</sup> Supra note 2. Note, 78.5 percent of individuals who have a disability are not in the labor force.

<sup>5</sup> U.S. Department of Labor, Bureau of Labor Statistics, *BLS Data Viewer: Labor Force Statistics from the Current Population Survey, Series IDs LNU04074593 and LNU04074597*, (for 2014, not seasonally adjusted), available at <http://beta.bls.gov/dataViewer/view/641a3c05bb5b4578b313b2f20ca886cc> (last visited Nov. 9, 2015).

like to find employment, but are concerned if they earn more money it will cause them to lose disability and health benefits.<sup>6</sup>

### **State Equal Employment Policy**

Section 110.112, F.S., declares that the policy of the state is to afford equal employment opportunities through programs of affirmative and positive action allowing for the full utilization of women and minorities. Each executive agency is required to develop and implement an affirmative action plan;<sup>7</sup> establish annual goals in its affirmative action plan for ensuring full utilization of groups underrepresented in the agency's workforce as compared to relevant labor market;<sup>8</sup> and appoint an affirmative action-equal employment opportunity officer.<sup>9</sup>

The DMS is required to issue an annual workforce report<sup>10</sup> and provide training to all supervisory personnel of executive agencies.<sup>11</sup> The annual workforce report must include information relating to implementation, continuance, any update, and the results of each executive agency's affirmative action plan for the previous fiscal year.<sup>12</sup>

Presently, s. 110.112, F.S., does not contain a definition of the term "individual who has a disability" and does not specifically address equal employment opportunity and affirmative action for this group.

### **State Disability Resources**

Various state agencies provide services, benefits, and resources for individuals with disabilities. These agencies include the Agency for Health Care Administration, the Agency for Persons with Disabilities (APD), the Department of Children and Families, the Department of Economic Opportunity (DEO), and the Department of Education. Many state and regional advocacy groups also provide resources and services.

Section 393.063(9), F.S., defines developmental disability to mean "a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely."

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<sup>6</sup> National Disability Institute with support from the Florida Development Disabilities Council, *The Changing Face of Benefits Knowledge for Successful Employment and Asset Development*, p. 1, March 2013, available at [http://www.realeconomicimpact.org/data/files/other%20documents/changing\\_face\\_of\\_benefits\\_2013.pdf.pdf](http://www.realeconomicimpact.org/data/files/other%20documents/changing_face_of_benefits_2013.pdf.pdf) (last visited Nov. 5, 2015).

<sup>7</sup> Section 110.112(2)(a), F.S.

<sup>8</sup> Section 110.112(2)(b), F.S.

<sup>9</sup> Section 110.112(2)(c), F.S., provides that the duties of the affirmative action-equal employment opportunity officer include "determining annual goals, monitoring agency compliance, and providing consultation to managers regarding progress, deficiencies, and appropriate corrective action."

<sup>10</sup> Section 110.112(2)(d), F.S.

<sup>11</sup> Section 110.112(2)(e), F.S., provides that the training will be in the principals of equal employment opportunity and affirmative action, the development and implementation of affirmative action plans, and establishment of annual affirmative action goals.

<sup>12</sup> Section 110.112(2)(d), F.S.

The APD currently serves approximately 55,000 clients with developmental disabilities.<sup>13</sup> The total population of individuals in Florida with developmental disabilities is indeterminate at this time. However, the APD estimates the population of individuals with developmental disabilities in Florida could be between 300,000 to 600,000 people.<sup>14</sup>

### ***Governor's Commission on Jobs for Floridians with Disabilities***

On July 26, 2011, Governor Rick Scott created the Governor's Commission on Jobs for Floridians with Disabilities (Commission) to advance job and employment opportunities for persons with disabilities in order to help those individuals achieve greater independence.<sup>15</sup> The Commission found that "the state's disability system does not effectively connect employers to candidates with disabilities and inform them about the resources available to support these individuals in the workplace."<sup>16</sup> The Commission recommended that the DEO serve as a single-point of contact to assist employers in finding these resources and services in order to help employers recruit, hire, and retain individuals with disabilities. The Commission further recommended the DEO provide information on available services and support that make it possible for persons with disabilities to succeed in the workforce. The "Abilities Work" web portal<sup>17</sup> within the Employ Florida Marketplace<sup>18</sup> website was developed to meet the needs of Florida employers looking to hire qualified job seekers with disabilities and of individuals with disabilities who are seeking to find employment.

### ***Employment First Initiative***

On October 8, 2013, Governor Scott issued Executive Order 13-284 requiring an interagency cooperative agreement between state agencies and other disability service organizations to ensure a long-term commitment to improving employment for individuals who have a disability.<sup>19</sup> The Executive Order directed state agencies and organizations to develop methods to increase the number and percentage of growth in competitive employment for individuals who have a disability. In 2014, a five-year interagency cooperative agreement identified as the Employment First Initiative was executed by the following agencies and organizations:

- Agency for Persons with Disabilities;
- Department of Education, Bureau of Exceptional Education and Student Services;
- Department of Education, Division of Vocational Rehabilitation;
- Department of Education, Division of Blind Services;
- Department of Economic Opportunity;

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<sup>13</sup> E-mail from the Agency for Persons with Disabilities, Summary of Active Clients, Jan. 28, 2015 (on file with the Senate Banking and Insurance Committee).

<sup>14</sup> *Id.*

<sup>15</sup> Executive Order 11-161, available at <http://www.flgov.com/wp-content/uploads/2011/07/11-161-Commission-on-Jobs-for-Floridians-with-Disabilities.pdf> (last visited Nov. 9, 2015).

<sup>16</sup> Commission, *2013 Commission Report*, (Aug. 15, 2013), available at [http://www.flgov.com/wp-content/uploads/pdfs/governors\\_commission\\_on\\_jobs\\_for\\_floridians\\_with\\_disabilities\\_2013\\_report.pdf](http://www.flgov.com/wp-content/uploads/pdfs/governors_commission_on_jobs_for_floridians_with_disabilities_2013_report.pdf) (last visited Nov. 12, 2015).

<sup>17</sup> The Abilities Work website, available at <https://abilitieswork.employflorida.com/vosnet/Default.aspx#> (last visited Nov. 9, 2014).

<sup>18</sup> Employ Florida Marketplace is a partnership of CareerSource Florida, Inc., and the DEO.

<sup>19</sup> See Executive Order 13-284, available at <http://www.flgov.com/wp-content/uploads/orders/2013/13-284-disabilities.pdf> (last visited Nov. 9, 2015).

- Workforce Florida, Inc.;<sup>20</sup>
- Department of Children and Families, Substance Abuse and Mental Health Office;
- Florida Developmental Disabilities Council, Inc.; and
- Florida Association of Rehabilitation Facilities, Inc.<sup>21</sup>

### Corporate Social Responsibility and Consumer Response

Corporate social responsibility is now a standard practice in the business world.<sup>22</sup> Corporate social responsibility is defined as a company's sense of responsibility toward the community and environment,<sup>23</sup> which may be expressed through support of issues and programs, like engaging in ethical supply sourcing or contributing to a specific social program. In 2013, corporations in the United States gave approximately \$18.7 billion, consisting of both cash and non-cash donations, such as product donations and employee volunteer hours.<sup>24</sup> Corporate philanthropy is considered advantageous to a business because it provides the company with a bolstered public image, improved community relations, and increased employee morale.<sup>25</sup>

Studies suggest that people value businesses that support causes that are important to them. A recent Nielsen survey found that 55 percent of global respondents indicated a willingness to pay extra for goods and services from businesses that are committed to making a positive social and environmental impact.<sup>26</sup> Consumers are becoming "more deliberate and purposeful" in their shopping decisions by patronizing businesses that have similar values to their own.<sup>27</sup> Consumers are also more likely to be loyal to those brands that share their values or are engaged in the support of those causes that are important to them.<sup>28</sup> People may even base their employment decisions on such values.<sup>29</sup>

<sup>20</sup> Workforce Florida, Inc. was renamed as CareerSource Florida, Inc. See ch. 2015-98, Laws of Florida; see also HB 7019 (reg. session 2015).

<sup>21</sup> Interagency Cooperative Agreement, Employment First Initiative (2014), FLDOE Contract No.: IA-556, <http://www.fddc.org/sites/default/files/2.Employment%20First%20Interagency%20Cooperative%20Agreement.5.7.14.pdf> (last visited Nov. 9, 2015).

<sup>22</sup> Illia, Laura et al., *Communicating Corporate Social Responsibility to a Cynical Public*, MIT SLOAN MANAGEMENT REVIEW, Feb. 21, 2013, available at [http://sloanreview.mit.edu/article/communicating-corporate-social-responsibility-to-a-cynical-public/?use\\_credit=db34fbf0a135038c9c9102e028c614be](http://sloanreview.mit.edu/article/communicating-corporate-social-responsibility-to-a-cynical-public/?use_credit=db34fbf0a135038c9c9102e028c614be) (last visited Nov. 5, 2015).

<sup>23</sup> BusinessDictionary.com, available at <http://www.businessdictionary.com/definition/corporate-social-responsibility.html> (last visited Nov. 5, 2015).

<sup>24</sup> Adams, Susan, *America's Most Generous Companies*, FORBES, July 15, 2014, available at <http://www.forbes.com/sites/susanadams/2014/07/15/americas-most-generous-companies/> (last visited Nov. 5, 2015).

<sup>25</sup> Montini, Laura, *Corporate Altruism Is on the Rise (Infographic)*, INC., Aug. 27, 2014, available at <http://www.inc.com/laura-montini/infographic/the-benefits-of-community-service.html> (last visited Nov. 5, 2015).

<sup>26</sup> The Nielsen Company, *Doing Well by Doing Good* (June 2014), available at <http://www.nielsen.com/content/dam/corporate/us/en/reports-downloads/2014%20Reports/global-corporate-social-responsibility-report-june-2014.pdf> (last visited Nov. 5, 2015).

<sup>27</sup> Solomon, Micah, *Six Customer Trends That Will Build or Break Your Business As We Enter 2015*, FORBES, Dec. 25, 2014, available at <http://www.forbes.com/sites/micahsolomon/2014/12/25/six-deep-customer-trends-that-will-build-or-break-your-business-as-we-enter-2015/> (last visited Nov. 5, 2015).

<sup>28</sup> Irwin, Julie, *Ethical Consumerism Isn't Dead, It Just Needs Better Marketing*, HARVARD BUSINESS REVIEW, Jan. 12, 2015, available at <https://hbr.org/2015/01/ethical-consumerism-isnt-dead-it-just-needs-better-marketing> (last visited Nov. 5, 2015).

<sup>29</sup> Supra note 11.

### III. Effect of Proposed Changes:

**Section 1** reorders, amends, and revises definitions contained in s. 110.107, F.S., and defines the term “individual who has a disability” as a person who has a physical or intellectual impairment that substantially limits one or more major life activities; a person who has a history or record of such an impairment; or a person who is perceived by others as having such an impairment.

The definition of “individual who has a disability” mirrors the federal definition of “disability” contained in the American with Disabilities Act (ADA),<sup>30</sup> with the exceptions of the following:

- The federal term “mental impairment”<sup>31</sup> is replaced with “intellectual impairment”; and
- The federal phrase “being regarded”<sup>32</sup> is replaced with “who is perceived by others”.

**Section 2** amends s. 110.112, F.S., and revises and broadens the state’s equal employment opportunity policy to include individuals who have a disability.

Each executive agency is required to:

- Set annual goals in its affirmative action plan to ensure the full utilization of underrepresented groups, specifically including individuals who have a disability as compared to the relevant labor market;
- Report annually to the DMS on the agency’s progress toward increasing employment of individuals who have a disability; and
- Develop an agency-specific plan by January 1, 2017, addressing how to promote employment opportunities for individuals who have a disability.

The DMS is required to:

- Include data for each executive agency related to employment levels among women, minorities, and individuals who have a disability in its annual workforce report;
- Develop and implement programs specifically geared toward individuals who have a disability in consultation with the Agency for Persons with Disabilities, the Division of Vocational Rehabilitation and Division of Blind Services of the Department of Education, the Department of Economic Opportunity, and the Executive Office of the Governor;<sup>33</sup>
- Develop mandatory training programs by January 1, 2017, for human resources personnel and hiring managers of executive agencies that support the employment of individuals who have a disability;
- Assist executive agencies in implementing agency-specific plans; and identifying and implementing strategies for retaining employees who have a disability.<sup>34</sup>
- Biannually report on the progress of executive agencies in implementing their plans to the Governor, the President of the Senate, and the Speaker of the House of Representatives;

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<sup>30</sup> 42 U.S.C. s. 12102.

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> These programs may incorporate internships, mentoring, on-the-job training, unpaid work experience, situational assessments, and other innovative strategies.

<sup>34</sup> Some of these strategies include training programs, funding reasonable accommodations, increasing access to technologies, and ensuring accessibility of physical and virtual workplaces.



- Compile data regarding the hiring practices of executive agencies in regards to individuals who have a disability and make this data available on its website; and
- Adopt rules regarding forms that provide for voluntary self-identification of individuals who have a disability who are employed by an executive agency.

The bill also contains a provision that specifically states that no substantive or procedural right or benefit enforceable at law or in equity against the state, state agency, officer, employee, or agent thereof is created by this legislation.

The bill applies to the State Personnel System comprised of positions in the Career Service, Selected Exempt Service, or Senior Management Service within all executive branch agencies. This bill is not applicable to the personnel systems of the State University System, the Florida Lottery, the Legislature, the Justice Administration System, or the State Courts System.

**Section 3** creates the “Employment First Act.” This section provides a short title, legislative intent, and purpose, which is to improve the employment outcomes for individuals with disabilities, to prioritize employment of individuals with disabilities, and to change the employment system to integrate individuals with disabilities into the workforce.

This section also requires an interagency cooperative agreement be developed among the following:

- Agency for Person with Disabilities;
- Department of Education, Bureau of Exceptional Education and Student Services;
- Department of Education, Division of Vocational Rehabilitation;
- Department of Education, Division of Blind Services;
- Department of Economic Opportunity;
- CareerSource Florida, Inc.;
- Department of Children and Families, Substance Abuse and Mental Health Office;
- Florida Developmental Disabilities Council;
- Florida Association of Rehabilitation Facilities; and
- Other appropriate organizations.

The interagency cooperative agreement must outline the roles and responsibilities of the parties to the agreement.

The bill requires the objectives of the interagency agreement to include the following:

- Establishing a commitment by state leadership to maximize resources and coordination to improve employment outcomes for individuals with disabilities;
- Developing strategic goals and benchmarks to assist state agencies and organizations in the implementation of agreement;
- Identifying financing and contracting methods to help prioritize employment for individuals with disabilities by state agencies and organizations;
- Establishing training methods to better integrate persons with disabilities into the workforce;
- Ensuring collaborative efforts between agencies;
- Promoting service innovations to better assist individuals with disabilities in the workplace; and

- Identifying accountability measures to ensure sustainability of agreement.

**Section 4** appropriates for Fiscal Year 2016-2017, the sums of \$138,692 in recurring funds and \$26,264 in nonrecurring funds from the State Personnel System Trust Fund to the DMS, and authorizes two FTE positions for the purpose of implementing the new responsibilities of the DMS, relating to employment of individuals who have a disability.

In addition, the recurring sums of \$74,234 from the General Revenue Fund and \$64,458 from trust funds and the nonrecurring sums of \$14,051 from the General Revenue Fund and \$12,213 from trust funds are appropriated to Administered Funds for distribution among agencies for the increase in the human resource assessment.

**Section 5** provides an effective date of July 1, 2016.

#### IV. Constitutional Issues:

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

None.

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

None.

##### C. Trust Funds Restrictions:

None.

#### V. Fiscal Impact Statement:

##### A. Tax/Fee Issues:

None.

##### B. Private Sector Impact:

Indeterminate.

##### C. Government Sector Impact:

The DMS staff estimates the implementation of the bill will require two additional full-time positions. The total cost for two Human Resource Consultant positions with the standard expense package is \$146,456.<sup>35</sup>

In addition, the People First system, the state's human resource information system, will need to be enhanced to add an "individual who has a disability" indicator to fully

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<sup>35</sup> Department of Management Services, *SB 7010 Analysis*, October 9, 2105 (on file with the Senate Fiscal Policy Committee).

implement the reporting requirements of this bill. The DMS estimates a cost of \$18,500 to implement these changes.<sup>36</sup>

The bill appropriates \$138,692 in recurring funds and \$26,264 in nonrecurring funds from the State Personnel System Trust Fund to DMS, and authorizes two positions. The bill also appropriates the recurring sums of \$74,234 from the General Revenue Fund and \$64,458 from trust funds and the nonrecurring sums of \$14,051 from the General Revenue Fund and \$12,213 from trust funds to Administered Funds, which provide the revenue source to support the appropriation provided to the DMS, for distribution among the agencies.

#### **VI. Technical Deficiencies:**

None.

#### **VII. Related Issues:**

The bill directs the DMS to adopt rules relating to forms that provide for the voluntary self-identification of individuals who have a disability.

Under the Americans with Disabilities Act (ADA), employers are prohibited from inquiring about whether a person has a disability or the nature of a disability prior to employment.<sup>37</sup> However, an employer may inquire about the applicant's ability to perform job-related functions. Upon employment, an employer may require a medical examination if it is required of all employees, is job-related, and consistent with business necessity. Any medical information obtained from the medical examination must be maintained in a separate file. If an employee requests a reasonable accommodation, an employer is permitted to request documentation sufficient to substantiate the need for the reasonable accommodation.<sup>38</sup>

The DMS uses data from the Equal Employment Opportunity (EEO) Tabulation that is published by the U.S. Census Bureau for information on women and minorities. The EEO Tabulation provides detailed occupational statistics by race, ethnicity, and sex in the labor market by location-based geography. The state's data center, DEO, has informed the DMS that data for individuals who have a disability is not available at the occupational level. Data is only available in broad categories (employed/unemployed, full-time/less than full-time). Accordingly, it might be difficult for agencies to establish numerical goals on such limited data.<sup>39</sup>

#### **VIII. Statutes Affected:**

This bill substantially amends the sections 110.107 and 110.112 of the Florida Statutes.

This bill creates an undesignated section of Florida Law.

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<sup>36</sup> Id.

<sup>37</sup> See 42 U.S.C. s. 12112.

<sup>38</sup> EEOC, No. 915.002, *EEOC Enforcement Guidance of Disability-Related Inquiries and Medical Examinations of Employees Under the Americans with Disabilities Act (ADA)*, July 27, 2000, <http://www.eeoc.gov/policy/docs/guidance-inquiries.html> (last visited Sept. 29, 2015).

<sup>39</sup> Supra note 35.

**IX. Additional Information:**

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

**Recommended CS by Appropriations Subcommittee on General Government on November 3, 2015:**

The committee substitute specifies the recurring and nonrecurring amounts appropriated to Administered Funds.

- B. **Amendments:**

None.

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

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

A bill to be entitled

An act relating to individuals with disabilities; reordering and amending s. 110.107, F.S.; revising definitions and defining the term "individual who has a disability"; amending s. 110.112, F.S.; revising the state's equal employment opportunity policy to include individuals who have a disability; requiring each executive agency to annually report to the Department of Management Services regarding the agency's progress in increasing employment among certain underrepresented groups; revising the required content of the department's annual workforce report; requiring the department to develop and implement certain programs geared toward individuals who have a disability; requiring the department to develop training programs by a specified date; requiring each executive agency to develop a plan regarding the employment of individuals who have a disability by a specified date; requiring the department to report to the Governor and the Legislature regarding implementation; requiring the department to compile and post data regarding the hiring practices of executive agencies regarding the employment of individuals who have a disability; requiring the department to assist executive agencies in identifying strategies to retain employees who have a disability; requiring the department to adopt certain rules;



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specifying that the act does not create any enforceable right or benefit; creating the "Employment First Act"; providing legislative findings and intent; providing a purpose; requiring specified state agencies and organizations to develop and implement an interagency cooperative agreement; requiring the interagency cooperative agreement to provide the roles, responsibilities, and objectives of state agencies and organizations; providing appropriations; providing an effective date.

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

Section 1. Section 110.107, Florida Statutes, is reordered and amended to read:

110.107 Definitions.—As used in this chapter, the term:  
(5)(1) "Department" means the Department of Management Services.

(28)(2) "Secretary" means the Secretary of Management Services.

(11)(3) "Furlough" means a temporary reduction in the regular hours of employment in a pay period, or temporary leave without pay for one or more pay periods, with a commensurate reduction in pay, which is necessitated by a projected deficit in any fund that supports salary and benefit appropriations. The deficit must be projected by the Revenue Estimating Conference pursuant to s. 216.136(3).

(30)(4) "State agency" or "agency" means any official, officer, commission, board, authority, council, committee, or



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57 department of the executive branch or the judicial branch of  
58 state government as defined in chapter 216.

59 ~~(21)(5)~~ "Position" means the work, consisting of duties and  
60 responsibilities, assigned to be performed by an officer or  
61 employee.

62 ~~(10)(6)~~ "Full-time position" means a position authorized  
63 for the entire normally established work period, whether daily,  
64 weekly, monthly, or annually.

65 ~~(18)(7)~~ "Part-time position" means a position authorized  
66 for less than the entire normally established work period,  
67 whether daily, weekly, monthly, or annually.

68 ~~(16)(8)~~ "Occupation" means all positions that which are  
69 sufficiently similar in knowledge, skills, ~~and~~ abilities, and  
70 the sufficiently similar as to kind or subject matter of work.

71 ~~(17)(9)~~ "Occupational group" means a group of occupations  
72 that which are sufficiently similar in the kind of work  
73 performed to warrant the use of the same performance factors in  
74 determining the level of complexity for all occupations in that  
75 occupational group.

76 ~~(3)(10)~~ "Classification plan" means a formal description of  
77 the concepts, rules, job family definitions, occupational group  
78 characteristics, and occupational profiles used in the  
79 classification of positions.

80 ~~(20)(11)~~ "Pay plan" means a formal description of the  
81 philosophy, methods, procedures, and salary schedules for  
82 competitively compensating employees at market-based rates for  
83 work performed.

84 ~~(27)(12)~~ "Salary schedule" means an official document that  
85 ~~which~~ contains a complete list of occupation titles, broadband



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86 level codes, and pay bands.

87 ~~(1)(13)~~ "Authorized position" means a position included in  
88 an approved budget. In counting the number of authorized  
89 positions, part-time positions may be converted to full-time  
90 equivalents.

91 ~~(8)(14)~~ "Established position" means an authorized position  
92 that which has been classified in accordance with a  
93 classification and pay plan as provided by law.

94 ~~(22)(15)~~ "Position number" means the identification number  
95 assigned to an established position.

96 ~~(26)(16)~~ "Reclassification" means the changing of an  
97 established position in one broadband level in an occupational  
98 group to a higher or lower broadband level in the same  
99 occupational group or to a broadband level in a different  
100 occupational group.

101 ~~(24)(17)~~ "Promotion" means the changing of the  
102 classification of an employee to a broadband level having a  
103 higher maximum salary; or the changing of the classification of  
104 an employee to a broadband level having the same or a lower  
105 maximum salary but a higher level of responsibility.

106 ~~(4)(18)~~ "Demotion" means the changing of the classification  
107 of an employee to a broadband level having a lower maximum  
108 salary; or the changing of the classification of an employee to  
109 a broadband level having the same or a higher maximum salary but  
110 a lower level of responsibility.

111 ~~(32)(19)~~ "Transfer" means moving an employee from one  
112 geographic location of the state to a different geographic  
113 location more than in excess of 50 miles from the employee's  
114 current work location.



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119       ~~(25)(20)~~ "Reassignment" means moving an employee from a  
120 position in one broadband level to a different position in the  
121 same broadband level or to a different broadband level having  
122 the same maximum salary.

123       ~~(6)(21)~~ "Dismissal" means a disciplinary action taken by an  
124 agency pursuant to s. 110.227 against an employee which results  
125 ~~resulting in the~~ termination of his or her employment.

126       ~~(31)(22)~~ "Suspension" means a disciplinary action taken by  
127 an agency pursuant to s. 110.227 against an employee which ~~to~~  
128 temporarily relieves ~~relieve~~ the employee of his or her duties  
129 and places ~~place~~ him or her on leave without pay.

130       ~~(15)(23)~~ "Layoff" means termination of employment due to a  
131 shortage of funds or work, or a material change in the duties or  
132 organization of an agency, including the outsourcing or  
133 privatization of an activity or function previously performed by  
134 career service employees.

135       ~~(7)(24)~~ "Employing agency" means any agency authorized to  
136 employ personnel to carry out the responsibilities of the agency  
137 under the provisions of chapter 20 or other law statutory  
138 authority.

139       ~~(29)(25)~~ "Shared employment" means part-time career  
140 employment in which ~~whereby~~ the duties and responsibilities of a  
141 full-time position in the career service are divided among part-  
142 time employees who are eligible for the position and who receive  
143 career service benefits and wages pro rata. The term ~~in no case~~  
shall "shared employment" does not include the employment of  
persons paid from other-personal-services funds.

144       ~~(9)(26)~~ "Firefighter" means a firefighter certified under  
chapter 633.



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144       ~~(14)(27)~~ "Law enforcement or correctional officer" means a  
145 law enforcement officer, special agent, correctional officer,  
146 correctional probation officer, or institutional security  
147 specialist ~~required to be~~ certified under chapter 943.

148       ~~(23)(28)~~ "Professional health care provider" means  
149 registered nurses, physician's assistants, dentists,  
150 psychologists, nutritionists or dietitians, pharmacists,  
151 psychological specialists, physical therapists, and speech and  
152 hearing therapists.

153       ~~(13)(29)~~ "Job family" means a defined grouping of one or  
154 more occupational groups.

155       ~~(19)(30)~~ "Pay band" means the minimum salary, the maximum  
156 salary, and intermediate rates that ~~which~~ are payable for work  
157 in a specific broadband level.

158       ~~(2)(31)~~ "Broadband level" means all positions that ~~which~~  
159 are sufficiently similar in knowledge, skills, and abilities;  
160 the, and sufficiently similar as to kind or subject matter of  
161 work; the, level of difficulty or the level of  
162 responsibilities; and the qualification requirements of the  
163 work so as to warrant the same treatment with respect ~~as~~ to  
164 title, pay band, and other personnel transactions.

165       ~~(12)~~ "Individual who has a disability" means a person who  
166 has a physical or intellectual impairment that substantially  
167 limits one or more major life activities; a person who has a  
168 history or record of such an impairment; or a person who is  
169 perceived by others as having such an impairment.

170       Section 2. Subsections (1) and (2) of section 110.112,  
171 Florida Statutes, are amended, present subsections (3) through  
172 (6) of that section are redesignated as subsections (4) through



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173 (7), respectively, and a new subsection (3) is added to that  
174 section, to read:

175 110.112 Affirmative action; equal employment opportunity.-

176 (1) It ~~is shall be~~ the policy of ~~this the~~ state to assist  
177 in providing the assurance of equal employment opportunity  
178 through programs of affirmative and positive action that will  
179 allow full utilization of women, ~~and~~ minorities, and individuals  
180 who have a disability.

181 (2) (a) The head of each executive agency shall develop and  
182 implement an affirmative action plan in accordance with rules  
183 adopted by the department and approved by a majority vote of the  
184 Administration Commission before their adoption.

185 (b) Each executive agency shall establish annual goals for  
186 ensuring full utilization of groups underrepresented in the  
187 agency's ~~its~~ workforce, including women, minorities, and  
188 individuals who have a disability, as compared to the relevant  
189 labor market, as defined by the agency. Each executive agency  
190 shall design its affirmative action plan to meet its established  
191 goals.

192 (c) Each executive agency shall annually report to the  
193 department regarding the agency's progress toward increasing  
194 employment among women, minorities, and individuals who have a  
195 disability.

196 (d) ~~(e)~~ An affirmative action-equal employment opportunity  
197 officer shall be appointed by the head of each executive agency.  
198 The affirmative action-equal employment opportunity officer's  
199 responsibilities must include determining annual goals,  
200 monitoring agency compliance, and providing consultation to  
201 managers regarding progress, deficiencies, and appropriate



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202 corrective action.

203 (e) ~~(d)~~ The department shall report information in its  
204 annual workforce report relating to the implementation,  
205 continuance, updating, and results of each executive agency's  
206 affirmative action plan for the previous fiscal year. The annual  
207 workforce report must also include data for each executive  
208 agency relating to employment levels among women, minorities,  
209 and individuals who have a disability.

210 (f) ~~(e)~~ The department shall provide to all supervisory  
211 personnel of the executive agencies training in the principles  
212 of equal employment opportunity and affirmative action, the  
213 development and implementation of affirmative action plans, and  
214 the establishment of annual affirmative action goals. The  
215 department may contract for training services, and each  
216 participating agency shall reimburse the department for costs  
217 incurred through such contract. After the department approves  
218 the contents of the training program for the agencies, the  
219 department may delegate this training to the executive agencies.

220 (3) (a) The department, in consultation with the Agency for  
221 Persons with Disabilities, the Division of Vocational  
222 Rehabilitation and the Division of Blind Services of the  
223 Department of Education, the Department of Economic Opportunity,  
224 and the Executive Office of the Governor, shall develop and  
225 implement programs that incorporate internships, mentoring, on-  
226 the-job training, unpaid work experience, situational  
227 assessments, and other innovative strategies that are  
228 specifically geared toward individuals who have a disability.

229 (b) By January 1, 2017, the department shall develop  
230 mandatory training programs for human resources personnel and





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231 hiring managers of executive agencies which support the  
232 employment of individuals who have a disability.

233 (c)1. By January 1, 2017, each executive agency shall  
234 develop an agency-specific plan that addresses how to promote  
235 employment opportunities for individuals who have a disability.

236 2. The department shall assist executive agencies in the  
237 implementation of agency-specific plans. The department shall  
238 regularly report to the Governor, the President of the Senate,  
239 and the Speaker of the House of Representatives the progress of  
240 executive agencies in implementing these plans. Such reports  
241 shall be made at least biannually.

242 (d) The department shall compile data regarding the hiring  
243 practices of executive agencies with regard to individuals who  
244 have a disability and make such data available on its website.

245 (e) The department shall assist executive agencies in  
246 identifying and implementing strategies for retaining employees  
247 who have a disability which include, but are not limited to,  
248 training programs, funding reasonable accommodations, increasing  
249 access to appropriate technologies, and ensuring accessibility  
250 of physical and virtual workplaces.

251 (f) The department shall adopt rules relating to forms that  
252 provide for the voluntary self-identification of individuals who  
253 have a disability who are employed by an executive agency.

254 (g) This subsection does not create any substantive or  
255 procedural right or benefit enforceable at law or in equity  
256 against the state or a state agency, or an officer, employee, or  
257 agent thereof.

258 Section 3. Employment First Act.-

259 (1) SHORT TITLE.-This section may be cited as the



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260 "Employment First Act."

261 (2) LEGISLATIVE FINDINGS AND INTENT.-The Legislature finds  
262 that employment is the most direct and cost-effective means to  
263 assist an individual in achieving independence and fulfillment;  
264 however, individuals with disabilities are confronted by unique  
265 barriers to employment which inhibit their opportunities to  
266 compete fairly in the labor force. It is the intent of the  
267 Legislature to provide a framework for a long-term commitment to  
268 improving employment outcomes for individuals with disabilities  
269 in this state through the implementation of this act.

270 (3) PURPOSE.-The purpose of this act is to prioritize  
271 employment of individuals with disabilities and to change the  
272 employment system to better integrate individuals with  
273 disabilities into the workforce. This act encourages a  
274 collaborative effort between state agencies and organizations to  
275 achieve better employment outcomes for individuals with  
276 disabilities.

277 (4) INTERAGENCY COOPERATIVE AGREEMENT.-The following state  
278 agencies and organizations, and others, as appropriate, shall  
279 develop an interagency cooperative agreement to implement this  
280 act:

281 (a) The Division of Vocational Rehabilitation of the  
282 Department of Education.

283 (b) The Division of Blind Services of the Department of  
284 Education.

285 (c) The Bureau of Exceptional Education and Student  
286 Services of the Department of Education.

287 (d) The Agency for Persons with Disabilities.

288 (e) The Substance Abuse and Mental Health Program of the



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289 Department of Children and Families.  
290 (f) The Department of Economic Opportunity.  
291 (g) CareerSource Florida, Inc.  
292 (h) The Florida Developmental Disabilities Council.  
293 (i) The Florida Association of Rehabilitation Facilities.  
294 (j) Other appropriate organizations.  
295 (5) ROLES, RESPONSIBILITIES, AND OBJECTIVES.—The  
296 interagency cooperative agreement must identify the roles and  
297 responsibilities of the state agencies and organizations  
298 identified in subsection (4) and the objectives of the  
299 interagency cooperative agreement, which must include all of the  
300 following:  
301 (a) Establishing a commitment by leadership of the state  
302 agencies and organizations to maximize resources and  
303 coordination to improve employment outcomes for individuals with  
304 disabilities who seek publicly funded services.  
305 (b) Developing strategic goals and benchmarks to assist the  
306 state agencies and organizations in the implementation of this  
307 agreement.  
308 (c) Identifying financing and contracting methods that will  
309 help to prioritize employment for individuals with disabilities  
310 by state agencies and organizations.  
311 (d) Establishing training methods to better integrate  
312 individuals with disabilities into the workforce.  
313 (e) Ensuring collaborative efforts between multiple  
314 agencies to achieve the purposes of this act.  
315 (f) Promoting service innovations to better assist  
316 individuals with disabilities in the workplace.  
317 (g) Identifying accountability measures to ensure the



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318 sustainability of this agreement.  
319 Section 4. For the 2016-2017 fiscal year, the following  
320 sums are appropriated for the purpose of implementing the  
321 amendments made by this act to s. 110.112, Florida Statutes,  
322 relating to the employment of individuals who have a disability:  
323 (1) The sums of \$138,692 in recurring funds and \$26,264 in  
324 nonrecurring funds are appropriated from the State Personnel  
325 System Trust Fund to the Department of Management Services, and  
326 two full-time equivalent positions with associated salary rate  
327 of 92,762 are authorized.  
328 (2) The recurring sums of \$74,234 from the General Revenue  
329 Fund and \$64,458 from trust funds and the nonrecurring sums of  
330 \$14,051 from the General Revenue Fund and \$12,213 from trust  
331 funds are appropriated to Administered Funds for distribution  
332 among agencies for the increase in the human resource  
333 assessment.  
334 Section 5. This act shall take effect July 1, 2016.

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

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

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Prepared By: The Professional Staff of the Committee on Fiscal Policy

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BILL: CS/SB 7010

INTRODUCER: Fiscal Policy Committee (Recommended by Appropriations Subcommittee on General Government) Governmental Oversight and Accountability Committee

SUBJECT: Individuals with Disabilities

DATE: November 20, 2015      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Peacock</u>	<u>McVaney</u>		<b>GO Submitted as Committee Bill</b>
1.	<u>Davis</u>	<u>DeLoach</u>	<u>AGG</u>	<b>Recommend: Fav/CS</b>
2.	<u>Pace</u>	<u>Hrdlicka</u>	<u>FP</u>	<b>Fav/CS</b>

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 7010 addresses the employment and economic independence of individuals with disabilities. Specifically, the bill:

- Creates the Financial Literacy Program for Individuals with Developmental Disabilities within the Department of Financial Services (DFS) to provide information and outreach to individuals and employers;
- Modifies the state's equal employment policy to provide enhanced executive agency employment opportunities for individuals who have a disability;
- Creates the Employment First Act requiring an interagency cooperative agreement among specified state agencies and organizations to ensure a long-term commitment to improve employment for individuals who have a disability; and
- Creates the Florida Unique Abilities Partner program to recognize businesses that employ or support the independence of individuals who have a disability.

The bill makes several appropriations to implement the programs and activities required under the bill. Specifically, the bill:

- Appropriates \$69,570 in recurring funds from the Insurance Regulatory Trust Fund to the DFS to implement the Financial Literacy Program for Individuals with Developmental Disabilities;
- Appropriates \$138,692 in recurring funds and \$26,264 in nonrecurring funds from the State Personnel System Trust Fund to the Department of Management Services (DMS), and

authorizes two FTE positions for the DMS to implement the provisions relating to enhancing executive agency employment opportunities;

- Appropriates the recurring sums of \$74,234 from the General Revenue Fund and \$64,458 from trust funds and the nonrecurring sums of \$14,051 from the General Revenue Fund and \$12,213 from trust funds to Administered Funds for distribution among agencies for the increase in the human resource assessment; and
- Appropriates \$100,000 in recurring and \$100,000 in nonrecurring funds from the Special Employment Security Administration Trust Fund to the Department of Economic Opportunity to implement the Florida Unique Abilities Partner program.

## II. Present Situation:

According to the United States Census Bureau, individuals who have a disability make up approximately 13.4 percent of the population of Florida, and 10.1 percent of individuals ages 18 to 64 (working age) have a disability.<sup>1</sup> In 2014, over 20 percent of working aged individuals who have a disability lived below the federal poverty line in Florida, compared with 13.7 percent of individuals without a disability.<sup>2</sup>

Individuals who have a disability experience significant disparities in employment and participation in the workforce.<sup>3</sup> For example, 17.9 percent of individuals who have a disability are employed in Florida, while over 61 percent of those who do not have a disability are employed.<sup>4</sup> Nationally, in December 2014, there was an 11.2 percent unemployment rate for individuals who have a disability and a 5.1 percent unemployment rate for individuals without a disability.<sup>5</sup> According to the National Disability Institute (NDI), many of these individuals would like to find employment, but are concerned if they earn more money it will cause them to lose disability and health benefits.<sup>6</sup>

### State Equal Employment Policy

Section 110.112, F.S., declares that the policy of the state is to afford equal employment opportunities through programs of affirmative and positive action allowing for the full utilization

<sup>1</sup> U.S. Department of Commerce, U.S. Census Bureau, American Fact Finder, *Disability Characteristics, 2014 American Community Survey 1-year Estimates*, Report S1810, searchable database (select advanced search) available at <http://factfinder.census.gov/> (last visited Nov. 5, 2015).

<sup>2</sup> U.S. Department of Commerce, U.S. Census Bureau, American Fact Finder, *Selected Economic Characteristics for the Civilian Noninstitutionalized Population by Disability Status, 2014 American Community Survey 1-year Estimates*, Report S1811, searchable database available at <http://factfinder.census.gov/> (last visited Nov. 5, 2015).

<sup>3</sup> American Institutes for Research, *An Uneven Playing Field: The Lack of Equal Pay for People with Disabilities*, p. 2, December 2014, available at [http://www.air.org/sites/default/files/Lack%20of%20Equal%20Pay%20for%20People%20with%20Disabilities\\_Dec%2014.pdf](http://www.air.org/sites/default/files/Lack%20of%20Equal%20Pay%20for%20People%20with%20Disabilities_Dec%2014.pdf) (last visited Nov. 5, 2015).

<sup>4</sup> Supra note 2. Note, 78.5 percent of individuals who have a disability are not in the labor force.

<sup>5</sup> U.S. Department of Labor, Bureau of Labor Statistics, *BLS Data Viewer: Labor Force Statistics from the Current Population Survey, Series IDs LNU04074593 and LNU04074597*, (for 2014, not seasonally adjusted), available at <http://beta.bls.gov/dataViewer/view/641a3c05bb5b4578b313b2f20ca886cc> (last visited Nov. 9, 2015).

<sup>6</sup> National Disability Institute with support from the Florida Development Disabilities Council, *The Changing Face of Benefits Knowledge for Successful Employment and Asset Development*, p. 1, March 2013, available at [http://www.realeconomicimpact.org/data/files/other%20documents/changing\\_face\\_of\\_benefits\\_2013.pdf.pdf](http://www.realeconomicimpact.org/data/files/other%20documents/changing_face_of_benefits_2013.pdf.pdf) (last visited Nov. 5, 2015).

of women and minorities. Each executive agency is required to develop and implement an affirmative action plan;<sup>7</sup> establish annual goals in its affirmative action plan for ensuring full utilization of groups underrepresented in the agency's workforce as compared to relevant labor market;<sup>8</sup> and appoint an affirmative action-equal employment opportunity officer.<sup>9</sup>

The DMS is required to issue an annual workforce report<sup>10</sup> and provide training to all supervisory personnel of executive agencies.<sup>11</sup> The annual workforce report must include information relating to implementation, continuance, any update, and the results of each executive agency's affirmative action plan for the previous fiscal year.<sup>12</sup>

Presently, s. 110.112, F.S., does not contain a definition of the term "individual who has a disability" and does not specifically address equal employment opportunity and affirmative action for this group.

### **State Disability Resources**

Various state agencies provide services, benefits, and resources for individuals with disabilities. These agencies include the Agency for Health Care Administration, the Agency for Persons with Disabilities (APD), the Department of Children and Families, the Department of Economic Opportunity (DEO), and the Department of Education. Many state and regional advocacy groups also provide resources and services.

Section 393.063(9), F.S., defines developmental disability to mean "a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely."

The APD currently serves approximately 55,000 clients with developmental disabilities.<sup>13</sup> The total population of individuals in Florida with developmental disabilities is indeterminate at this time. However, the APD estimates the population of individuals with developmental disabilities in Florida could be between 300,000 to 600,000 people.<sup>14</sup>

### ***Governor's Commission on Jobs for Floridians with Disabilities***

On July 26, 2011, Governor Rick Scott created the Governor's Commission on Jobs for Floridians with Disabilities (Commission) to advance job and employment opportunities for

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<sup>7</sup> Section 110.112(2)(a), F.S.

<sup>8</sup> Section 110.112(2)(b), F.S.

<sup>9</sup> Section 110.112(2)(c), F.S., provides that the duties of the affirmative action-equal employment opportunity officer include "determining annual goals, monitoring agency compliance, and providing consultation to managers regarding progress, deficiencies, and appropriate corrective action."

<sup>10</sup> Section 110.112(2)(d), F.S.

<sup>11</sup> Section 110.112(2)(e), F.S., provides that the training will be in the principals of equal employment opportunity and affirmative action, the development and implementation of affirmative action plans, and establishment of annual affirmative action goals.

<sup>12</sup> Section 110.112(2)(d), F.S.

<sup>13</sup> E-mail from the Agency for Persons with Disabilities, Summary of Active Clients, Jan. 28, 2015(on file with the Senate Banking and Insurance Committee).

<sup>14</sup> *Id.*

persons with disabilities in order to help those individuals achieve greater independence.<sup>15</sup> The Commission found that “the state’s disability system does not effectively connect employers to candidates with disabilities and inform them about the resources available to support these individuals in the workplace.”<sup>16</sup> The Commission recommended that the DEO serve as a single-point of contact to assist employers in finding these resources and services in order to help employers recruit, hire, and retain individuals with disabilities. The Commission further recommended the DEO provide information on available services and support that make it possible for persons with disabilities to succeed in the workforce. The “Abilities Work” web portal<sup>17</sup> within the Employ Florida Marketplace<sup>18</sup> website was developed to meet the needs of Florida employers looking to hire qualified job seekers with disabilities and of individuals with disabilities who are seeking to find employment.

### ***Employment First Initiative***

On October 8, 2013, Governor Scott issued Executive Order 13-284 requiring an interagency cooperative agreement between state agencies and other disability service organizations to ensure a long-term commitment to improving employment for individuals who have a disability.<sup>19</sup> The Executive Order directed state agencies and organizations to develop methods to increase the number and percentage of growth in competitive employment for individuals who have a disability. In 2014, a five-year interagency cooperative agreement identified as the Employment First Initiative was executed by the following agencies and organizations:

- Agency for Persons with Disabilities;
- Department of Education, Bureau of Exceptional Education and Student Services;
- Department of Education, Division of Vocational Rehabilitation;
- Department of Education, Division of Blind Services;
- Department of Economic Opportunity;
- Workforce Florida, Inc.,<sup>20</sup>
- Department of Children and Families, Substance Abuse and Mental Health Office;
- Florida Developmental Disabilities Council, Inc.; and
- Florida Association of Rehabilitation Facilitates, Inc.<sup>21</sup>

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<sup>15</sup> Executive Order 11-161, available at <http://www.flgov.com/wp-content/uploads/2011/07/11-161-Commission-on-Jobs-for-Floridians-with-Disabilities.pdf> (last visited Nov. 9, 2015).

<sup>16</sup> Commission, *2013 Commission Report*, (Aug. 15, 2013), available at [http://www.flgov.com/wp-content/uploads/pdfs/governors\\_commission\\_on\\_jobs\\_for\\_floridians\\_with\\_disabilities\\_2013\\_report.pdf](http://www.flgov.com/wp-content/uploads/pdfs/governors_commission_on_jobs_for_floridians_with_disabilities_2013_report.pdf) (last visited Nov. 12, 2015).

<sup>17</sup> The Abilities Work website, available at <https://abilitieswork.employflorida.com/vosnet/Default.aspx#> (last visited Nov. 9, 2014).

<sup>18</sup> Employ Florida Marketplace is a partnership of CareerSource Florida, Inc., and the DEO.

<sup>19</sup> See Executive Order 13-284, available at <http://www.flgov.com/wp-content/uploads/orders/2013/13-284-disabilities.pdf> (last visited Nov. 9, 2015).

<sup>20</sup> Workforce Florida, Inc. was renamed as CareerSource Florida, Inc. See ch. 2015-98, Laws of Florida; see also HB 7019 (reg. session 2015).

<sup>21</sup> Interagency Cooperative Agreement, Employment First Initiative (2014), FLDOE Contract No.: IA-556, <http://www.fddc.org/sites/default/files/2.Employment%20First%20Interagency%20Cooperative%20Agreement.5.7.14.pdf> (last visited Nov. 9, 2015).

### *Department of Financial Services*

The Chief Financial Officer (CFO) of the State of Florida is the head of the DFS.<sup>22</sup> The CFO has established outreach and education programs to increase the financial literacy of Florida residents and to protect them from financial fraud. These initiatives include, among others, a comprehensive online financial literacy and education initiative to provide Hispanic Floridians and their families with important financial information and resources, a program to educate and protect seniors from financial scams and identity theft, and financial education for military service members.<sup>23</sup>

Presently, the CFO has not established an outreach or education program to address the financial literacy of individuals with developmental disabilities.

The CFO administers the Florida Security for Public Deposits Act (act),<sup>24</sup> which authorizes local and state governmental units (public depositors) to place public deposits in qualified public depositories (QPD).<sup>25</sup> Public deposits are funds in excess of amounts required to meet disbursement needs or expenses. A QPD can be a bank, savings bank, or savings association that meets specific criteria, including collateral requirements, under the act. The CFO is responsible for designating financial institutions as qualified public depositories.

### **Corporate Social Responsibility and Consumer Response**

Corporate social responsibility is now a standard practice in the business world.<sup>26</sup> Corporate social responsibility is defined as a company's sense of responsibility toward the community and environment,<sup>27</sup> which may be expressed through support of issues and programs like engaging in ethical supply sourcing or contributing to specific social programs. In 2013, corporations in the United States gave approximately \$18.7 billion, consisting of both cash and non-cash donations, such as product donations and employee volunteer hours.<sup>28</sup> Corporate philanthropy is considered advantageous to a business because it provides the company with a bolstered public image, improved community relations, and increased employee morale.<sup>29</sup>

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<sup>22</sup> Section 20.121(1), F.S.

<sup>23</sup> See Your Money Matter\$, a one-stop website to access the DFS's financial literacy resources, *available at* <http://www.myfloridacfo.com/ymm/> (last visited Nov. 9, 2015).

<sup>24</sup> Chapter 280, F.S.

<sup>25</sup> A qualified public depository is organized under the laws of the United States or any state or territory of the United States; has a principal place of business or branch office in this state authorized to receive deposits; has federally-insured deposits; has procedures and practices that accurately report and collateralize public deposits; meets the requirements of the act; and has been designated as a qualified public depository by the CFO. See s. 280.02(26), F.S.

<sup>26</sup> Illia, Laura et al., *Communicating Corporate Social Responsibility to a Cynical Public*, MIT SLOAN MANAGEMENT REVIEW, Feb. 21, 2013, *available at* [http://sloanreview.mit.edu/article/communicating-corporate-social-responsibility-to-a-cynical-public/?use\\_credit=db34fbf0a135038c9c9102e028c614be](http://sloanreview.mit.edu/article/communicating-corporate-social-responsibility-to-a-cynical-public/?use_credit=db34fbf0a135038c9c9102e028c614be) (last visited Nov. 16, 2015).

<sup>27</sup> BusinessDictionary.com, *available at* <http://www.businessdictionary.com/definition/corporate-social-responsibility.html> (last visited Nov. 16, 2015).

<sup>28</sup> Adams, Susan, *America's Most Generous Companies*, FORBES, July 15, 2014, *available at* <http://www.forbes.com/sites/susanadams/2014/07/15/americas-most-generous-companies/> (last visited Nov. 16, 2015).

<sup>29</sup> Montini, Laura, *Corporate Altruism Is on the Rise (Infographic)*, INC., Aug. 27, 2014, *available at* <http://www.inc.com/laura-montini/infographic/the-benefits-of-community-service.html> (last visited Nov. 16, 2015).

Studies suggest that people value businesses that support causes that are important to them. A recent Nielsen survey found that 55 percent of global respondents indicated a willingness to pay extra for goods and services from businesses that are committed to making a positive social and environmental impact.<sup>30</sup> Consumers are becoming “more deliberate and purposeful” in their shopping decisions by patronizing businesses that have similar values to their own.<sup>31</sup> Consumers are also more likely to be loyal to those brands that share their values or are engaged in the support of those causes that are important to them.<sup>32</sup> People may even base their employment decisions on such values.<sup>33</sup>

### III. Effect of Proposed Changes:

#### Financial Literacy Program

*(Section 1, creating s. 17.68, F.S.; and Section 5, amending s. 280.16(1)(e), F.S.)*

The bill creates the Financial Literacy Program for Individuals with Developmental Disabilities under the direction of the Chief Financial Officer who heads the Department of Financial Services (DFS). The goal of the program is to promote economic independence and successful employment of individuals with developmental disabilities by providing resources, outreach, and education on specific issues. For individuals with developmental disabilities these issues include financial education, identification of financial and health benefit programs and services, job training and employment opportunities, and the impact of earnings and assets on eligibility for federal and state programs. For employers the issues include strategies to make program and educational materials available to their employees with developmental disabilities.

The bill provides that the DFS, in consultation with public and private stakeholders, will develop and implement the program. Banks, credit unions, savings associations, and savings banks will be key participants in the development and promotion of the program. By October 1, 2016, the DFS must establish a clearinghouse on its website for information regarding the program and other available resources for individuals with developmental disabilities and their employers. The DFS must also publish a brochure that describes the program and make the brochure accessible through its website.

The bill requires financial institutions participating in the qualified public depository program to participate in the Financial Literacy Program as condition of eligibility for the qualified public depository program. Within 90 days of the DFS establishing the program and publishing the brochure, each participating financial institution must make the brochures available at each Florida branch office that has in-person teller services by having available copies or printing a copy of the brochure upon request. A financial institution or other program participant is not

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<sup>30</sup> The Nielsen Company, *Doing Well by Doing Good* (June 2014), available at <http://www.nielsen.com/content/dam/corporate/us/en/reports-downloads/2014%20Reports/global-corporate-social-responsibility-report-june-2014.pdf> (last visited Nov. 16, 2015).

<sup>31</sup> Solomon, Micah, *Six Customer Trends That Will Build or Break Your Business As We Enter 2015*, FORBES, Dec. 25, 2014, available at <http://www.forbes.com/sites/micahsolomon/2014/12/25/six-deep-customer-trends-that-will-build-or-break-your-business-as-we-enter-2015/> (last visited Nov. 16, 2015).

<sup>32</sup> Irwin, Julie, *Ethical Consumerism Isn't Dead, It Just Needs Better Marketing*, HARVARD BUSINESS REVIEW, Jan. 12, 2015, available at <https://hbr.org/2015/01/ethical-consumerism-isnt-dead-it-just-needs-better-marketing> (last visited Nov. 16, 2015).

<sup>33</sup> Supra note 11.



subject to a civil cause of action arising from the distribution or nondistribution of program information. Each participating financial institution website must also provide a hyperlink to the department's website for the program.

For FY 2016-2017, the sum of \$69,570 in recurring funds from the Insurance Regulatory Trust Fund is appropriated to the Consumer Assistance Program within the DFS to develop and manage the Financial Literacy Program, which includes printing and postage costs for brochures (Section 9).

The bill redefines the term "developmental disability" to include individuals who have a disability that is attributable to Down syndrome (Section 6, amending s. 393.063(9), F.S.)

### **State Equal Employment Policy**

*(Section 3, amending s. 110.107, F.S. and Section 4, amending s. 110.112, F.S.)*

The bill modifies the state's employment policy to provide enhanced executive agency employment opportunities for persons who have a disability. Specifically, the bill reorders, amends, and revises definitions contained in s. 110.107, F.S., and defines the term "individual who has a disability" as a person who has a physical or intellectual impairment that substantially limits one or more major life activities; a person who has a history or record of such an impairment; or a person who is perceived by others as having such an impairment.

The definition of "individual who has a disability" mirrors the federal definition of "disability" contained in the Americans with Disabilities Act (ADA),<sup>34</sup> with the exception of the following:

- The federal term "mental impairment" is replaced with "intellectual impairment"; and
- The federal phrase "being regarded" is replaced with "who is perceived by others."

Each executive agency is required to:

- Set annual goals in its affirmative action plan to ensure the full utilization of underrepresented groups, specifically including individuals who have a disability as compared to the relevant labor market;
- Report annually to the DMS on the agency's progress toward increasing employment of individuals who have a disability; and
- Develop an agency-specific plan by January 1, 2017, addressing how to promote employment opportunities for individuals who have a disability.

The DMS is required to:

- Include data for each executive agency related to employment levels among women, minorities, and individuals who have a disability in its annual workforce report;
- Develop and implement programs specifically geared toward individuals who have a disability in consultation with the Agency for Persons with Disabilities, the Division of Vocational Rehabilitation and Division of Blind Services of the Department of Education, the Department of Economic Opportunity, and the Executive Office of the Governor;<sup>35</sup>

<sup>34</sup> 42 U.S.C. s. 12102.

<sup>35</sup> These programs may incorporate internships, mentoring, on-the-job training, unpaid work experience, situational assessments, and other innovative strategies.

- Develop mandatory training programs by January 1, 2017, for human resources personnel and hiring managers of executive agencies that support the employment of individuals who have a disability;
- Assist executive agencies in implementing agency-specific plans; and identifying and implementing strategies for retaining employees who have a disability.<sup>36</sup>
- Report biannually on the progress of executive agencies in implementing their plans to the Governor, the President of the Senate, and the Speaker of the House of Representatives;
- Compile data regarding the hiring practices of executive agencies in regards to individuals who have a disability and make this data available on its website; and
- Adopt rules regarding forms that provide for voluntary self-identification of individuals who have a disability who are employed by an executive agency.

The bill also contains a provision that specifically states that no substantive or procedural right or benefit enforceable at law or in equity against the state, state agency, officer, employee, or agent thereof is created by this legislation.

The bill applies to the State Personnel System comprised of positions in the Career Service, Selected Exempt Service, or Senior Management Service within all executive branch agencies. This bill is not applicable to the personnel systems of the State University System, the Florida Lottery, the Legislature, the Justice Administration System, or the State Courts System.

For FY 2016-2017 the sums of \$138,692 in recurring funds and \$26,264 in nonrecurring funds are appropriated from the State Personnel System Trust Fund to the DMS, and two FTE positions are authorized for the purpose of implementing the amendments made by the bill to s. 110.112, F.S., relating to individuals who have a disability (Section 10).

In addition, the recurring sums of \$74,234 from the General Revenue Fund and \$64,458 from trust funds and the nonrecurring sums of \$14,051 from the General Revenue Fund and \$12,213 from trust funds are appropriated to Administered Funds for distribution among agencies for the increase in the human resource assessment (Section 10).

## **Employment First Act**

### *(Section 7)*

The bill creates the Employment First Act to improve the employment outcomes for individuals with disabilities, to prioritize employment of individuals with disabilities, and to change the employment system to integrate individuals with disabilities into the workforce.

The bill requires an interagency cooperative agreement to be developed among the following state agencies and organizations:

- Agency for Person with Disabilities;
- Department of Education, Bureau of Exceptional Education and Student Services;
- Department of Education, Division of Vocational Rehabilitation;

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<sup>36</sup> Some of these strategies include training programs, funding reasonable accommodations, increasing access to technologies, and ensuring accessibility of physical and virtual workplaces.

- Department of Education, Division of Blind Services;
- Department of Economic Opportunity;
- CareerSource Florida, Inc.;
- Department of Children and Families, Substance Abuse and Mental Health Program; and
- Other appropriate organizations.

The interagency cooperative agreement must outline the roles and responsibilities of the parties to the agreement.

The bill requires the objectives of the interagency agreement to include the following:

- Establishing commitment by state leadership to maximize resources and coordination to improve employment outcomes for individuals with disabilities;
- Developing strategic goals and benchmarks to assist the state agencies and organizations in the implementation of the agreement;
- Identifying financing and contracting methods to help prioritize employment for individuals with disabilities by state agencies and organizations;
- Establishing training methods to better integrate persons with disabilities into the workforce;
- Ensuring collaborative efforts between agencies;
- Promoting service innovations to better assist individuals with disabilities in the workplace; and
- Identifying accountability measures to ensure sustainability of the agreement.

### **Florida Unique Abilities Partner Program**

#### *(Section 8 and Section 2, amending s. 20.60)*

The bill creates the Florida Unique Abilities Partner program to recognize businesses that employ or support the independence of individuals who have a disability. The program is created within the DEO. The DEO is required to consult with the APD, the Division of Vocational Rehabilitation and Division of Blind Services of the Department of Education (DOE), and CareerSource Florida, Inc., in creating the program.

In order to be designated as a Florida Unique Abilities Partner, a business must submit an application to the DEO, indicating that the business would qualify for the designation by:

- Employing individuals who have a disability;
- Contributing to local or national disability organizations; or
- Contributing to or the establishment of a program that contributes to the independence of individuals who have a disability.

At a minimum, to qualify for the designation, a business must:

- Employ at least one Florida resident who has a disability for at least 9 months before applying for the designation; the employer may not be required to provide personally identifiable information about its employees;

- Make a financial or in-kind contribution, including employee volunteer hours, to a local or national disability organization or a contribution in support of individuals who have a disability;<sup>37</sup> or
- Establish or contribute to the establishment of a program that contributes to the independence of individuals who have a disability.<sup>38</sup>

The DEO may also consider nominations from members of the community regarding a local business entity's qualification for designation as a Florida Unique Abilities Partner. The nomination must identify the business entity's achievements in one or more of the above-referenced categories.

A business must annually certify that it continues to meet the requirements to be designated a Florida Unique Abilities Partner. Failure to submit the annual certification will result in the removal of the business' designation. A business may elect to discontinue its use of the designation by notifying the DEO of such decision.

The DEO must adopt procedures for the application, nomination, and designation processes for the Florida Unique Abilities Partner program. The bill specifies that the DEO's designation under this program does not constitute final agency action, and therefore is not subject to the Florida Administrative Procedures Act in ch. 120, F.S.

The bill directs the DEO, in partnership with the disability community, to develop a logo that may be used to identify a business that has been designated as a Florida Unique Abilities Partner. The DEO is responsible for developing guidelines and requirements for the use and display of the Florida Unique Abilities Partner program logo. A business that has not received the designation or has elected to discontinue its designation may not display the logo.

The DEO must maintain a website that, at a minimum, provides:

- A list of businesses, by county, that currently have the Florida Unique Abilities Partners designation, updated quarterly;
- Information on the eligibility requirements for the designation and the method of application of nomination; and
- The best practices for businesses to facilitate the inclusion of individuals who have a disability, updated annually.

The website may provide links to the websites of organizations or other resources that will aid business entities to employ or support individuals who have a disability. The APD must provide on its website a link to the DEO website for the Florida Unique Abilities Partner program. On the Employ Florida Marketplace, the DEO and CareerSource, Florida, Inc., must identify the employers that currently have a designation as a Florida Unique Abilities Partner designation.

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<sup>37</sup> Contributions must be documented by providing copies of written receipts, program materials, or letters of acknowledgment from recipients, volunteers, or donees. A business entity with 100 or fewer employees must make a financial or in-kind contribution of at least \$1,000, and a business entity with more than 100 employees must make a financial or in-kind contribution of at least \$5,000.

<sup>38</sup> Id.

The DEO is required to provide a list of businesses that have a designation as a Florida Unique Abilities Partner to VISIT Florida<sup>39</sup> on a quarterly basis. VISIT Florida must consider using the program and the designees in marketing campaigns, including campaigns that target individuals who have a disability or their families.

The DEO must report its progress in implementing the Florida Unique Abilities Partner program to the Legislature by January 1, 2017. Beginning in 2017, the DEO must describe the progress and use of the program in its annual report required under s. 20.60, F.S.<sup>40</sup>

For FY 2016-2017, the sums of \$100,000 in recurring funds and \$100,000 in nonrecurring funds from the Special Employment Security Administration Trust Fund are appropriated to the DEO for the development, implementation, and administration of the Florida Unique Abilities Partner program (Section 11).

#### **Effective Date**

Except as otherwise provided, the bill takes effect on July 1, 2016 (Section 12).

#### **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:**

#### **Financial Literacy Program**

Implementation of the Financial Literacy Program will provide individuals with developmental disabilities an opportunity to obtain a better understanding of financial products and services, financial management, employment options, and federal and state

<sup>39</sup> VISIT Florida is statutorily referred to as the Florida Tourism Industry Marketing Corporation. s. 288.1226, F.S.

<sup>40</sup> This report is due to the Legislature on November 1 annually.

benefits. Employers will also benefit from resources that will facilitate employment of individuals with developmental disabilities.

Financial institutions may incur indeterminate costs associated with providing brochures about the program at their places of business and revising their websites to provide a link to access the Financial Literacy Program's website.

### **State Equal Employment Policy**

Indeterminate.

### **Florida Unique Abilities Partner Program**

Under the Florida Unique Abilities Partner Program a business that receives a designation may experience greater patronage due to the designation. Local or national disability organizations may receive additional donations from businesses seeking a designation under the program.

## **C. Government Sector Impact:**

### **Financial Literacy**

The bill provides the recurring amount of \$69,570 from the Insurance Regulatory Trust Fund within the Department of Financial Services (DFS) to implement this program. This appropriation funds the costs associated with printing and shipping 50 brochures to an estimated 4,500 financial institution branch offices in Florida.<sup>41</sup> The bill requires the DFS to make copies of the brochure available to a bank, savings association, or savings bank upon request of such financial institution.

### **State Equal Employment Policy**

The DMS staff estimates the implementation of the bill will require two additional full-time positions. The total cost for two Human Resource Consultant positions with the standard expense package is \$146,456.<sup>42</sup>

In addition, the People First system, the state's human resource information system, will need to be enhanced to add an "individual who has a disability" indicator to fully implement the reporting requirements of this bill. The DMS estimates a cost of \$18,500 to implement these changes.<sup>43</sup>

The bill appropriates \$138,692 in recurring funds and \$26,264 in nonrecurring funds from the State Personnel System Trust Fund to DMS, and authorizes two positions. The bill also appropriates the recurring sums of \$74,234 from the General Revenue Fund and

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<sup>41</sup> Department of Financial Services, Senate Bill 376 Analysis (Oct. 5, 2015) (on file with the Senate Committee on Banking and Insurance).

<sup>42</sup> Department of Management Services, *SB 7010 Analysis*, October 9, 2105 (on file with the Senate Fiscal Policy Committee).

<sup>43</sup> *Id.*

\$64,458 from trust funds and the nonrecurring sums of \$14,051 from the General Revenue Fund and \$12,213 from trust funds to Administered Funds, which provide the revenue source to support the appropriation provided to the DMS, for distribution among the agencies.

### **Florida Unique Abilities Partner Program**

For the 2016-2017 fiscal year, the bill appropriates \$100,000 in recurring funds and \$100,000 in nonrecurring funds from the Special Employment Security Administration Trust Fund for the development, implementation, and administration of the Florida Unique Abilities Partner Program. Sufficient revenue is available in that fund to support the recurring and nonrecurring appropriations.

According to the DEO, there will be costs associated with staff time to develop the program, process applications, determine compliance, and designate businesses, and also staff time for IT personnel to create, maintain, and update the website that is required by the bill.<sup>44</sup>

## **VI. Technical Deficiencies:**

None.

## **VII. Related Issues:**

The bill directs the DMS and the DEO to adopt rules to implement the provisions of the bill.

Under the ADA, employers are prohibited from inquiring about whether a person has a disability or the nature of a disability prior to employment.<sup>45</sup> However, an employer may inquire about the applicant's ability to perform job-related functions. Upon employment, an employer may require a medical examination if it is required of all employees, is job-related, and consistent with business necessity. Any medical information obtained from the medical examination must be maintained in a separate file. If an employee requests a reasonable accommodation, an employer is permitted to request documentation sufficient to substantiate the need for the reasonable accommodation.<sup>46</sup>

The DMS uses data from the Equal Employment Opportunity (EEO) Tabulation that is published by the U.S. Census Bureau for information on women and minorities. The EEO Tabulation provides detailed occupational statistics by race, ethnicity, and sex in the labor market by location-based geography. The state's data center, DEO, has informed the DMS that data for individuals who have a disability is not available at the occupational level. Data is only available

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<sup>44</sup> Department of Economic Opportunity, *2015 Senate Bill Analysis for Senate Bill 1246* (Mar. 5, 2015), which included substantively similar provisions (on file with the Senate Commerce and Tourism Committee).

<sup>45</sup> See 42 U.S.C. s. 12112.

<sup>46</sup> EEOC, No. 915.002, *EEOC Enforcement Guidance of Disability-Related Inquiries and Medical Examinations of Employees Under the Americans with Disabilities Act (ADA)*, July 27, 2000, <http://www.eeoc.gov/policy/docs/guidance-inquiries.html> (last visited Sept. 29, 2015).

in broad categories (employed/unemployed, full-time/less than full-time). Accordingly, it might be difficult for agencies to establish numerical goals on such limited data.<sup>47</sup>

### VIII. Statutes Affected:

The bill substantially amends sections 20.60, 110.107, 110.112, 280.16, and 393.063 of the Florida Statutes.

The bill creates section 17.68 of the Florida Statutes.

This bill creates two undesignated sections of Florida Law.

### IX. Additional Information:

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

##### **CS by Fiscal Policy on November 19, 2015:**

The committee substitute modifies the state's equal opportunity policy and creates several programs related to the economic independence of individuals who have disabilities. Specifically, the bill:

- Creates the Financial Literacy Program for Individuals with Developmental Disabilities within the DFS;
- Modifies the state's employment policy to provide enhanced executive agency employment opportunities for persons who have a disability;
- Creates the Employment First Act requiring an interagency cooperative agreement among specified state agencies and organizations to ensure a long-term commitment to improve employment for individuals who have a disability;
- Creates the Florida Unique Abilities Partner program within the DEO to recognize businesses that employ or support the independence of individuals who have a disability; and
- Makes appropriations to implement the programs.

As recommended by Appropriations Subcommittee on General Government the committee substitute specifies the recurring and nonrecurring amounts appropriated to Administered Funds.

#### B. Amendments:

None.

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

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<sup>47</sup> Supra note 35.



By the Committee on Governmental Oversight and Accountability

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1 A bill to be entitled  
 2 An act relating to individuals with disabilities;  
 3 reordering and amending s. 110.107, F.S.; revising  
 4 definitions and defining the term "individual who has  
 5 a disability"; amending s. 110.112, F.S.; revising the  
 6 state's equal employment opportunity policy to include  
 7 individuals who have a disability; requiring each  
 8 executive agency to annually report to the Department  
 9 of Management Services regarding the agency's progress  
 10 in increasing employment among certain  
 11 underrepresented groups; revising the required content  
 12 of the department's annual workforce report; requiring  
 13 the department to develop and implement certain  
 14 programs geared toward individuals who have a  
 15 disability; requiring the department to develop  
 16 training programs by a specified date; requiring each  
 17 executive agency to develop a plan regarding the  
 18 employment of individuals who have a disability by a  
 19 specified date; requiring the department to report to  
 20 the Governor and the Legislature regarding  
 21 implementation; requiring the department to compile  
 22 and post data regarding the hiring practices of  
 23 executive agencies regarding the employment of  
 24 individuals who have a disability; requiring the  
 25 department to assist executive agencies in identifying  
 26 strategies to retain employees who have a disability;  
 27 requiring the department to adopt certain rules;  
 28 specifying that the act does not create any  
 29 enforceable right or benefit; creating the "Employment

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30 First Act"; providing legislative findings and intent;  
 31 providing a purpose; requiring specified state  
 32 agencies and organizations to develop and implement an  
 33 interagency cooperative agreement; requiring the  
 34 interagency cooperative agreement to provide the  
 35 roles, responsibilities, and objectives of state  
 36 agencies and organizations; providing appropriations;  
 37 providing an effective date.

38  
 39 Be It Enacted by the Legislature of the State of Florida:

40  
 41 Section 1. Section 110.107, Florida Statutes, is reordered  
 42 and amended to read:  
 43 110.107 Definitions.—As used in this chapter, the term:  
 44 (5)(1) "Department" means the Department of Management  
 45 Services.  
 46 (28)(2) "Secretary" means the Secretary of Management  
 47 Services.  
 48 (11)(3) "Furlough" means a temporary reduction in the  
 49 regular hours of employment in a pay period, or temporary leave  
 50 without pay for one or more pay periods, with a commensurate  
 51 reduction in pay, which is necessitated by a projected deficit  
 52 in any fund that supports salary and benefit appropriations. The  
 53 deficit must be projected by the Revenue Estimating Conference  
 54 pursuant to s. 216.136(3).  
 55 (30)(4) "State agency" or "agency" means any official,  
 56 officer, commission, board, authority, council, committee, or  
 57 department of the executive branch or the judicial branch of  
 58 state government as defined in chapter 216.

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59 ~~(21)(5)~~ "Position" means the work, consisting of duties and  
60 responsibilities, assigned to be performed by an officer or  
61 employee.

62 ~~(10)(6)~~ "Full-time position" means a position authorized  
63 for the entire normally established work period, whether daily,  
64 weekly, monthly, or annually.

65 ~~(18)(7)~~ "Part-time position" means a position authorized  
66 for less than the entire normally established work period,  
67 whether daily, weekly, monthly, or annually.

68 ~~(16)(8)~~ "Occupation" means all positions that ~~which~~ are  
69 sufficiently similar in knowledge, skills, ~~and~~ abilities, and  
70 the sufficiently similar as to kind or subject matter of work.

71 ~~(17)(9)~~ "Occupational group" means a group of occupations  
72 that ~~which~~ are sufficiently similar in the kind of work  
73 performed to warrant the use of the same performance factors in  
74 determining the level of complexity for all occupations in that  
75 occupational group.

76 ~~(3)(10)~~ "Classification plan" means a formal description of  
77 the concepts, rules, job family definitions, occupational group  
78 characteristics, and occupational profiles used in the  
79 classification of positions.

80 ~~(20)(11)~~ "Pay plan" means a formal description of the  
81 philosophy, methods, procedures, and salary schedules for  
82 competitively compensating employees at market-based rates for  
83 work performed.

84 ~~(27)(12)~~ "Salary schedule" means an official document that  
85 ~~which~~ contains a complete list of occupation titles, broadband  
86 level codes, and pay bands.

87 ~~(1)(13)~~ "Authorized position" means a position included in

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88 an approved budget. In counting the number of authorized  
89 positions, part-time positions may be converted to full-time  
90 equivalents.

91 ~~(8)(14)~~ "Established position" means an authorized position  
92 ~~that which~~ has been classified in accordance with a  
93 classification and pay plan as provided by law.

94 ~~(22)(15)~~ "Position number" means the identification number  
95 assigned to an established position.

96 ~~(26)(16)~~ "Reclassification" means the changing of an  
97 established position in one broadband level in an occupational  
98 group to a higher or lower broadband level in the same  
99 occupational group or to a broadband level in a different  
100 occupational group.

101 ~~(24)(17)~~ "Promotion" means the changing of the  
102 classification of an employee to a broadband level having a  
103 higher maximum salary; or the changing of the classification of  
104 an employee to a broadband level having the same or a lower  
105 maximum salary but a higher level of responsibility.

106 ~~(4)(18)~~ "Demotion" means the changing of the classification  
107 of an employee to a broadband level having a lower maximum  
108 salary; or the changing of the classification of an employee to  
109 a broadband level having the same or a higher maximum salary but  
110 a lower level of responsibility.

111 ~~(32)(19)~~ "Transfer" means moving an employee from one  
112 geographic location of the state to a different geographic  
113 location more than in excess of 50 miles from the employee's  
114 current work location.

115 ~~(25)(20)~~ "Reassignment" means moving an employee from a  
116 position in one broadband level to a different position in the

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117 same broadband level or to a different broadband level having  
118 the same maximum salary.

119 ~~(6)(21)~~ "Dismissal" means a disciplinary action taken by an  
120 agency pursuant to s. 110.227 against an employee which results  
121 ~~resulting~~ in the termination of his or her employment.

122 ~~(31)(22)~~ "Suspension" means a disciplinary action taken by  
123 an agency pursuant to s. 110.227 against an employee which ~~to~~  
124 temporarily relieves ~~relieve~~ the employee of his or her duties  
125 and places ~~place~~ him or her on leave without pay.

126 ~~(15)(23)~~ "Layoff" means termination of employment due to a  
127 shortage of funds or work, or a material change in the duties or  
128 organization of an agency, including the outsourcing or  
129 privatization of an activity or function previously performed by  
130 career service employees.

131 ~~(7)(24)~~ "Employing agency" means any agency authorized to  
132 employ personnel to carry out the responsibilities of the agency  
133 under the provisions of chapter 20 or other law ~~statutory~~  
134 authority.

135 ~~(29)(25)~~ "Shared employment" means part-time career  
136 employment in which ~~whereby~~ the duties and responsibilities of a  
137 full-time position in the career service are divided among part-  
138 time employees who are eligible for the position and who receive  
139 career service benefits and wages pro rata. The term ~~In no case~~  
140 ~~shall "shared employment" does not~~ include the employment of  
141 persons paid from other-personal-services funds.

142 ~~(9)(26)~~ "Firefighter" means a firefighter certified under  
143 chapter 633.

144 ~~(14)(27)~~ "Law enforcement or correctional officer" means a  
145 law enforcement officer, special agent, correctional officer,

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146 correctional probation officer, or institutional security  
147 specialist ~~required to be~~ certified under chapter 943.

148 ~~(23)(28)~~ "Professional health care provider" means  
149 registered nurses, physician's assistants, dentists,  
150 psychologists, nutritionists or dietitians, pharmacists,  
151 psychological specialists, physical therapists, and speech and  
152 hearing therapists.

153 ~~(13)(29)~~ "Job family" means a defined grouping of one or  
154 more occupational groups.

155 ~~(19)(30)~~ "Pay band" means the minimum salary, the maximum  
156 salary, and intermediate rates that ~~which~~ are payable for work  
157 in a specific broadband level.

158 ~~(2)(31)~~ "Broadband level" means all positions that ~~which~~  
159 are sufficiently similar in knowledge, skills, and abilities;  
160 ~~the, and sufficiently similar as to~~ kind or subject matter of  
161 work; ~~the,~~ level of difficulty or the level of  
162 responsibilities; ~~and the~~ qualification requirements of the  
163 work so as to warrant the same treatment with respect ~~as~~ to  
164 title, pay band, and other personnel transactions.

165 ~~(12)~~ "Individual who has a disability" means a person who  
166 has a physical or intellectual impairment that substantially  
167 limits one or more major life activities; a person who has a  
168 history or record of such an impairment; or a person who is  
169 perceived by others as having such an impairment.

170 Section 2. Subsections (1) and (2) of section 110.112,  
171 Florida Statutes, are amended, present subsections (3) through  
172 (6) of that section are redesignated as subsections (4) through  
173 (7), respectively, and a new subsection (3) is added to that  
174 section, to read:

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175 110.112 Affirmative action; equal employment opportunity.-

176 (1) It ~~is shall be~~ the policy of ~~this the~~ state to assist  
177 in providing the assurance of equal employment opportunity  
178 through programs of affirmative and positive action that will  
179 allow full utilization of women, ~~and~~ minorities, and individuals  
180 who have a disability.

181 (2) (a) The head of each executive agency shall develop and  
182 implement an affirmative action plan in accordance with rules  
183 adopted by the department and approved by a majority vote of the  
184 Administration Commission before their adoption.

185 (b) Each executive agency shall establish annual goals for  
186 ensuring full utilization of groups underrepresented in the  
187 agency's its workforce, including women, minorities, and  
188 individuals who have a disability, as compared to the relevant  
189 labor market, as defined by the agency. Each executive agency  
190 shall design its affirmative action plan to meet its established  
191 goals.

192 (c) Each executive agency shall annually report to the  
193 department regarding the agency's progress toward increasing  
194 employment among women, minorities, and individuals who have a  
195 disability.

196 ~~(d)(e)~~ An affirmative action-equal employment opportunity  
197 officer shall be appointed by the head of each executive agency.  
198 The affirmative action-equal employment opportunity officer's  
199 responsibilities must include determining annual goals,  
200 monitoring agency compliance, and providing consultation to  
201 managers regarding progress, deficiencies, and appropriate  
202 corrective action.

203 ~~(e)(d)~~ The department shall report information in its

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204 annual workforce report relating to the implementation,  
205 continuance, updating, and results of each executive agency's  
206 affirmative action plan for the previous fiscal year. The annual  
207 workforce report must also include data for each executive  
208 agency relating to employment levels among women, minorities,  
209 and individuals who have a disability.

210 ~~(f)(e)~~ The department shall provide to all supervisory  
211 personnel of the executive agencies training in the principles  
212 of equal employment opportunity and affirmative action, the  
213 development and implementation of affirmative action plans, and  
214 the establishment of annual affirmative action goals. The  
215 department may contract for training services, and each  
216 participating agency shall reimburse the department for costs  
217 incurred through such contract. After the department approves  
218 the contents of the training program for the agencies, the  
219 department may delegate this training to the executive agencies.

220 (3) (a) The department, in consultation with the Agency for  
221 Persons with Disabilities, the Division of Vocational  
222 Rehabilitation and the Division of Blind Services of the  
223 Department of Education, the Department of Economic Opportunity,  
224 and the Executive Office of the Governor, shall develop and  
225 implement programs that incorporate internships, mentoring, on-  
226 the-job training, unpaid work experience, situational  
227 assessments, and other innovative strategies that are  
228 specifically geared toward individuals who have a disability.

229 (b) By January 1, 2017, the department shall develop  
230 mandatory training programs for human resources personnel and  
231 hiring managers of executive agencies which support the  
232 employment of individuals who have a disability.

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233 (c)1. By January 1, 2017, each executive agency shall  
 234 develop an agency-specific plan that addresses how to promote  
 235 employment opportunities for individuals who have a disability.

236 2. The department shall assist executive agencies in the  
 237 implementation of agency-specific plans. The department shall  
 238 regularly report to the Governor, the President of the Senate,  
 239 and the Speaker of the House of Representatives the progress of  
 240 executive agencies in implementing these plans. Such reports  
 241 shall be made at least biannually.

242 (d) The department shall compile data regarding the hiring  
 243 practices of executive agencies with regard to individuals who  
 244 have a disability and make such data available on its website.

245 (e) The department shall assist executive agencies in  
 246 identifying and implementing strategies for retaining employees  
 247 who have a disability which include, but are not limited to,  
 248 training programs, funding reasonable accommodations, increasing  
 249 access to appropriate technologies, and ensuring accessibility  
 250 of physical and virtual workplaces.

251 (f) The department shall adopt rules relating to forms that  
 252 provide for the voluntary self-identification of individuals who  
 253 have a disability who are employed by an executive agency.

254 (g) This subsection does not create any substantive or  
 255 procedural right or benefit enforceable at law or in equity  
 256 against the state or a state agency, or an officer, employee, or  
 257 agent thereof.

258 Section 3. Employment First Act.-

259 (1) SHORT TITLE.-This section may be cited as the  
 260 "Employment First Act."

261 (2) LEGISLATIVE FINDINGS AND INTENT.-The Legislature finds

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262 that employment is the most direct and cost-effective means to  
 263 assist an individual in achieving independence and fulfillment;  
 264 however, individuals with disabilities are confronted by unique  
 265 barriers to employment which inhibit their opportunities to  
 266 compete fairly in the labor force. It is the intent of the  
 267 Legislature to provide a framework for a long-term commitment to  
 268 improving employment outcomes for individuals with disabilities  
 269 in this state through the implementation of this act.

270 (3) PURPOSE.-The purpose of this act is to prioritize  
 271 employment of individuals with disabilities and to change the  
 272 employment system to better integrate individuals with  
 273 disabilities into the workforce. This act encourages a  
 274 collaborative effort between state agencies and organizations to  
 275 achieve better employment outcomes for individuals with  
 276 disabilities.

277 (4) INTERAGENCY COOPERATIVE AGREEMENT.-The following state  
 278 agencies and organizations, and others, as appropriate, shall  
 279 develop an interagency cooperative agreement to implement this  
 280 act:

281 (a) The Division of Vocational Rehabilitation of the  
 282 Department of Education.

283 (b) The Division of Blind Services of the Department of  
 284 Education.

285 (c) The Bureau of Exceptional Education and Student  
 286 Services of the Department of Education.

287 (d) The Agency for Persons with Disabilities.

288 (e) The Substance Abuse and Mental Health Program of the  
 289 Department of Children and Families.

290 (f) The Department of Economic Opportunity.

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291 (g) CareerSource Florida, Inc.  
 292 (h) The Florida Developmental Disabilities Council.  
 293 (i) The Florida Association of Rehabilitation Facilities.  
 294 (j) Other appropriate organizations.  
 295 (5) ROLES, RESPONSIBILITIES, AND OBJECTIVES.—The  
 296 interagency cooperative agreement must identify the roles and  
 297 responsibilities of the state agencies and organizations  
 298 identified in subsection (4) and the objectives of the  
 299 interagency cooperative agreement, which must include all of the  
 300 following:  
 301 (a) Establishing a commitment by leadership of the state  
 302 agencies and organizations to maximize resources and  
 303 coordination to improve employment outcomes for individuals with  
 304 disabilities who seek publicly funded services.  
 305 (b) Developing strategic goals and benchmarks to assist the  
 306 state agencies and organizations in the implementation of this  
 307 agreement.  
 308 (c) Identifying financing and contracting methods that will  
 309 help to prioritize employment for individuals with disabilities  
 310 by state agencies and organizations.  
 311 (d) Establishing training methods to better integrate  
 312 individuals with disabilities into the workforce.  
 313 (e) Ensuring collaborative efforts between multiple  
 314 agencies to achieve the purposes of this act.  
 315 (f) Promoting service innovations to better assist  
 316 individuals with disabilities in the workplace.  
 317 (g) Identifying accountability measures to ensure the  
 318 sustainability of this agreement.  
 319 Section 4. For the 2016-2017 fiscal year, the following

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320 sums are appropriated for the purpose of implementing the  
 321 amendments made by this act to s. 110.112, Florida Statutes,  
 322 relating to the employment of individuals who have a disability:  
 323 (1) The sums of \$138,692 in recurring funds and \$26,264 in  
 324 nonrecurring funds are appropriated from the State Personnel  
 325 System Trust Fund to the Department of Management Services, and  
 326 two full-time equivalent positions with associated salary rate  
 327 of 92,762 are authorized.  
 328 (2) The sum of \$88,285 from the General Revenue Fund and  
 329 the sum of \$76,671 from trust funds are appropriated to  
 330 Administered Funds in the "Special Categories - Transfer to  
 331 Department of Management Services - Human Resources Services  
 332 Purchased per Statewide Contract" appropriations category for  
 333 distribution among agencies.  
 334 Section 5. This act shall take effect July 1, 2016.

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## 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

### JOINT COMMITTEE:

Joint Select Committee on Collective Bargaining

**SENATOR JEREMY RING**

29th District

November 18, 2015

Senator Anitere Flores, Chair  
Committee on Fiscal Policy  
225 Knott Building  
404 South Monroe Street  
Tallahassee, FL 32399

Dear Madam Chair:

I appreciate you including SB 7010, relating to Individuals with Disabilities, on the Committee on Fiscal Policy agenda. Unfortunately, due to a scheduling conflict, I will not be able to present the bill in committee. Therefore, I respectfully request that my Legislative Assistant J.J. Piskadlo be allowed to present the bill on my behalf.

Please do not hesitate to contact me if you or your staff have any questions.

Very Truly Yours,

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

Jeremy Ring  
Senator District 29

cc: Jennifer Hrdlicka, Staff Director  
Tamra Lyon, 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](http://www.flsenate.gov)

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

11-19-15  
Meeting Date

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

SB 7010  
Bill Number (if applicable)

Topic SB 7010 (as amended CS) Amendment Barcode (if applicable)

Name Margaret S. Hooper

Job Title Public Policy Coordinator

Address 124 Marriott Drive #203 Phone 850-921-7263

Street

Tallahassee FL 32301

City

State

Zip

Email Margard@DFDPC.org

Speaking:  For  Against  Information

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

Representing Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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



THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

11-19-2015

Meeting Date

7010

Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name BRIAN PITTS

Job Title Trustee

Address 1119 Newton Ave S.

Phone 727/897-9291

Street

St Petersburg

City

FL

State

33705

Zip

Email \_\_\_\_\_

Speaking:  <sup>in part</sup> For  Against  Information

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

Representing Justice-2-Jesus

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**COMMITTEES:**  
Education Pre-K - 12, Chair  
Ethics and Elections, Vice Chair  
Appropriations Subcommittee on Education  
Fiscal Policy  
Government Oversight and Accountability  
Higher Education

**SENATOR JOHN LEGG**  
17th District

Legg.John.web@FLSenate.gov

November 18, 2015

The Honorable Anitere Flores  
Committee on Fiscal Policy, Chair  
225 Knott Building  
404 South Monroe Street  
Tallahassee, FL 32399

**RE: Excused Absence**

Dear Chair Flores:

I am unable to attend the Committee on Fiscal Policy on Thursday, November 19, 2015 and I respectfully request that this absence be excused. Your leadership and consideration are appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "John Legg".

John Legg  
State Senator, District 17

cc: Jennifer Hrdlicka Staff Director  
Tamra Lyon, Administrative Assistant

**REPLY TO:**

- 262 Crystal Grove Boulevard, Lutz, Florida 33548 (813) 909-9919
- 316 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5017

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

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**COMMITTEES:**  
Regulated Industries, *Vice Chair*  
Appropriations  
Appropriations Subcommittee on General Government  
Banking and Insurance  
Finance and Tax  
Fiscal Policy

### SENATOR GWEN MARGOLIS

35th District

November 19, 2015

Senator Anitere Flores, Chair  
Fiscal Policy Committee  
Suite 413 Senate Office Building  
Tallahassee, Florida 32399-1100

Dear Chair Flores:

This letter is to request that I be excused from the Fiscal Policy Committee meeting which was held on Thursday, November 19, 2015. My inability to attend was due to circumstances beyond my control.

Your consideration of my request would be very much appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Gwen Margolis".

Gwen Margolis  
State Senator District 35

cc: Ms. Jennifer Hrdlicka, Staff Director

**REPLY TO:**

- 3050 Biscayne Boulevard, Suite 600, Miami, Florida 33137 (305) 571-5777
- 414 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5035

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

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

# CourtSmart Tag Report

Room: KN 412

Case No.:

Type:

Caption: Senate Fiscal Policy Committee

Judge:

Started: 11/19/2015 9:02:52 AM

Ends: 11/19/2015 10:18:09 AM Length: 01:15:18

9:02:50 AM Meeting called to order  
9:03:18 AM Vice-Chair Bradley calls the Fiscal Policy Committee to order  
9:03:20 AM Roll call  
9:03:24 AM Quorum present  
9:03:42 AM SB 288 Sen. Smith Presenting  
9:04:04 AM Sen. Smith closes  
9:04:56 AM Roll call on SB 288  
9:05:02 AM SB 288 passes  
9:05:19 AM CS/CS/SB 130  
9:05:48 AM Presented by Sen. Richter's aide Michael Nacheff  
9:06:11 AM Chief Frank Fabrizio FL Police Chiefs Association  
9:07:34 AM Casey Cook FL League of Cities  
9:08:36 AM Sally Everett City of St. Petersburg  
9:08:47 AM Brian Pitts Justice-2-Jesus  
9:11:40 AM Sen. Flores recognized for debate  
9:12:53 AM Michael Nacheff recognized to close  
9:13:53 AM Roll called on CS/CS/SB 130  
9:14:02 AM CS/CS/SB 130 passes  
9:14:17 AM Sen. Flores shown to be voting in favor of SB 288  
9:14:41 AM SB 194 Presented by Sen. Hukill  
9:15:00 AM Sen. Clemens recognized for question  
9:15:59 AM Sen. Hukill with response  
9:16:07 AM Sen. Clemens with follow-up question  
9:16:29 AM Sen. Hukill response  
9:16:52 AM Sen. Clemens response  
9:17:45 AM Sen. Hukill response  
9:17:54 AM Appearances  
9:18:03 AM Darrick McGhee Halifax Health  
9:18:14 AM Brian Pitts Justice-2-Jesus  
9:20:01 AM Sen. Clemens recognized in debate  
9:21:01 AM Sen. Hukill recognized to close  
9:21:38 AM Roll called on SB 194  
9:21:59 AM SB 194 passes  
9:22:17 AM SB 376  
9:22:31 AM SB 376 presented by Sen. Hukill  
9:22:46 AM No objections to taking up PCS  
9:23:06 AM Procedure change  
9:23:50 AM PCS 170500 presented by Sen. Hukill  
9:24:14 AM Appearances  
9:24:55 AM Margaret Hooper FL Developmental Disabilities Council  
9:25:08 AM Brian Pitts Justice-2-Jesus  
9:25:51 AM No debate  
9:26:50 AM Sen. Hukill closes on PCS  
9:26:57 AM PCS 170500 adopted  
9:27:02 AM Roll called on SB 376  
9:27:09 AM CS/SB 376 passes  
9:27:21 AM SB 7010  
9:27:39 AM SB 7010 PCS taken up without objection  
9:27:55 AM Sen. Hukill recognized to explain amendment #382240  
9:29:08 AM Margaret Hooper waives in support  
9:30:09 AM Brian Pitts Justice-2-Jesus  
9:32:43 AM Sen. Hukill recognized to speak on SB 7010 PCS as amended

9:33:42 AM Sen. Hukill recognized to close on the bill as amended  
9:33:55 AM CS/SB 7010 roll call  
9:34:16 AM CS/SB 7010 passes  
9:34:30 AM SB 388 presented by Charlie Anderson, Sen. Detert's aide  
9:34:50 AM Appearances  
9:35:47 AM Margaret Hooper waives in support  
9:35:53 AM Brian Pitts waives time  
9:36:02 AM SB 388 roll call  
9:36:08 AM SB 388 passes  
9:36:20 AM CS/SB 228 presented by Sen. Bean  
9:36:37 AM Appearances  
9:36:55 AM Hon. Nancy Daniels Public Defender Assoc. waives in support  
9:37:10 AM Frank Fabrizio of FL Police Chiefs Assoc. waives in support  
9:37:23 AM Sen. Sachs comment  
9:37:34 AM Senator Bean closes  
9:37:41 AM Roll call on CS/SB 228  
9:37:50 AM CS/SB 228 passes  
9:38:04 AM Sen. Flores turns chair over to Sen. Bradley  
9:38:11 AM Sen. Flores presents CS/SB 416 Location of Utilities  
9:38:24 AM Speakers on CS/SB 416  
9:39:00 AM Casey Reed AT&T waives in support  
9:39:18 AM Megan Samples FL League of Cities  
9:40:46 AM Sen. Hays with question for Ms. Samples  
9:41:47 AM Megan Samples response  
9:41:57 AM Sen. Hays follow-up  
9:42:26 AM Sen. Clemens recognized with question  
9:42:37 AM Megan Samples response  
9:42:44 AM Sen. Clemens with another question  
9:43:29 AM Megan Samples responses  
9:43:32 AM Tracy Hatch with AT&T  
9:48:05 AM Sen. Clemens with question for Mr. Hatch  
9:48:16 AM Tracy Hatch response  
9:48:31 AM Sen. Bradley with question  
9:48:48 AM Tracy Hatch response to Sen. Bradley's question  
9:49:43 AM Sen. Bradley with follow-up  
9:50:43 AM Tracy Hatch response  
9:51:03 AM Sen. Sachs recognized with question  
9:51:41 AM Tracy Hatch response  
9:51:44 AM Sen. Sachs with follow-up question  
9:52:05 AM Tracy Hatch response  
9:52:15 AM Brewster Bevis AIF waives in support  
9:52:48 AM Jim Burch of Cape Coral recognized to speak  
10:04:10 AM Sen. Hays with question for Jim Burch  
10:05:10 AM Jim Burch response  
10:05:17 AM Sen. Hays with follow-up question  
10:05:22 AM Jim Burch response  
10:06:39 AM Frank Walker III FL Chamber of Commerce waives in support  
10:07:40 AM Doug Mannheimer with Sprint waives in support  
10:07:51 AM Jim Smith with Century Link waives in support  
10:08:01 AM Brett Bacot with City of Ft. Meyers waives in opposition  
10:08:14 AM Charles Dudley of FL Cable Telecom. Assoc. waives in support  
10:08:32 AM Brian Pitts with Justice-2-Jesus recognized to speak  
10:09:50 AM Debate on CS/SB 416  
10:10:50 AM No debate  
10:11:02 AM Sen. Flores recognized to close  
10:15:59 AM Roll call on CS/SB 416  
10:17:00 AM CS/SB 416 passes  
10:17:22 AM Chair turned back over to Sen. Flores  
10:17:28 AM Motion by Sen. Abruzzo to be shown as voting "yea" for the bills he missed  
10:17:49 AM Motion by Senator Bean to be shown on the record as voting "yea" for the bills he missed  
10:18:00 AM Adjourned