

<b>Tab 1</b>	<b>SB 20 by Diaz de la Portilla;</b> (Similar to CS/H 3517) Relief of Zaldivar and Campos by Orange County						
322574	A	S	RCS	FP, Hukill	Delete L.69 - 72.	02/24 05:35 PM	
<b>Tab 2</b>	<b>CS/SB 46 by JU, Flores;</b> (Identical to CS/H 3525) Relief of Melvin and Alma Colindres by the City of Miami						
<b>Tab 3</b>	<b>CS/SB 124 by GO, Evers;</b> (Similar to CS/CS/H 0095) Public-private Partnerships						
<b>Tab 4</b>	<b>CS/SB 126 by GO, Evers;</b> (Similar to H 0097) Public Records and Public Meetings/Public-private Partnerships						
<b>Tab 5</b>	<b>SB 268 by Ring;</b> (Similar to CS/H 0229) Bullying and Harassment Policies in Schools						
<del>632060</del>	A	S	WD	FP, Clemens	btw L.19 - 20:	02/24 05:36 PM	
292820	A	S	RCS	FP, Clemens	Delete L.33 - 53:	02/24 05:36 PM	
<b>Tab 6</b>	<b>CS/SB 332 by TR, Altman;</b> (Similar to CS/CS/H 0253) Highway Safety						
274136	A	S	RCS	FP, Clemens	Delete L.642:	02/24 05:36 PM	
793960	A	S	UNFAV	FP, Bean	btw L.706 - 707:	02/24 05:36 PM	
<b>Tab 7</b>	<b>SB 418 by Smith (CO-INTRODUCERS) Thompson;</b> (Similar to H 0093) Law Enforcement Officer Body Cameras						
<b>Tab 8</b>	<b>CS/CS/SB 562 by CM, BI, Stargel (CO-INTRODUCERS) Gaetz;</b> (Similar to CS/H 0713) Consumer Debt Collection						
216992	D	S	RCS	FP, Stargel	Delete everything after	02/24 05:36 PM	
<b>Tab 9</b>	<b>CS/SB 706 by RI, Altman;</b> (Similar to H 0223) Culinary Education Programs						
<del>967092</del>	A	S	L WD	FP, Sachs	Delete L.59 - 60:	02/24 05:36 PM	
<b>Tab 10</b>	<b>SB 764 by Hays;</b> (Identical to H 0633) Public Food Service Establishments						
<b>Tab 11</b>	<b>CS/CS/SB 768 by CA, RI, Flores;</b> (Similar to CS/H 0779) Alarm Systems						
397592	A	S	RCS	FP, Flores	Delete L.40 - 59.	02/24 05:36 PM	
<b>Tab 12</b>	<b>CS/CS/SB 938 by CM, HP, Benacquisto;</b> (Similar to CS/CS/H 0691) Retail Sale of Dextromethorphan						
<b>Tab 13</b>	<b>CS/SB 1126 by ED, Detert (CO-INTRODUCERS) Richter;</b> (Compare to H 0991) Auditory-oral Education Programs						
<b>Tab 14</b>	<b>CS/SB 1160 by ED, Detert;</b> (Similar to CS/H 0701) Art in the Capitol Competition						
<b>Tab 15</b>	<b>CS/SB 1190 by CA, Diaz de la Portilla;</b> (Similar to CS/CS/H 1361) Growth Management						
<b>Tab 16</b>	<b>SB 1226 by Ring;</b> (Identical to H 0981) Administrative Procedures						
<b>Tab 17</b>	<b>SB 1402 by Simmons;</b> (Identical to H 7073) Ratification of Department of Financial Services Rules						

<b>Tab 18</b>	<b>CS/SB 1454</b> by <b>EP, Hutson</b> ; (Similar to CS/1ST ENG/H 0703) Vessels						
932594	A	S	RCS	FP, Bean	Delete L.54 - 55:	02/24 05:36 PM	

<b>Tab 19</b>	<b>CS/SB 1490</b> by <b>BI, Garcia (CO-INTRODUCERS) Soto</b> ; (Similar to CS/H 1233) Federal Home Loan Banks						
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<b>Tab 20</b>	<b>SB 1498</b> by <b>Benacquisto</b> ; (Similar to H 1205) Pest Control						
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<b>Tab 21</b>	<b>SB 1664</b> by <b>Stargel</b> ; (Identical to H 0773) Special Assessments on Agricultural Lands						
461232	A	S	RCS	FP, Stargel	Delete L.28 - 39:	02/24 05:36 PM	

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

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

**MEETING DATE:** Wednesday, February 24, 2016  
**TIME:** 10:00 a.m.—12:00 noon  
**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>SB 20</b> Diaz de la Portilla (Similar CS/H 3517)	Relief of Zaldivar and Campos by Orange County; Providing for the relief of Rafael Zaldivar and Kyoko Zaldivar, parents of Alex Zaldivar, deceased, individually and as co-personal representatives of the Estate of Alex Zaldivar, and Brienna Campos and Remington Campos by Orange County; providing for an appropriation to compensate Rafael Zaldivar and Kyoko Zaldivar for the death of Alex Zaldivar and to compensate Brienna Campos and Remington Campos for the injuries and damages they sustained as a result of the negligence of Orange County; providing a limitation on the payment of fees and costs, etc.  SM JU 02/09/2016 Favorable CA 02/16/2016 Favorable FP 02/24/2016 Fav/CS	Fav/CS Yeas 11 Nays 0
2	<b>CS/SB 46</b> Judiciary / Flores (Identical CS/H 3525)	Relief of Melvin and Alma Colindres by the City of Miami; Providing for the relief of Melvin and Alma Colindres by the City of Miami; providing for an appropriation to compensate them for the wrongful death of their son, Kevin Colindres, which occurred as a result of the negligence of police officers of the City of Miami; providing a limitation on the payment of fees and costs, etc.  SM JU 01/26/2016 Fav/CS CA 02/16/2016 Favorable FP 02/24/2016 Favorable	Favorable Yeas 11 Nays 0
3	<b>CS/SB 124</b> Governmental Oversight and Accountability / Evers (Similar CS/CS/H 95, Compare H 97, Linked CS/S 126)	Public-private Partnerships; Deleting provisions creating the Public-Private Partnership Guidelines Task Force; requiring a private entity that submits an unsolicited proposal to pay an initial application fee and additional amounts if the fee does not cover certain costs; deleting provisions relating to notice to affected local jurisdictions; authorizing a negotiated portion of revenues from fee-generating uses to be returned to the responsible public entity, etc.  CA 11/17/2015 Favorable GO 02/01/2016 Fav/CS FP 02/24/2016 Favorable	Favorable Yeas 11 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Fiscal Policy

Wednesday, February 24, 2016, 10:00 a.m.—12:00 noon

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>CS/SB 126</b> Governmental Oversight and Accountability / Evers (Similar H 97, Compare CS/CS/H 95, Linked CS/S 124)	Public Records and Public Meetings/Public-private Partnerships; Transferring, renumbering, and amending provisions relating to public-private partnerships for public facilities and infrastructure; providing an exemption from public records requirements for a specified period for unsolicited proposals received by a responsible public entity; providing an exemption from public records requirements for a specified period for the recording of, and any records generated during, a closed meeting; providing for future legislative review and repeal of the exemptions; providing a statement of public necessity, etc.  CA 11/17/2015 Favorable GO 02/01/2016 Fav/CS FP 02/24/2016 Favorable	Favorable Yeas 10 Nays 1
5	<b>SB 268</b> Ring (Similar CS/H 229)	Bullying and Harassment Policies in Schools; Requiring school districts to revise their bullying and harassment policy at specified intervals; requiring the policy to include mandatory reporting procedures and a list of authorized programs that provide bullying and harassment identification, prevention, and response instruction, etc.  ED 02/02/2016 Favorable AED 02/11/2016 Favorable FP 02/17/2016 Not Considered FP 02/24/2016 Fav/CS	Fav/CS Yeas 11 Nays 0
With subcommittee recommendation – Education			
6	<b>CS/SB 332</b> Transportation / Altman (Similar CS/CS/H 253)	Highway Safety; Revising provisions relating to the passing of a vehicle; exempting bicycles from provisions for passing a vehicle on the right under certain circumstances; revising provisions for turning at intersections; requiring motor vehicle operators to allow a group of bicycles to travel through an intersection under certain circumstances, etc.  TR 01/27/2016 Fav/CS CJ 02/08/2016 Not Considered CJ 02/16/2016 Favorable FP 02/24/2016 Fav/CS	Fav/CS Yeas 11 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Fiscal Policy

Wednesday, February 24, 2016, 10:00 a.m.—12:00 noon

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	<b>SB 418</b> Smith (Similar H 93)	Law Enforcement Officer Body Cameras; Requiring a law enforcement agency that authorizes its law enforcement officers to wear body cameras to establish policies and procedures addressing the proper use, maintenance, and storage of body cameras and the data recorded by body cameras; requiring such policies and procedures to include specified information; requiring that data recorded by body cameras be retained in accordance with specified requirements, etc.  CJ 02/01/2016 Favorable CA 02/16/2016 Favorable FP 02/24/2016 Favorable	Favorable Yeas 11 Nays 0
8	<b>CS/CS/SB 562</b> Commerce and Tourism / Banking and Insurance / Stargel (Similar CS/H 713)	Consumer Debt Collection; Authorizing a debtor to individually notify a person that is represented by an attorney under certain circumstances; providing that an original creditor is not liable for a violation of prohibited communication practices if the debtor or the debtor's attorney fails to provide certain notice or information; providing that an original creditor must cease direct communication with the debtor under certain circumstances, etc.  BI 01/19/2016 Fav/CS CM 02/01/2016 Fav/CS FP 02/17/2016 Not Considered FP 02/24/2016 Fav/CS	Fav/CS Yeas 7 Nays 4
9	<b>CS/SB 706</b> Regulated Industries / Altman (Similar H 223, CS/CS/H 249)	Culinary Education Programs; Providing for the applicability of Department of Health sanitation rules to a licensed culinary education program; authorizing a culinary education program with a public food service establishment license to obtain an alcoholic beverage license under certain conditions; authorizing the Division of Alcoholic Beverages and Tobacco to adopt rules to administer such licenses, etc.  RI 02/09/2016 Fav/CS HP 02/16/2016 Favorable FP 02/24/2016 Favorable	Favorable Yeas 11 Nays 0
10	<b>SB 764</b> Hays (Identical H 633)	Public Food Service Establishments; Revising the definition of the term "public food service establishment" to exclude certain events; clarifying that a food service license is not required to be obtained if an event is excluded under the definition of the term "public food service establishment", etc.  HP 01/26/2016 Favorable RI 02/02/2016 Favorable FP 02/17/2016 Not Considered FP 02/24/2016 Favorable	Favorable Yeas 11 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Fiscal Policy

Wednesday, February 24, 2016, 10:00 a.m.—12:00 noon

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
11	<b>CS/CS/SB 768</b> Community Affairs / Regulated Industries / Flores (Similar CS/H 779, Compare H 1187, CS/S 1050)	Alarm Systems; Exempting certain persons from initial training for burglar alarm system agents; providing for written consent to an alarm system monitoring company to contact a law enforcement agency; providing a uniform process for the registration of home and business alarm systems under certain circumstances; requiring the owner, lessee, or occupant, or an authorized representative thereof, of a property to register an alarm system within 20 days after occupancy or after installation of the alarm system, etc.  RI 01/27/2016 Fav/CS CA 02/09/2016 Fav/CS FP 02/24/2016 Fav/CS	Fav/CS Yeas 11 Nays 0
12	<b>CS/CS/SB 938</b> Commerce and Tourism / Health Policy / Benacquisto (Similar CS/CS/H 691)	Retail Sale of Dextromethorphan; Prohibiting a manufacturer, distributor, or retailer, or its employees and representatives, from knowingly or willfully selling a finished drug product containing dextromethorphan to a person younger than 18 years of age; prohibiting a person younger than 18 years of age from purchasing a finished drug product containing dextromethorphan, etc.  HP 01/19/2016 Fav/CS CM 02/16/2016 Fav/CS FP 02/24/2016 Favorable	Favorable Yeas 11 Nays 0
13	<b>CS/SB 1126</b> Education Pre-K - 12 / Detert (Compare H 991)	Auditory-oral Education Programs; Requiring a school district to add a specified number of points to the calculation of a matrix of services for a student who is deaf and enrolled in an auditory-oral education program, etc.  ED 02/02/2016 Fav/CS AED 02/17/2016 Favorable FP 02/24/2016 Favorable	Favorable Yeas 11 Nays 0
With subcommittee recommendation – Education			
14	<b>CS/SB 1160</b> Education Pre-K - 12 / Detert (Similar CS/H 701)	Art in the Capitol Competition; Creating the Art in the Capitol Competition for students in specified grades; specifying procedures for student participation, notification, and the selection and display of winning submissions, etc.  ED 02/02/2016 Fav/CS AGG 02/17/2016 Favorable FP 02/24/2016 Favorable	Favorable Yeas 11 Nays 0
With subcommittee recommendation – General Government			

**COMMITTEE MEETING EXPANDED AGENDA**

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Wednesday, February 24, 2016, 10:00 a.m.—12:00 noon

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
15	<b>CS/SB 1190</b> Community Affairs / Diaz de la Portilla (Similar CS/CS/H 1361, Compare CS/S 7000)	Growth Management; Authorizing the governing body of a county to employ tax increment financing; specifying that certain developments must follow the state coordinated review process; establishing deadlines for the state land planning agency to take action on recommended orders relating to certain plan amendments; providing criteria under which one approved land use may be submitted for another approved land use in certain land development agreements under certain circumstances; specifying conditions under which certain proposed developments are not required to undergo the state-coordinated review process, etc.  CA 01/26/2016 Fav/CS ATD 02/17/2016 Favorable FP 02/24/2016 Favorable RC	Favorable Yeas 11 Nays 0
	With subcommittee recommendation – Transportation, Tourism, and Economic Development		
16	<b>SB 1226</b> Ring (Identical H 981)	Administrative Procedures; Providing additional requirements for the calculation of estimated adverse impacts and regulatory costs, etc.  GO 01/26/2016 Favorable AGG 02/11/2016 Favorable FP 02/17/2016 Not Considered FP 02/24/2016 Favorable	Favorable Yeas 11 Nays 0
	With subcommittee recommendation – General Government		
17	<b>SB 1402</b> Simmons (Identical H 7073)	Ratification of Department of Financial Services Rules; Ratifying a specified rule relating to the Florida Workers' Compensation Health Care Provider Reimbursement Manual for the sole and exclusive purpose of satisfying any condition on effectiveness pursuant to s. 120.541(3), F.S., which requires ratification of any rule exceeding the specified thresholds for likely adverse impact or increase in regulatory costs; providing applicability, etc.  BI 02/01/2016 Favorable FP 02/24/2016 Favorable	Favorable Yeas 11 Nays 0
18	<b>CS/SB 1454</b> Environmental Preservation and Conservation / Hutson (Similar CS/H 703)	Vessels; Requiring the issuance and use of a safety inspection decal under certain circumstances; prohibiting law enforcement officers from stopping a vessel for a specified purpose under certain circumstances; providing an exception, etc.  EP 02/09/2016 Fav/CS ACJ 02/17/2016 Favorable FP 02/24/2016 Fav/CS	Fav/CS Yeas 11 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

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Wednesday, February 24, 2016, 10:00 a.m.—12:00 noon

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
With subcommittee recommendation – Criminal and Civil Justice			
19	<b>CS/SB 1490</b> Banking and Insurance / Garcia (Similar CS/H 1233)	Federal Home Loan Banks ; Providing that certain records requirements do not prevent or restrict the furnishing of certain information held by the Office of Financial Regulation to the Federal Home Loan Banks pursuant to an information-sharing agreement; requiring the office to execute such agreement by a specified date, etc.  BI 02/01/2016 Fav/CS GO 02/16/2016 Favorable FP 02/24/2016 Favorable	Favorable Yeas 11 Nays 0
20	<b>SB 1498</b> Benacquisto (Similar H 1205)	Pest Control; Authorizing the Department of Agriculture and Consumer Services to specify the circumstances when a written, 24-hour advance notice of fumigation to the department is not required; requiring the department to adopt rules that require certain safety measures for clearance of residential structures after fumigation, etc.  AG 02/01/2016 Favorable AGG 02/17/2016 Favorable FP 02/24/2016 Favorable	Favorable Yeas 11 Nays 0
With subcommittee recommendation – General Government			
21	<b>SB 1664</b> Stargel (Identical H 773)	Special Assessments on Agricultural Lands; Prohibiting counties and municipalities from levying or collecting special assessments on certain agricultural lands for the provision of fire protection services, etc.  CA 01/26/2016 Favorable FT 02/16/2016 Favorable FP 02/24/2016 Fav/CS	Fav/CS Yeas 11 Nays 0
Other Related Meeting Documents			
An electronic copy of the Appearance Request form is available to download from any Senate Committee page on the Senate's website, <a href="http://www.flsenate.gov">www.flsenate.gov</a> .			





## THE FLORIDA SENATE

### SPECIAL MASTER ON CLAIM BILLS

**Location**

302 Senate Office Building

**Mailing Address**

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

DATE	COMM	ACTION
01/08/16	SM	Unfavorable
02/08/16	JU	Favorable
02/16/16	CA	Favorable
02/25/16	FP	Fav/CS

January 8, 2016

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

Re: **SB 20** – Senator Miguel Diaz de la Portilla  
**HB 3517** – Representative Randolph Bracy  
Relief of Zaldivar and Campos by Orange County

### SPECIAL MASTER'S FINAL REPORT

THIS IS AN UNOPPOSED EQUITABLE CLAIM FOR LOCAL FUNDS IN THE TOTAL AMOUNT OF \$400,000 (\$200,000 FOR THE ESTATE OF ALEX ZALDIVAR AND \$100,000 A PIECE FOR BRIENNA AND REMINGTON CAMPOS) AGAINST ORANGE COUNTY FOR NEGLIGENCE IN FAILING TO MONITOR BESSMAN OKAFOR, A DETAINEE OF THE COUNTY ON RELEASE WITH AN ANKLE MONITOR WHILE AWAITING TRIAL FOR A HOME INVASION ROBBERY, WHO, ON SEPTEMBER 10, 2012, RETURNED TO THE SCENE OF THE ROBBERY, SHOT AND INJURED BRIENNA AND REMINGTON CAMPOS, AND SHOT AND KILLED ALEX ZALDIVAR.

#### FINDINGS OF FACT:

On May 9, 2012, at approximately 3:00 p.m., Alex Zaldivar, Brienna Campos, Brandon Campos, and William Herrington were robbed at gun point by two men while at home in Orange County. The incident occurred at a home owned by the parents of Brienna, Brandon, and Remington Campos<sup>1</sup> in

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<sup>1</sup> Remington Campos was living at the home but was not at home at the time of the initial home invasion.

which all three lived along with Alex Zaldivar.<sup>2</sup> The men forced the victims to lie on the floor with their hands tied by electronic cords while they ransacked the house stealing cash, jewelry, and electronics. After the men left, 911 was called and officers from the Ocoee Police Department and the Orange County Sheriff's Office responded. The police were quickly able to locate and arrest Bessman Okafor (Okafor) and Nolan Bernard due to an application on one of the stolen cell phones that allowed its location to be tracked via the internet. Okafor spent nearly 40 days in jail after his arrest and was subsequently released on bond into Orange County's Home Confinement Program. Despite assurances by police that they would be informed, the plaintiffs<sup>3</sup> were not aware that Okafor had been released from jail.

On June 24, 2012, Okafor reported to the Home Confinement Program within the Orange County Corrections Office and received an ankle monitor. While in the Home Confinement Program, Okafor repeatedly violated curfew and his ankle monitor base unit lost power or its phone line connection on numerous occasions. However, he was never charged with violating the conditions of his release, never removed from the Home Confinement Program, and never had his bond revoked.

Between the time of Okafor's release and the events of September 10, 2012, the plaintiffs were visited on three occasions by Okafor's mother who offered them various forms of compensation in exchange for not testifying against Okafor. The plaintiffs refused and, after the third time, reported the visits to the Ocoee police.

On the morning of September 10, 2012, at approximately 5:00 a.m., Brienna Campos, Remington Campos, and Alex Zaldivar were at their home sleeping when Okafor and multiple accomplices broke in. They were armed with semi-automatic handguns and an AK-47 assault rifle. They proceeded to drag Brienna, Remington, and Alex from their beds and shoot each one in the head. Brienna and Remington survived the assault and were able to obtain help from a neighbor. Alex died from his wounds.

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<sup>2</sup> Brienna, Remington, and Brandon Campos are siblings and all three lived at the house at the time of the initial home invasion along with Alex Zaldivar. William Herrington was a friend of the roommates who was visiting them on that day.

<sup>3</sup> The plaintiffs in this case are the estate of Alex Zaldivar, and both Remington and Brienna Campos.

The neighbor called 911 and Brienna and Remington were admitted to Orlando Regional Medical Center at approximately 6:00 a.m. Both were treated for gunshot wounds to the head and released after an overnight stay. Brienna and Remington's medical bills from the hospital stay totaled approximately \$20,000 each. Both continue to suffer from physical and mental side effects from the gunshot wounds as well as the assault in general.

Testimony revealed that Alex's death has been difficult for his family and friends. Alex was described as a bright and likeable 19-year-old when he was murdered; and his parents, Rafael and Kyoko Zaldivar, as well as his brother Rafael Zaldivar, Jr., have suffered an immeasurable loss from which they will likely never fully recover. Additionally, Alex's death has left permanent emotional scars on Brienna and Remington who witnessed his murder.

Both Brienna and Remington continue to suffer from frequent migraines and Brienna has extensive short term memory loss. Psychologically, both suffer from a significant fear of strangers and trouble sleeping. The physical and psychological effects of the assault have impeded Brienna's and Remington's abilities to function normally and perform everyday activities. For example, Brienna's memory loss hinders her performance in school and Remington's fear of strangers prevents him from allowing his son to play normally with other children.

The plaintiffs sent a settlement demand to representatives of Orange County alleging that Orange County's negligence in operating its Home Confinement Program led to the injuries sustained by the plaintiffs. Ultimately, the plaintiffs settled with Orange County and agreed to release the county of all liability regarding their cases. The estate of Alex Zaldivar settled with Orange County on September 8, 2014, in the amount of \$300,000 of which \$100,000 has been paid by the county. Brienna and Remington Campos settled with Orange County on September 5, 2014, in the amount of \$200,000 each, of which \$100,000 has been paid to each. Orange County is self-insured for such damages up to \$1 million. In the settlement agreements, the county also agreed to an unopposed claim bills filed for the remaining amounts of the settlements on behalf of the plaintiffs.

From the settlement amounts received by each, \$1,442.73 has been deducted from the payment to Remington Campos, \$2,027.65 has been deducted from the payment to Brienna Campos, and \$5,442.73 has been deducted from the payment to Alex Zaldivar's estate to pay for attorney costs. Additionally, \$20,000 has been held in escrow for Brienna, \$40,000 for Remington,<sup>4</sup> and \$5,000 for the estate of Alex Zaldivar to cover any remaining costs and medical liens. Attorney fees have been waived for all three litigants and lobbying fees will be assessed totaling 5 percent of the amount received from the claim bill (a total of \$20,000 between all three plaintiffs).

CONCLUSIONS OF LAW:

In general, the "responsibility to enforce the laws for the good of the public cannot engender a duty to act with care toward any one individual, unless an official assumes a special duty with regard to that person."<sup>5</sup> It is demonstrated in the record of the case that Orange County employees acted negligently in ignoring numerous violations committed by Okafor while he was under the control of the Home Confinement Program. Additionally, there are clear economic and non-economic damages to the plaintiffs that were both actually and proximately caused from such negligence.<sup>6</sup> However, it is less clear whether or not a special duty was owed to the plaintiffs in this case which would give rise to liability.

A law enforcement officer does not owe a duty of care to an individual unless there is a special duty of care created.<sup>7</sup> Plaintiffs argue that in this case a special duty was created by the plaintiffs' agreement to testify in the armed robbery case against Okafor and by the plaintiffs' actions reporting Okafor's mother to police after she approached them with bribes in order to secure their silence. In order to support their argument, plaintiffs point to the case *Schuster v. City of New York*<sup>8</sup> which was treated favorably in Florida in *Everton v. Willard*. In *Schuster*, the court states that law enforcement "owes a special duty to use reasonable care for the protection of persons who have collaborated with it in the arrest and

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<sup>4</sup> The escrow account for Remington Campos is larger due to uncertainty at the time regarding the amount of hospital bills and the number of payors of such bills. Remington should be receiving the majority of the funds held in escrow. *Email from Pedro Echarte, Plaintiffs' attorney, on Dec. 23, 2015.*

<sup>5</sup> 28 Fla. Jur 2d Government Tort Liability s. 49.

<sup>6</sup> Wrongful death claims are allowed against state agencies and subdivisions by s. 768.28(6)(a)2., F.S., if the original claim is presented to the state within 2 years of the event from which the claim arises.

<sup>7</sup> *Everton v. Willard*, 468 So. 2d 936, 938 (Fla. 1985).

<sup>8</sup> *Schuster v. City of New York*, 5 N.Y. 2d 75 (N.Y. 1958).

prosecution of criminals, once it reasonably appears that they are in danger due to their collaboration.”<sup>9</sup>

In *Schuster*, the plaintiff was a young man who informed police of the whereabouts of a notorious criminal who was subsequently arrested. Schuster’s involvement in the arrest was widely publicized and he received death threats of which he notified the police and asked for protection, which was not provided. Though the facts are somewhat similar in this case, the plaintiffs were witnesses testifying for the state, the plaintiffs reported Okafor’s mother to the police, and the police failed to inform the plaintiffs that Okafor was released on bond. There is no evidence that shows that the plaintiffs were threatened by Okafor or his accomplices or that Orange County knew, or should have known, that the plaintiffs were in danger from their participation in the trial.

As such, in this special master’s opinion there is no special duty of care created in this case and therefore Orange County is not legally liable for such damages.

ATTORNEYS FEES:

The plaintiffs’ attorneys have agreed to limit their lobbying and attorney fees to 25 percent. According to the closing statements provided, lobbying fees will be charged in the amount of 5 percent of the amount awarded (\$5,000 from the awards to Brienna and Remington Campos, each, and \$10,000 from the award to Rafael and Kyoko Zaldivar for a total of \$20,000) and attorney fees have been waived. Additionally, lines 69-72 of SB 20 allow attorney costs to be collected. These costs total \$9,103.83, not including costs associated with the Special Master Hearing held on November 9, 2015.

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<sup>9</sup> *Id.* at 537.

RECOMMENDATIONS:

Due to the conclusions drawn above, the undersigned recommends that SB 20 be reported UNFAVORABLY.

Respectfully submitted,

Daniel Looke  
Senate Special Master

cc: Secretary of the Senate

**CS by Fiscal Policy:**

Removes unnecessary language from the bill related to taxable costs.



322574

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/24/2016	.	
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	.	

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

- 1        **Senate Amendment**
- 2
- 3        Delete lines 69 - 72.



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:  
Judiciary, *Chair*  
Appropriations Subcommittee on Transportation,  
Tourism, and Economic Development  
Community Affairs  
Finance and Tax  
Regulated Industries  
Rules

**SENATOR MIGUEL DIAZ de la PORTILLA**  
40th District

February 16, 2016

The Honorable Anitere Flores  
Chair  
Fiscal Policy Committee

Via Email

Dear Chair Flores:

I would appreciate it if you would agenda the following bill at your next committee meeting:

SB 20 (2016) Relief of Zaldivar and Campos by Orange County  
<http://www.flsenate.gov/Session/Bill/2016/0020>  
SENATE - Now in Fiscal Policy

Thank you for your consideration.

Sincerely,

Miguel Diaz de la Portilla  
Senator, District 40

Cc: Ms Jennifer Hrdlicka, Staff Director; Ms. Tamra Lyon, Committee Administrative Assistant

REPLY TO:

- 2100 Coral Way, Suite 505, Miami, Florida 33145 (305) 643-7200
- 406 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5040

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

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore





## THE FLORIDA SENATE

### SPECIAL MASTER ON CLAIM BILLS

**Location**  
302 Senate Office Building

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

DATE	COMM	ACTION
01/07/16	SM	Fav/1 amendment
01/27/16	JU	Fav/CS
02/16/16	CA	Favorable
02/23/16	FP	Favorable

January 7, 2016

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

Re: **CS/SB 46** – Judiciary Committee and Senator Flores  
**HB 3525** – Representative Frank Artiles  
Relief of Melvin and Alma Colindres by the City of Miami

#### SPECIAL MASTER'S FINAL REPORT

THIS IS A CONTESTED CLAIM FOR \$2,550,000 BASED ON A FINAL JUDGMENT, ENTERED FOLLOWING A NON-BINDING ARBITRATION, FOR MELVIN AND ALMA COLINDRES AND THE ESTATE OF THEIR SON, KEVIN COLINDRES, AGAINST THE CITY OF MIAMI TO COMPENSATE CLAIMANTS FOR THE DEATH OF KEVIN COLINDRES, WHICH OCCURRED WHILE IN POLICE CUSTODY.

#### CURRENT STATUS:

On December 7, 2010, an administrative law judge from the Division of Administrative Hearings, serving as a Senate special master, held a de novo hearing on a previous version of this bill, SB 54 (2011). After the hearing, the judge issued a report containing findings of fact and conclusions of law and recommended that the bill be reported favorably with amendments. That report is attached as an addendum to this report.

Due to the passage of time since the hearing, the Senate President reassigned the claim to me as Special Master. My responsibilities were to review the records relating to the claim bill, be available for questions from the members, and determine whether any changes have occurred since the

hearing, which if known at the hearing, might have significantly altered the findings or recommendation in the previous report.

Review of correspondence and documents submitted by counsel for the claimants indicate that no changes have occurred since the hearing which might have altered the findings and recommendations in the report.

The prior claim bill, SB 54 (2011), as filed, is effectively identical to the claim bill filed for the 2016 Regular Legislative Session. Therefore, the previous Special Master report is applicable to the current claim bill. However, the current claim bill does not include amendments that were made to SB 54 (2011). One amendment was made in committee to adopt the Special Master's recommendations for revision of factual statements in the bill. This amendment was based on the Special Master's factual findings, and I recommend the same amendment to the current bill. Senate Bill 54 (2011) was also amended on the floor to reduce the amount of the claim from \$2,550,000 to \$550,000.

One difference between the current claim bill and SB 54 (2011) is that the current bill states that the police officers who arrived at the Colindreses' home "were required, according to the City of Miami's policies and procedures, to have been trained on interaction with and restraint of persons with intellectual disabilities." Senate Bill 54 (2011) stated that the officers "were supposed to have been trained on interaction with and restraint of the mentally ill." While the previous Special Master and I found evidence to support the original statement, I did not find evidence in the record to support the more specific statement in the current claim bill. Therefore, I recommend that this Finding of Fact be amended accordingly.

Respectfully submitted,

Scott Clodfelter  
Senate Special Master

cc: Secretary of the Senate

**CS by Judiciary:**

The committee substitute reduces the amount of the claim in the underlying bill to \$550,000 from \$2.55 million.



The Florida Senate

## Committee Agenda Request

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

**Subject:** Committee Agenda Request

**Date:** February 16, 2016

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I respectfully request that **Senate Bill # 46**, relating to Relief of Melvin and Alma Colindres by the City of Miami, be placed on the:

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

*Anitere Flores*

---

Senator Anitere Flores  
Florida Senate, District 37

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

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

February 24, 2016

*Meeting Date*

46

*Bill Number (if applicable)*

Topic Colindres claim bill

*Amendment Barcode (if applicable)*

Name Jason Unger

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

Address 301 South Bronough Street , #600

Phone 577-9090

*Street*

Tallahassee

FL

32312

Email junger@gray-robinson.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

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

Representing Meadowbrook Insurance

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 124

**INTRODUCER:** Governmental Oversight and Accountability Committee and Senator Evers

**SUBJECT:** Public-private Partnerships

**DATE:** February 23, 2016      **REVISED:** \_\_\_\_\_

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	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cochran</u>	<u>Yeatman</u>	<u>CA</u>	<b>Favorable</b>
2.	<u>Kim</u>	<u>McVaney</u>	<u>GO</u>	<b>Fav/CS</b>
3.	<u>Jones</u>	<u>Hrdlicka</u>	<u>FP</u>	<b>Favorable</b>

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 124 implements many of the recommendations of the statutorily created Partnership for Public Facilities and Infrastructure Act Guidelines Task Force to create a uniform process for public entities to engage in public-private partnerships (P3s). The bill clarifies that the P3 process must be construed as cumulative and supplemental, or alternative, to any other authority or power vested in the governing body of a county, municipality, special district, or municipal hospital or health care system.

The bill revises the list of entities authorized to conduct P3s to include special districts and school districts (rather than school boards).

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

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

The bill provides that if an unsolicited proposal involves architecture, engineering, or landscape engineering, the professional hired to evaluate or create the design criteria packaged must be retained until the entire project is completed.

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

The bill is expected to have a minimal fiscal impact on the Department of Management Services. See Section V. Fiscal Impact Statement.

## II. Present Situation:

### **Partnership for Public Facilities and Infrastructure Act Guidelines Task Force**

Section 287.05712(3), F.S., created the Partnership for Public Facilities and Infrastructure Act Guidelines Task Force (task force). The task force was created to recommend guidelines for the Legislature to consider for purposes of creating a uniform public-private partnership (P3) process across the state.<sup>1</sup> The seven-member task force was comprised of the Secretary of the Department of Management Services (department) and six members appointed by the Governor representing county government, municipal government, district school boards, and the business community. The department provided administrative and technical support to the task force.

In July 2014, the task force completed its duties and submitted a final report of its recommendations.<sup>2</sup> The task force was disbanded on December 31, 2014.<sup>3</sup>

### **Background**

Public-private partnerships are contractual agreements formed between public entities and private sector entities that allow for greater private sector participation in the delivery and financing of public building and infrastructure projects. Through these agreements, the skills and assets of each sector, public and private, are shared in delivering a service or facility for use by the general public. In addition to the sharing of resources, each party shares in the risks and rewards potential in the delivery of the service or facility.<sup>4</sup>

Section 287.05712, F.S., governs the procurement process for P3s for public purpose projects. It authorizes a responsible public entity to enter into a P3 for a specified qualifying project if the responsible public entity determines the project is in the public's best interest.<sup>5</sup>

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<sup>1</sup> Section 287.05712(3)(a), F.S.

<sup>2</sup> Partnership for Public Facilities and Infrastructure Act Guidelines Task Force, *Final Report and Recommendations* (July 2014) available at [http://www.dms.myflorida.com/agency\\_administration/communications/partnership\\_for\\_public\\_facilities\\_infrastructure\\_act](http://www.dms.myflorida.com/agency_administration/communications/partnership_for_public_facilities_infrastructure_act) (last visited February 9, 2016).

<sup>3</sup> Section 287.05712(3)(f), F.S.

<sup>4</sup> United States Department of Transportation, The Federal Highway Administration, Innovative Program Delivery, *P3 Defined*, available at <http://www.fhwa.dot.gov/ipd/p3/defined/index.htm> (last visited on February 9, 2016).

<sup>5</sup> Section 287.05712(4)(d), F.S.

A “responsible public entity” is defined as a county, municipality, school board, or any other political subdivision of the state; a public body politic and corporate; or a regional entity that serves a public purpose and is authorized to develop or operate a qualifying project.<sup>6</sup>

A “qualifying project” is defined as:

- A facility or project that serves a public purpose, including any ferry or mass transit facility, vehicle parking facility, airport or seaport facility, rail facility or project, fuel supply facility, oil or gas pipeline, medical or nursing care facility, recreational facility, sporting or cultural facility, or educational facility or other building or facility that is used or will be used by a public educational institution, or any other public facility or infrastructure that is used or will be used by the public at large or in support of an accepted public purpose or activity;
- An improvement, including equipment, of a building that will be principally used by a public entity or the public at large or that supports a service delivery system in the public sector;
- A water, wastewater, or surface water management facility or other related infrastructure; or
- For projects that involve a facility owned or operated by the governing board of a county, district, or municipal hospital or health care system, or projects that involve a facility owned or operated by a municipal electric utility, only those projects that the governing board designates as qualifying projects.<sup>7</sup>

### **Procurement Procedures**

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

Unsolicited proposals from private entities must include certain material and information, unless waived by the responsible public entity, including:

- A description of the qualifying project, including the conceptual design and schedule for initiation and completion of the qualifying project;
- A description of the private entity’s general plans for financing the qualifying project, including the sources of the funds and identification of any dedicated revenue source or proposed debt or equity investment on behalf of the private entity; and
- The proposed user fees, lease payments, or other service payments over the term of a comprehensive agreement, and the methodology and circumstances for changes to the user fees, lease payments, and other service payments over time.<sup>8</sup>

If the responsible public entity receives an unsolicited proposal and intends to enter into a P3 agreement for the qualifying project, the responsible public entity must publish a notice in the Florida Administrative Register (FAR) and a newspaper of general circulation at least once a week for two weeks stating the entity has received a proposal and will accept other proposals. The responsible public entity must establish a timeframe in which to accept other proposals that must be at least 21 days, but not more than 120 days, after the initial date of publication.<sup>9</sup>

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<sup>6</sup> Section 287.05712(1)(j), F.S.

<sup>7</sup> Section 287.05712(1)(i), F.S.

<sup>8</sup> Section 287.05712(5), F.S.

<sup>9</sup> Section 287.05712(4)(b), F.S.



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

A responsible public entity may establish a reasonable fee to accompany an unsolicited proposal that is sufficient to pay the costs of evaluating the proposals.<sup>11</sup> The fee may cover the costs of processing, reviewing, and evaluating the requests, including, but not limited to, reasonable attorney fees and fees for financial and technical advisors or consultants and for other necessary advisors and consultants.<sup>12</sup>

The responsible public entity may approve a qualifying project if:

- There is a public need for or benefit derived from the project that the private entity proposes;
- The estimated cost of the qualifying project is reasonable in relation to similar facilities; and
- The private entity's plans will result in the timely acquisition, design, construction, improvement, renovation, expansion, equipping, maintenance, or operation of the qualifying project.<sup>13</sup>

### **Notice to Affected Local Jurisdictions**

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

### **Agreements**

#### ***Comprehensive Agreement***

The responsible public entity and private entity must enter into a comprehensive agreement prior to developing or operating a qualifying project which must include certain provisions, such as:

- Delivery of performance and payment bonds, letters of credit, and other security in connection with the development or operation of the qualifying project;
- Review of plans and specifications for the project by the public entity;<sup>16</sup>
- Inspection and monitoring of the qualifying project, including related financial statements, by the responsible entity;
- Policies and procedures governing the rights and responsibilities of the public and private entities in the event of a termination of the comprehensive agreement or a material default;

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<sup>10</sup> Section 287.05712(6)(c), F.S.

<sup>11</sup> Section 287.05712(4), F.S.

<sup>12</sup> Section 287.05712(6)(f), F.S.

<sup>13</sup> Section 287.05712(6)(e), F.S.

<sup>14</sup> Section 287.05712(7), F.S.

<sup>15</sup> Section 287.05712(4)(b), F.S.

<sup>16</sup> This does not require the private entity to complete the design of the project prior to executing the comprehensive agreement. Section 287.05712(9)(a)2., F.S.

- User fees, lease payments, or service payments as may be established;<sup>17</sup> and
- Duties of the private entity.<sup>18</sup>

### **Financing**

Section 287.05712(11), F.S., authorizes the use of multiple financing options for P3s. The options include the private entity obtaining private-source financing, the responsible public entity lending funds to the private entity, or the use of other innovative finance techniques associated with P3s.<sup>19</sup>

### **Performance Bond Requirements**

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

### **Requirements**

Section 255.05, F.S., requires any person contracting with the state or any county, city, or other political subdivision to construct a public building, complete a public work, or repair a public building or work, to execute, deliver, and record a payment and performance bond with a surety insurer authorized to do business in this state in the public records of the county where the public building or work is located. The surety bond must be recorded before the contractor begins work or restarts the work after a default or abandonment. The statute specifies some exceptions and the form for the bond.

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

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

### **Responsible Public Entity Definition**

The bill modifies the definition of “responsible public entity” to include special districts and school districts (rather than school boards).<sup>20</sup>

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<sup>17</sup> Section 287.05712(10), F.S.

<sup>18</sup> Section 287.05712(12), F.S.

<sup>19</sup> Section 287.05712(11), F.S.

<sup>20</sup> *Supra* note 2 at 18.

## **Task Force**

The bill deletes the provisions relating to the task force because the task force was disbanded on December 31, 2014.

## **Application Fees**

The bill provides that when a private entity submits an unsolicited proposal, the private entity must concurrently submit the initial application fee.<sup>21</sup> The application fee must be paid by cash, cashier's check, or other noncancelable instrument. If the initial fee, as determined by the responsible public entity, is not sufficient to cover the costs associated with evaluating the unsolicited proposal, the responsible public entity must request in writing the additional amount required. If the private entity fails to pay the additional amount requested within 30 days of the request, the responsible public entity may stop reviewing the proposal. The bill requires the responsible public entity to return the application fee if the responsible public entity does not evaluate the unsolicited proposal.

When evaluating an unsolicited proposal that involves architecture, engineering, or landscape architecture, a Florida licensed architect, engineer, or landscape architect must review the project and be retained through the completion of the design and construction of the project.

## **Solicitation Timeframes**

The bill provides flexibility to the responsible public entity for accepting proposals if an alternative timeframe is approved by majority vote of the entity's governing body.<sup>22</sup> It also removes the requirement that a school board obtain the approval of the local governing body.<sup>23</sup>

## **Contents of Solicitation – Design Criteria Package**

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

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

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<sup>21</sup> *Id.* at 9. The task force recommended amending the fee provisions to ensure that the fees were related to actual, reasonable costs associated with reviewing an unsolicited proposal and not revenue generation.

<sup>22</sup> *Id.* at 7. The task force discussed that increased flexibility may be necessary when dealing with complex proposals to ensure sufficient time is allowed for the receipt of competing proposals.

<sup>23</sup> *Id.* at 18. The task force recommended removing this provision because school boards are not subject to governance by a local governing body.

Responsible public entities must retain the design professional who prepared the design criteria until the project is completed.

### **Ownership by the Responsible Public Entity**

The bill clarifies that the project must be owned by the responsible public entity upon expiration of the comprehensive agreement, rather than solely upon completion or termination of the agreement.<sup>24</sup>

### **Unsolicited Proposal**

The bill clarifies that any pricing or financial terms included in an unsolicited proposal must be specific as to when the pricing or terms expire.<sup>25</sup>

### **Project Qualification**

The bill alters the parties that must meet the minimum standards contained in the responsible public entity's guidelines for qualifying professional services and contracts for traditional procurement projects to allow the applicable party (or parties) of the private entity's team to be a qualifying entity, rather than just the private entity itself.<sup>26</sup>

The bill deletes a requirement that a responsible public entity ensure that provision is made for the transfer of a private entity's obligations if the comprehensive agreement is terminated and replaces it with a requirement that the responsible public entity ensure that the comprehensive agreement addresses termination upon a material default.<sup>27</sup>

### **Notice to Affected Local Jurisdictions**

The bill deletes the requirement that a responsible public entity notify each affected local jurisdiction of an unsolicited proposal by furnishing a copy of the proposal to each affected local jurisdiction.<sup>28</sup> The responsible public entity must still provide each affected local jurisdiction a copy of the notice published in the FAR concerning solicitations for a qualifying project.

### **Financing**

The bill clarifies that a financing agreement may not require the responsible public entity to secure financing by a mortgage on, or security interest in, the real or tangible personal property of the responsible public entity in a manner that could result in the loss of the fee ownership of the property by the responsible public entity.<sup>29</sup>

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<sup>24</sup> *Id.* at 13.

<sup>25</sup> *Id.* at 7.

<sup>26</sup> *Id.* at 21.

<sup>27</sup> *Id.* at 14.

<sup>28</sup> *Id.* at 12. The report stated that notice is already provided to affected local jurisdictions through the permitting process and stated a mandatory P3 notice process could delay project timelines.

<sup>29</sup> *Id.* at 20.

The bill also deletes a provision that provides for the responsible public entity to appropriate on a priority basis a contractual payment obligation from the government fund from which the qualifying project will be funded.<sup>30</sup> Current law raised concerns regarding infringement upon a responsible public entity's appropriation powers.

### **Department of Management Services**

The bill provides that the department may accept and maintain copies of comprehensive agreements received from responsible public entities for the purpose of sharing the comprehensive agreements with other responsible public entities.<sup>31</sup> Responsible public entities are not required to provide copies to the department; however, if a responsible public entity provides a copy, the responsible public entity must first redact any confidential or exempt information from the comprehensive agreement.

### **Construction**

The bill clarifies that the P3 process must be construed as cumulative and supplemental to any other authority or power vested in the governing body of a county, municipality, special district, or municipal hospital or health care system. The bill provides that the P3 process is an alternative method that may be used, but that it does not limit a county, municipality, special district, or other political subdivision of the state in the procurement or operation of a qualifying project pursuant to other statutory or constitutional authority.<sup>32</sup>

### **Miscellaneous**

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

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

**Section 2** provides that the bill is effective July 1, 2016.

## **IV. Constitutional Issues:**

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

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

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<sup>30</sup> *Id.* at 14.

<sup>31</sup> *Id.* at 11. The report recommended authorizing a state agency to provide assistance to responsible public entities concerning P3s.

<sup>32</sup> *Id.* at 19. The report discussed the need for flexibility in the creation of P3s and noted that clarification is needed to ensure that the process is considered supplemental and alternative to any other applicable statutory authority.

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:

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

The entity submitting an unsolicited proposal must pay the full cost of the evaluation to the responsible public entity.

C. Government Sector Impact:

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

The bill requires the responsible public entity to retain a licensed professional to evaluate certain unsolicited proposals. However, the entity submitting the unsolicited proposal must pay the full cost of the evaluation.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

CS/SB 126 is the related public records bill linked to this bill.

**VIII. Statutes Affected:**

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

**IX. Additional Information:**

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

**CS by Governmental Oversight and Accountability on February 1, 2016:**

- Removes Florida College Systems from the definition of a “responsible public entity;”
- Adds provisions stating that if the responsible public entity evaluates an unsolicited proposal involving architecture, engineering or landscape architecture, the project must meet standards consistent with public projects and be required to retain the professional until the project is complete;
- Provides that if a responsible public entity requests a proposal from a private entity which includes design work, the solicitation must include reasonably specific criteria and the licensed design profession who prepares the design criteria must be retained through the completion of the project;
- Removes s. 287.0935, F.S., from the bill; and
- Makes editorial changes.

- B. **Amendments:**

None.

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

585-02882-16

2016124c1

1 A bill to be entitled  
2 An act relating to public-private partnerships;  
3 transferring, renumbering, and amending s. 287.05712,  
4 F.S.; revising definitions; deleting provisions  
5 creating the Public-Private Partnership Guidelines  
6 Task Force; requiring a private entity that submits an  
7 unsolicited proposal to pay an initial application fee  
8 and additional amounts if the fee does not cover  
9 certain costs; specifying payment methods; requiring a  
10 professional review and evaluation of design and  
11 construction to be completed for certain unsolicited  
12 proposals; specifying requirements; authorizing a  
13 responsible public entity to alter the statutory  
14 timeframe for accepting proposals for a qualifying  
15 project under certain circumstances; requiring a  
16 design criteria package to be submitted to a  
17 responsible public entity if such entity solicits  
18 specific proposals; deleting a provision that requires  
19 approval of the local governing body before a school  
20 board enters into a comprehensive agreement; revising  
21 the conditions necessary for a responsible public  
22 entity to approve a comprehensive agreement; deleting  
23 provisions relating to notice to affected local  
24 jurisdictions; providing that fees imposed by a  
25 private entity must be applied as set forth in the  
26 comprehensive agreement; authorizing a negotiated  
27 portion of revenues from fee-generating uses to be  
28 returned to the responsible public entity; restricting  
29 provisions in financing agreements that could result  
30 in a responsible public entity's losing ownership of  
31 real or tangible personal property; deleting a

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

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32 provision that required a responsible public entity to  
33 comply with specific financial obligations; providing  
34 duties of the Department of Management Services  
35 relating to comprehensive agreements; revising  
36 provisions relating to construction of the act;  
37 providing an effective date.  
38

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

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

44 255.065 ~~287.05712~~ Public-private partnerships.—

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

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

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

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

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

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

60 (f) "Operate" means to finance, maintain, improve, equip,

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



585-02882-16

2016124c1

61 modify, or repair.

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

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

70 (i) "Qualifying project" means:

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

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

85 3. A water, wastewater, or surface water management  
86 facility or other related infrastructure; or

87 4. Notwithstanding any provision of this section, for  
88 projects that involve a facility owned or operated by the  
89 governing board of a county, district, or municipal hospital or

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90 health care system, or projects that involve a facility owned or  
91 operated by a municipal electric utility, only those projects  
92 that the governing board designates as qualifying projects  
93 pursuant to this section.

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

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

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

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

115 (a) The Legislature also finds that:

116 1. There is a public need for timely and cost-effective  
117 acquisition, design, construction, improvement, renovation,  
118 expansion, equipping, maintenance, operation, implementation, or

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119 installation of projects serving a public purpose, including  
 120 educational facilities, transportation facilities, water or  
 121 wastewater management facilities and infrastructure, technology  
 122 infrastructure, roads, highways, bridges, and other public  
 123 infrastructure and government facilities within the state which  
 124 serve a public need and purpose, and that such public need may  
 125 not be wholly satisfied by existing procurement methods.

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

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

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

141 (b) It is the intent of the Legislature to encourage  
 142 investment in the state by private entities; to facilitate  
 143 various bond financing mechanisms, private capital, and other  
 144 funding sources for the development and operation of qualifying  
 145 projects, including expansion and acceleration of such financing  
 146 to meet the public need; and to provide the greatest possible  
 147 flexibility to public and private entities contracting for the

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148 provision of public services.

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

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

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

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

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

163 ~~a. One county government official.~~

164 ~~b. One municipal government official.~~

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

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

167 ~~(c) Task force members must be appointed by July 31, 2013.~~

168 ~~By August 31, 2013, the task force shall meet to establish~~  
 169 ~~procedures for the conduct of its business and to elect a vice~~  
 170 ~~chair. The task force shall meet at the call of the chair. A~~  
 171 ~~majority of the members of the task force constitutes a quorum,~~  
 172 ~~and a quorum is necessary for the purpose of voting on any~~  
 173 ~~action or recommendation of the task force. All meetings shall~~  
 174 ~~be held in Tallahassee, unless otherwise decided by the task~~  
 175 ~~force, and then no more than two such meetings may be held in~~  
 176 ~~other locations for the purpose of taking public testimony.~~

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177 Administrative and technical support shall be provided by the  
 178 department. Task force members shall serve without compensation  
 179 and are not entitled to reimbursement for per diem or travel  
 180 expenses.

181 ~~(d) In reviewing public private partnerships and developing~~  
 182 ~~recommendations, the task force must consider:~~

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

186 ~~2. Reasonable criteria for choosing among competing~~  
 187 ~~proposals.~~

188 ~~3. Suggested timelines for selecting proposals and~~  
 189 ~~negotiating an interim or comprehensive agreement.~~

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

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

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

201 ~~7. Current exemptions from public records and public~~  
 202 ~~meetings requirements, if any changes to those exemptions are~~  
 203 ~~necessary, or if any new exemptions should be created in order~~  
 204 ~~to maintain the confidentiality of financial and proprietary~~  
 205 ~~information received as part of an unsolicited proposal.~~

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

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

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

227 (3)(4) PROCUREMENT PROCEDURES.-A responsible public entity  
 228 may receive unsolicited proposals or may solicit proposals for a  
 229 qualifying project ~~projects~~ and may thereafter enter into a  
 230 comprehensive ~~an~~ agreement with a private entity, or a  
 231 consortium of private entities, for the building, upgrading,  
 232 operating, ownership, or financing of facilities.

233 (a)1. The responsible public entity may establish a  
 234 reasonable application fee for the submission of an unsolicited

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235 proposal under this section.

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

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

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

255 5. If the responsible public entity chooses to evaluate an  
 256 unsolicited proposal involving architecture, engineering or  
 257 landscape architecture, it must ensure a professional review and  
 258 evaluation of the design and construction proposed by the  
 259 initial or subsequent proposers to assure material quality  
 260 standards, interior space utilization, budget estimates, design  
 261 and construction schedules and sustainable design and  
 262 construction standards consistent with public projects. Such  
 263 review shall be performed by an architect, a landscape architect

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264 or an engineer licensed in this state qualified to perform the  
 265 review and such professional shall advise the responsible public  
 266 entity through completion of the design and construction of the  
 267 project.

268 (b) The responsible public entity may request a proposal  
 269 from private entities for a qualifying public-private project  
 270 or, if the responsible public entity receives an unsolicited  
 271 proposal for a qualifying public-private project and the  
 272 responsible public entity intends to enter into a comprehensive  
 273 agreement for the project described in ~~the such~~ unsolicited  
 274 proposal, the responsible public entity shall publish notice in  
 275 the Florida Administrative Register and a newspaper of general  
 276 circulation at least once a week for 2 weeks stating that the  
 277 responsible public entity has received a proposal and will  
 278 accept other proposals for the same project. The timeframe  
 279 within which the responsible public entity may accept other  
 280 proposals shall be determined by the responsible public entity  
 281 on a project-by-project basis based upon the complexity of the  
 282 qualifying project and the public benefit to be gained by  
 283 allowing a longer or shorter period of time within which other  
 284 proposals may be received; however, the timeframe for allowing  
 285 other proposals must be at least 21 days, but no more than 120  
 286 days, after the initial date of publication. If approved by a  
 287 majority vote of the responsible public entity's governing body,  
 288 the responsible public entity may alter the timeframe for  
 289 accepting proposals to more adequately suit the needs of the  
 290 qualifying project. A copy of the notice must be mailed to each  
 291 local government in the affected area.

292 (c) If the solicited qualifying project provided in

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293 paragraph (b) includes design work, the solicitation must  
 294 include a design criteria package prepared by an architect, a  
 295 landscape architect, or an engineer licensed in this state which  
 296 is sufficient to allow private entities to prepare a bid or a  
 297 response. The design criteria package must specify reasonably  
 298 specific criteria for the qualifying project such as the legal  
 299 description of the site, with survey information; interior space  
 300 requirements; material quality standards; schematic layouts and  
 301 conceptual design criteria for the qualifying project; cost or  
 302 budget estimates; design and construction schedules; and site  
 303 development and utility requirements. The licensed design  
 304 professional who prepares the design criteria package shall be  
 305 retained to serve the responsible public entity through  
 306 completion of the design and construction of the project A  
 307 responsible public entity that is a school board may enter into  
 308 a comprehensive agreement only with the approval of the local  
 309 governing body.

310 (d) Before approving a comprehensive agreement approval,  
 311 the responsible public entity must determine that the proposed  
 312 project:

- 313 1. Is in the public's best interest.
- 314 2. Is for a facility that is owned by the responsible  
 315 public entity or for a facility for which ownership will be  
 316 conveyed to the responsible public entity.
- 317 3. Has adequate safeguards in place to ensure that  
 318 additional costs or service disruptions are not imposed on the  
 319 public in the event of material default or cancellation of the  
 320 comprehensive agreement by the responsible public entity.
- 321 4. Has adequate safeguards in place to ensure that the

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322 responsible public entity or private entity has the opportunity  
 323 to add capacity to the proposed project or other facilities  
 324 serving similar predominantly public purposes.

325 5. Will be owned by the responsible public entity upon  
 326 completion, expiration, or termination of the comprehensive  
 327 agreement and upon payment of the amounts financed.

328 (e) Before signing a comprehensive agreement, the  
 329 responsible public entity must consider a reasonable finance  
 330 plan that is consistent with subsection (9) ~~(11)~~; the qualifying  
 331 project cost; revenues by source; available financing; major  
 332 assumptions; internal rate of return on private investments, if  
 333 governmental funds are assumed in order to deliver a cost-  
 334 feasible project; and a total cash-flow analysis beginning with  
 335 the implementation of the project and extending for the term of  
 336 the comprehensive agreement.

337 (f) In considering an unsolicited proposal, the responsible  
 338 public entity may require from the private entity a technical  
 339 study prepared by a nationally recognized expert with experience  
 340 in preparing analysis for bond rating agencies. In evaluating  
 341 the technical study, the responsible public entity may rely upon  
 342 internal staff reports prepared by personnel familiar with the  
 343 operation of similar facilities or the advice of external  
 344 advisors or consultants who have relevant experience.

345 ~~(4)-(5)~~ PROJECT APPROVAL REQUIREMENTS.—An unsolicited  
 346 proposal from a private entity for approval of a qualifying  
 347 project must be accompanied by the following material and  
 348 information, unless waived by the responsible public entity:

349 (a) A description of the qualifying project, including the  
 350 conceptual design of the facilities or a conceptual plan for the

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351 provision of services, and a schedule for the initiation and  
352 completion of the qualifying project.

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

356 (c) A description of the private entity's general plans for  
357 financing the qualifying project, including the sources of the  
358 private entity's funds and the identity of any dedicated revenue  
359 source or proposed debt or equity investment on behalf of the  
360 private entity.

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

363 (e) The proposed user fees, lease payments, or other  
364 service payments over the term of a comprehensive agreement, and  
365 the methodology for and circumstances that would allow changes  
366 to the user fees, lease payments, and other service payments  
367 over time.

368 (f) Additional material or information that the responsible  
369 public entity reasonably requests.

370

371 Any pricing or financial terms included in an unsolicited  
372 proposal must be specific as to when the pricing or terms  
373 expire.

374 ~~(5)-(6)~~ PROJECT QUALIFICATION AND PROCESS.—

375 (a) The private entity, or the applicable party or parties  
376 of the private entity's team, must meet the minimum standards  
377 contained in the responsible public entity's guidelines for  
378 qualifying professional services and contracts for traditional  
379 procurement projects.

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380 (b) The responsible public entity must:

381 1. Ensure that provision is made for the private entity's  
382 performance and payment of subcontractors, including, but not  
383 limited to, surety bonds, letters of credit, parent company  
384 guarantees, and lender and equity partner guarantees. For the  
385 components of the qualifying project which involve construction  
386 performance and payment, bonds are required and are subject to  
387 the recordation, notice, suit limitation, and other requirements  
388 of s. 255.05.

389 2. Ensure the most efficient pricing of the security  
390 package that provides for the performance and payment of  
391 subcontractors.

392 3. Ensure that ~~provision is made for the transfer of the~~  
393 ~~private entity's obligations if the comprehensive agreement~~  
394 addresses termination upon is terminated or a material default  
395 of the comprehensive agreement occurs.

396 (c) After the public notification period has expired in the  
397 case of an unsolicited proposal, the responsible public entity  
398 shall rank the proposals received in order of preference. In  
399 ranking the proposals, the responsible public entity may  
400 consider factors that include, but are not limited to,  
401 professional qualifications, general business terms, innovative  
402 design techniques or cost-reduction terms, and finance plans.  
403 The responsible public entity may then begin negotiations for a  
404 comprehensive agreement with the highest-ranked firm. If the  
405 responsible public entity is not satisfied with the results of  
406 the negotiations, the responsible public entity may terminate  
407 negotiations with the proposer and negotiate with the second-  
408 ranked or subsequent-ranked firms, in the order consistent with

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409 this procedure. If only one proposal is received, the  
 410 responsible public entity may negotiate in good faith, and if  
 411 the responsible public entity is not satisfied with the results  
 412 of the negotiations, the responsible public entity may terminate  
 413 negotiations with the proposer. Notwithstanding this paragraph,  
 414 the responsible public entity may reject all proposals at any  
 415 point in the process until a contract with the proposer is  
 416 executed.

417 (d) The responsible public entity shall perform an  
 418 independent analysis of the proposed public-private partnership  
 419 which demonstrates the cost-effectiveness and overall public  
 420 benefit before the procurement process is initiated or before  
 421 the contract is awarded.

422 (e) The responsible public entity may approve the  
 423 development or operation of an educational facility, a  
 424 transportation facility, a water or wastewater management  
 425 facility or related infrastructure, a technology infrastructure  
 426 or other public infrastructure, or a government facility needed  
 427 by the responsible public entity as a qualifying project, or the  
 428 design or equipping of a qualifying project that is developed or  
 429 operated, if:

430 1. There is a public need for or benefit derived from a  
 431 project of the type that the private entity proposes as the  
 432 qualifying project.

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

435 3. The private entity's plans will result in the timely  
 436 acquisition, design, construction, improvement, renovation,  
 437 expansion, equipping, maintenance, or operation of the

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438 qualifying project.

439 (f) The responsible public entity may charge a reasonable  
 440 fee to cover the costs of processing, reviewing, and evaluating  
 441 the request, including, but not limited to, reasonable attorney  
 442 fees and fees for financial and technical advisors or  
 443 consultants and for other necessary advisors or consultants.

444 (g) Upon approval of a qualifying project, the responsible  
 445 public entity shall establish a date for the commencement of  
 446 activities related to the qualifying project. The responsible  
 447 public entity may extend the commencement date.

448 (h) Approval of a qualifying project by the responsible  
 449 public entity is subject to entering into a comprehensive  
 450 agreement with the private entity.

451 ~~(7) NOTICE TO AFFECTED LOCAL JURISDICTIONS.~~

452 ~~(a) The responsible public entity must notify each affected~~  
 453 ~~local jurisdiction by furnishing a copy of the proposal to each~~  
 454 ~~affected local jurisdiction when considering a proposal for a~~  
 455 ~~qualifying project.~~

456 ~~(b) Each affected local jurisdiction that is not a~~  
 457 ~~responsible public entity for the respective qualifying project~~  
 458 ~~may, within 60 days after receiving the notice, submit in~~  
 459 ~~writing any comments to the responsible public entity and~~  
 460 ~~indicate whether the facility is incompatible with the local~~  
 461 ~~comprehensive plan, the local infrastructure development plan,~~  
 462 ~~the capital improvements budget, any development of regional~~  
 463 ~~impact processes or timelines, or other governmental spending~~  
 464 ~~plan. The responsible public entity shall consider the comments~~  
 465 ~~of the affected local jurisdiction before entering into a~~  
 466 ~~comprehensive agreement with a private entity. If an affected~~

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467 ~~local jurisdiction fails to respond to the responsible public~~  
 468 ~~entity within the time provided in this paragraph, the~~  
 469 ~~nonresponse is deemed an acknowledgment by the affected local~~  
 470 ~~jurisdiction that the qualifying project is compatible with the~~  
 471 ~~local comprehensive plan, the local infrastructure development~~  
 472 ~~plan, the capital improvements budget, or other governmental~~  
 473 ~~spending plan.~~

474 ~~(6)(8)~~ INTERIM AGREEMENT.—Before or in connection with the  
 475 negotiation of a comprehensive agreement, the responsible public  
 476 entity may enter into an interim agreement with the private  
 477 entity proposing the development or operation of the qualifying  
 478 project. An interim agreement does not obligate the responsible  
 479 public entity to enter into a comprehensive agreement. The  
 480 interim agreement is discretionary with the parties and is not  
 481 required on a qualifying project for which the parties may  
 482 proceed directly to a comprehensive agreement without the need  
 483 for an interim agreement. An interim agreement must be limited  
 484 to provisions that:

485 (a) Authorize the private entity to commence activities for  
 486 which it may be compensated related to the proposed qualifying  
 487 project, including, but not limited to, project planning and  
 488 development, design, environmental analysis and mitigation,  
 489 survey, other activities concerning any part of the proposed  
 490 qualifying project, and ascertaining the availability of  
 491 financing for the proposed facility or facilities.

492 (b) Establish the process and timing of the negotiation of  
 493 the comprehensive agreement.

494 (c) Contain such other provisions related to an aspect of  
 495 the development or operation of a qualifying project that the

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496 responsible public entity and the private entity deem  
 497 appropriate.

498 ~~(7)(9)~~ COMPREHENSIVE AGREEMENT.—

499 (a) Before developing or operating the qualifying project,  
 500 the private entity must enter into a comprehensive agreement  
 501 with the responsible public entity. The comprehensive agreement  
 502 must provide for:

503 1. Delivery of performance and payment bonds, letters of  
 504 credit, or other security acceptable to the responsible public  
 505 entity in connection with the development or operation of the  
 506 qualifying project in the form and amount satisfactory to the  
 507 responsible public entity. For the components of the qualifying  
 508 project which involve construction, the form and amount of the  
 509 bonds must comply with s. 255.05.

510 2. Review of the design for the qualifying project by the  
 511 responsible public entity and, if the design conforms to  
 512 standards acceptable to the responsible public entity, the  
 513 approval of the responsible public entity. This subparagraph  
 514 does not require the private entity to complete the design of  
 515 the qualifying project before the execution of the comprehensive  
 516 agreement.

517 3. Inspection of the qualifying project by the responsible  
 518 public entity to ensure that the private entity's activities are  
 519 acceptable to the responsible public entity in accordance with  
 520 the comprehensive agreement.

521 4. Maintenance of a policy of public liability insurance, a  
 522 copy of which must be filed with the responsible public entity  
 523 and accompanied by proofs of coverage, or self-insurance, each  
 524 in the form and amount satisfactory to the responsible public



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525 entity and reasonably sufficient to ensure coverage of tort  
 526 liability to the public and employees and to enable the  
 527 continued operation of the qualifying project.

528 5. Monitoring by the responsible public entity of the  
 529 maintenance practices to be performed by the private entity to  
 530 ensure that the qualifying project is properly maintained.

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

533 7. Procedures that govern the rights and responsibilities  
 534 of the responsible public entity and the private entity in the  
 535 course of the construction and operation of the qualifying  
 536 project and in the event of the termination of the comprehensive  
 537 agreement or a material default by the private entity. The  
 538 procedures must include conditions that govern the assumption of  
 539 the duties and responsibilities of the private entity by an  
 540 entity that funded, in whole or part, the qualifying project or  
 541 by the responsible public entity, and must provide for the  
 542 transfer or purchase of property or other interests of the  
 543 private entity by the responsible public entity.

544 8. Fees, lease payments, or service payments. In  
 545 negotiating user fees, the fees must be the same for persons  
 546 using the facility under like conditions and must not materially  
 547 discourage use of the qualifying project. The execution of the  
 548 comprehensive agreement or a subsequent amendment is conclusive  
 549 evidence that the fees, lease payments, or service payments  
 550 provided for in the comprehensive agreement comply with this  
 551 section. Fees or lease payments established in the comprehensive  
 552 agreement as a source of revenue may be in addition to, or in  
 553 lieu of, service payments.

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554 9. Duties of the private entity, including the terms and  
 555 conditions that the responsible public entity determines serve  
 556 the public purpose of this section.

557 (b) The comprehensive agreement may include:

558 1. An agreement by the responsible public entity to make  
 559 grants or loans to the private entity from amounts received from  
 560 the federal, state, or local government or an agency or  
 561 instrumentality thereof.

562 2. A provision under which each entity agrees to provide  
 563 notice of default and cure rights for the benefit of the other  
 564 entity, including, but not limited to, a provision regarding  
 565 unavoidable delays.

566 3. A provision that terminates the authority and duties of  
 567 the private entity under this section and dedicates the  
 568 qualifying project to the responsible public entity or, if the  
 569 qualifying project was initially dedicated by an affected local  
 570 jurisdiction, to the affected local jurisdiction for public use.

571 ~~(8)(10) FEES.—A comprehensive An~~ agreement entered into  
 572 pursuant to this section may authorize the private entity to  
 573 impose fees to members of the public for the use of the  
 574 facility. The following provisions apply to the comprehensive  
 575 agreement:

576 (a) The responsible public entity may develop new  
 577 facilities or increase capacity in existing facilities through a  
 578 comprehensive agreement with a private entity ~~agreements with~~  
 579 ~~public-private partnerships.~~

580 (b) The comprehensive ~~public-private partnership~~ agreement  
 581 must ensure that the facility is properly operated, maintained,  
 582 or improved in accordance with standards set forth in the

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583 comprehensive agreement.

584 (c) The responsible public entity may lease existing fee-  
585 for-use facilities through a comprehensive public-private  
586 ~~partnership~~ agreement.

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

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

593 ~~(9)-(11)~~ FINANCING.—

594 (a) A private entity may enter into a private-source  
595 financing agreement between financing sources and the private  
596 entity. A financing agreement and any liens on the property or  
597 facility must be paid in full at the applicable closing that  
598 transfers ownership or operation of the facility to the  
599 responsible public entity at the conclusion of the term of the  
600 comprehensive agreement.

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

604 (c) The responsible public entity may use innovative  
605 finance techniques associated with a public-private partnership  
606 under this section, including, but not limited to, federal loans  
607 as provided in Titles 23 and 49 C.F.R., commercial bank loans,  
608 and hedges against inflation from commercial banks or other  
609 private sources. In addition, the responsible public entity may  
610 provide its own capital or operating budget to support a  
611 qualifying project. The budget may be from any legally

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612 permissible funding sources of the responsible public entity,  
613 including the proceeds of debt issuances. A responsible public  
614 entity may use the model financing agreement provided in s.  
615 489.145(6) for its financing of a facility owned by a  
616 responsible public entity. A financing agreement may not require  
617 the responsible public entity to indemnify the financing source,  
618 subject the responsible public entity's facility to liens in  
619 violation of s. 11.066(5), or secure financing of ~~by~~ the  
620 responsible public entity by a mortgage on, or security interest  
621 in, the real or tangible personal property of the responsible  
622 public entity in a manner that could result in the loss of the  
623 fee ownership of the property by the responsible public entity  
624 with a pledge of security interest, and any such provision is  
625 void.

626 ~~(d) A responsible public entity shall appropriate on a~~  
627 ~~priority basis as required by the comprehensive agreement a~~  
628 ~~contractual payment obligation, annual or otherwise, from the~~  
629 ~~enterprise or other government fund from which the qualifying~~  
630 ~~projects will be funded. This required payment obligation must~~  
631 ~~be appropriated before other noncontractual obligations payable~~  
632 ~~from the same enterprise or other government fund.~~

633 ~~(10)-(12)~~ POWERS AND DUTIES OF THE PRIVATE ENTITY.—

634 (a) The private entity shall:

- 635 1. Develop or operate the qualifying project in a manner  
636 that is acceptable to the responsible public entity in  
637 accordance with the provisions of the comprehensive agreement.
- 638 2. Maintain, or provide by contract for the maintenance or  
639 improvement of, the qualifying project if required by the  
640 comprehensive agreement.

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641 3. Cooperate with the responsible public entity in making  
 642 best efforts to establish interconnection between the qualifying  
 643 project and any other facility or infrastructure as requested by  
 644 the responsible public entity in accordance with the provisions  
 645 of the comprehensive agreement.

646 4. Comply with the comprehensive agreement and any lease or  
 647 service contract.

648 (b) Each private facility that is constructed pursuant to  
 649 this section must comply with the requirements of federal,  
 650 state, and local laws; state, regional, and local comprehensive  
 651 plans; the responsible public entity's rules, procedures, and  
 652 standards for facilities; and such other conditions that the  
 653 responsible public entity determines to be in the public's best  
 654 interest and that are included in the comprehensive agreement.

655 (c) The responsible public entity may provide services to  
 656 the private entity. An agreement for maintenance and other  
 657 services entered into pursuant to this section must provide for  
 658 full reimbursement for services rendered for qualifying  
 659 projects.

660 (d) A private entity of a qualifying project may provide  
 661 additional services for the qualifying project to the public or  
 662 to other private entities if the provision of additional  
 663 services does not impair the private entity's ability to meet  
 664 its commitments to the responsible public entity pursuant to the  
 665 comprehensive agreement.

666 (11)-(13) EXPIRATION OR TERMINATION OF AGREEMENTS.—Upon the  
 667 expiration or termination of a comprehensive agreement, the  
 668 responsible public entity may use revenues from the qualifying  
 669 project to pay current operation and maintenance costs of the

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670 qualifying project. If the private entity materially defaults  
 671 under the comprehensive agreement, the compensation that is  
 672 otherwise due to the private entity is payable to satisfy all  
 673 financial obligations to investors and lenders on the qualifying  
 674 project in the same way that is provided in the comprehensive  
 675 agreement or any other agreement involving the qualifying  
 676 project, if the costs of operating and maintaining the  
 677 qualifying project are paid in the normal course. Revenues in  
 678 excess of the costs for operation and maintenance costs may be  
 679 paid to the investors and lenders to satisfy payment obligations  
 680 under their respective agreements. A responsible public entity  
 681 may terminate with cause and without prejudice a comprehensive  
 682 agreement and may exercise any other rights or remedies that may  
 683 be available to it in accordance with the provisions of the  
 684 comprehensive agreement. The full faith and credit of the  
 685 responsible public entity may not be pledged to secure the  
 686 financing of the private entity. The assumption of the  
 687 development or operation of the qualifying project does not  
 688 obligate the responsible public entity to pay any obligation of  
 689 the private entity from sources other than revenues from the  
 690 qualifying project unless stated otherwise in the comprehensive  
 691 agreement.

692 (12)-(14) SOVEREIGN IMMUNITY.—This section does not waive  
 693 the sovereign immunity of a responsible public entity, an  
 694 affected local jurisdiction, or an officer or employee thereof  
 695 with respect to participation in, or approval of, any part of a  
 696 qualifying project or its operation, including, but not limited  
 697 to, interconnection of the qualifying project with any other  
 698 infrastructure or project. A county or municipality in which a

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699 qualifying project is located possesses sovereign immunity with  
700 respect to the project, including, but not limited to, its  
701 design, construction, and operation.

702 (13) DEPARTMENT OF MANAGEMENT SERVICES.-

703 (a) A responsible public entity may provide a copy of its  
704 comprehensive agreement to the Department of Management  
705 Services. A responsible public entity must redact any  
706 confidential or exempt information from the copy of the  
707 comprehensive agreement before providing it to the Department of  
708 Management Services.

709 (b) The Department of Management Services may accept and  
710 maintain copies of comprehensive agreements received from  
711 responsible public entities for the purpose of sharing  
712 comprehensive agreements with other responsible public entities.

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

716 (14)-(15) CONSTRUCTION.-

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

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

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

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728 (d)(a) This section provides an alternative method and does  
729 not limit a county, municipality, special district, or other  
730 political subdivision of the state in the procurement or  
731 operation of a qualifying project acquisition, design, or  
732 ~~construction of a public project~~ pursuant to other statutory or  
733 constitutional authority.

734 (e)(b) Except as otherwise provided in this section, this  
735 section does not amend existing laws by granting additional  
736 powers to, or further restricting, a local governmental entity  
737 from regulating and entering into cooperative arrangements with  
738 the private sector for the planning, construction, or operation  
739 of a facility.

740 (f)(e) This section does not waive any requirement of s.  
741 287.055.

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

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The Florida Senate

## Committee Agenda Request

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

**Subject:** Committee Agenda Request

February 1, 2016

Dear Senator Flores,

I respectfully request that **Senate Bill 124**, regarding **Public Procurement Practices**, be placed on the:

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

C

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

---

Senator Greg Evers  
Florida Senate, District 2

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/24/12  
Meeting Date

124  
Bill Number (if applicable)

Topic Public Private Partnerships

Amendment Barcode (if applicable)

Name Richard Watson

Job Title Chief Counsel

Address Po Box 10038  
Street

Phone 850-591-4770

Tallahassee FL 32302  
City State Zip

Email rick@rwatsonandassociates.com  
~~rwatsonandassociates.com~~

Speaking:  For  Against  Information

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

Representing Associated Builders and Contractors

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/24/16

Meeting Date

124

Bill Number (if applicable)

Topic Public Private-Partnerships

Amendment Barcode (if applicable)

Name David Cruz

Job Title Assistant General Counsel

Address P.O. Box 1757

Phone 701-3674

Street

Tallahassee FL 32302

Email

City

State

Zip

Speaking:  For  Against  Information

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

Representing Florida League of Cities

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

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

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

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

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**BILL:** CS/SB 126

**INTRODUCER:** Governmental Oversight and Accountability Committee and Senator Evers

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

**DATE:** February 23, 2016      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cochran	Yeatman	CA	<b>Favorable</b>
2.	Kim	McVaney	GO	<b>Fav/CS</b>
3.	Jones	Hrdlicka	FP	<b>Favorable</b>

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

COMMITTEE SUBSTITUTE - Technical Changes

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**I. Summary:**

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

This bill requires a two-thirds vote by both chambers for passage.

The bill will go into effect when CS/SB 124 becomes a law.

**II. Present Situation:**

**Public Records and Open Meetings Requirements**

The Florida Constitution provides that every individual has a right of access to public records which are made or received in connection with official public business unless the records are exempt. This right applies to records of the legislative, executive, and judicial branches.<sup>1</sup> The Florida Constitution also requires all meetings of a collegial public body of the executive branch or any local government at which official acts are taken or public business is discussed to be open and noticed to the public.<sup>2</sup>

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<sup>1</sup> Article I, s. 24(a), FLA. CONST.

<sup>2</sup> Article I, s. 24(b), FLA. CONST.



Florida law implements the constitutional right of access to records and meetings by specifying conditions under which qualifying entities must provide public access to government records and meetings. The Public Records Act, codified in ch. 119, F.S., expressly guarantees every person's right to inspect and copy any state or local government public record<sup>3</sup> at any reasonable time, under reasonable conditions, and under the supervision of the public records custodian.<sup>4</sup> The Sunshine Law requires all meetings of a board or commission of any state or local agency or authority at which official acts are to be taken to be noticed and open to the public.<sup>5</sup>

Only the Legislature may create an exemption to public records requirements.<sup>6</sup> Such an exemption must be created by general law and must specifically state the public necessity justifying the exemption. Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions<sup>7</sup> and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.<sup>8</sup>

### **Open Government Sunset Review Act**

The Open Government Sunset Review Act requires a newly created or expanded public records or open meetings exemptions to be repealed on October 2 of the fifth year after enactment, unless reviewed and reenacted by the Legislature.<sup>9</sup> It further provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than necessary to meet the public purpose it serves.<sup>10</sup>

An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

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

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<sup>3</sup> Section 119.011(12), F.S., defines "public record" as all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

<sup>4</sup> Section 119.07(1)(a), F.S.

<sup>5</sup> Section 286.011(1), F.S. The Sunshine Law does not apply to the Legislature; rather, open meetings requirements for the Legislature are set out in Article III, s. 4(e), FLA. CONST.

<sup>6</sup> Article I, s. 24(c), FLA. CONST. There is a difference between records the Legislature designates as exempt from public records requirements and those the Legislature designates *confidential and* exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. The School Bd. of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 2004); and *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, then such record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in the statutory exemption. See Op. Att'y Gen, Fla. 85-62, August 1, 1985.

<sup>7</sup> The bill may contain multiple exemptions that relate to one subject.

<sup>8</sup> Article I, s. 24(c), FLA. CONST.

<sup>9</sup> Section 119.15(3), F.S.

<sup>10</sup> Section 119.15(6)(b), F.S.

- Releasing sensitive personal information would be defamatory or would jeopardize an individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt; or
- It protects trade or business secrets.<sup>11</sup>

During the review process specified questions are required be considered and the Legislature must carefully question the purpose and necessity of reenacting the exemption.<sup>12</sup>

If in reenacting an exemption the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.<sup>13</sup> If the exemption is reenacted without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless provided otherwise by law.<sup>14</sup>

### **Public-Private Partnerships**

Public-private partnerships (P3s) are contractual agreements formed between public entities and private sector entities that allow for greater private sector participation in the delivery and financing of public building and infrastructure projects. Through these agreements, the skills and assets of each sector, public and private, are shared in delivering a service or facility for use by the general public. In addition to the sharing of resources, each party shares in the risks and rewards potential in the delivery of the service or facility.<sup>15</sup>

Section 287.05712, F.S., governs the procurement process for P3s for public purpose projects. It authorizes a responsible public entity to enter into a P3 for a specified qualifying project if the responsible public entity determines the project is in the public's best interest.<sup>16</sup>

A "responsible public entity" is defined as a county, municipality, school board, or any other political subdivision of the state; a public body politic and corporate; or a regional entity that serves a public purpose and is authorized to develop or operate a qualifying project.<sup>17</sup>

A "qualifying project" is defined as:

- A facility or project that serves a public purpose, including any ferry or mass transit facility, vehicle parking facility, airport or seaport facility, rail facility or project, fuel supply facility, oil or gas pipeline, medical or nursing care facility, recreational facility, sporting or cultural facility, or educational facility or other building or facility that is used or will be used by a public educational institution, or any other public facility or infrastructure that is used or will be used by the public at large or in support of an accepted public purpose or activity;

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

<sup>12</sup> Section 119.15(6)(a), F.S.

<sup>13</sup> Article I, s. 24(c), FLA. CONST.

<sup>14</sup> Section 119.15(7), F.S.

<sup>15</sup> United States Department of Transportation, The Federal Highway Administration, Innovative Program Delivery, *P3 Defined*, available at <http://www.fhwa.dot.gov/ipd/p3/defined/index.htm> (last visited on February 17, 2016).

<sup>16</sup> Section 287.05712(4)(d), F.S.

<sup>17</sup> Section 287.05712(1)(j), F.S.

- An improvement, including equipment, of a building that will be principally used by a public entity or the public at large or that supports a service delivery system in the public sector;
- A water, wastewater, or surface water management facility or other related infrastructure; or
- For projects that involve a facility owned or operated by the governing board of a county, district, or municipal hospital or health care system, or projects that involve a facility owned or operated by a municipal electric utility, only those projects that the governing board designates as qualifying projects.<sup>18</sup>

### **Procurement Procedures**

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

Unsolicited proposals from private entities must include certain material and information, unless waived by the responsible public entity, including:

- A description of the qualifying project, including the conceptual design and schedule for initiation and completion of the qualifying project;
- A description of the private entity's general plans for financing the qualifying project, including the sources of the funds and identification of any dedicated revenue source or proposed debt or equity investment on behalf of the private entity; and
- The proposed user fees, lease payments, or other service payments over the term of a comprehensive agreement, and the methodology and circumstances for changes to the user fees, lease payments, and other service payments over time.<sup>19</sup>

If the responsible public entity receives an unsolicited proposal and intends to enter into a P3 agreement for the qualifying project, the responsible public entity must publish a notice in the Florida Administrative Register (FAR) and a newspaper of general circulation at least once a week for two weeks stating the entity has received a proposal and will accept other proposals. The responsible public entity must establish a timeframe in which to accept other proposals that must be at least 21 days, but not more than 120 days, after the initial date of publication.<sup>20</sup>

After the notification period has expired, the responsible public entity must rank the proposals received in order of preference. If negotiations with the first ranked firm are unsuccessful, the responsible public entity may begin negotiations with the second ranked firm. The responsible public entity may reject all proposals at any point in the process.<sup>21</sup>

### **Public Record and Public Meeting Exemptions**

Current law does not provide a public record exemption for unsolicited proposals. However, the competitive solicitation has a public record exemption. Competitive solicitation is the process of

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<sup>18</sup> Section 287.05712(1)(i), F.S.

<sup>19</sup> Section 287.05712(5), F.S.

<sup>20</sup> Section 287.05712(4)(b), F.S.

<sup>21</sup> Section 287.05712(6)(c), F.S.

requesting and receiving sealed bids, proposals, or replies in accordance with the terms of a competitive process, regardless of the method of procurement.<sup>22</sup>

Sealed bids, proposals, or replies received by an agency are exempt from public record requirements until the agency provides notice of its intended decision or until 30 days after opening the bids, proposals, or final replies, whichever is earlier. If an agency rejects all bids, proposals, or replies and provides notice to reissue the competitive solicitation, everything will remain exempt until the agency provides notice of its decision or withdraws the reissued competitive solicitation. A bid, proposal, or reply is not exempt for longer than 12 months after the initial agency notice rejecting all bids, proposals, or replies.<sup>23</sup>

Current law does not provide a public meeting exemption for meetings during which an unsolicited proposal is discussed. However, a negotiation meeting during the competitive solicitation process where a vendor makes an oral presentation or answers questions is exempt from public meeting requirements.<sup>24</sup> A complete recording of the meeting must be made and no portion of the exempt meeting may be held off the record.<sup>25</sup>

The exempt meeting's records are exempt from public record requirements until the agency provides notice of its intended decision or until 30 days after opening the bids, proposals, or final replies, whichever occurs earlier. If the agency rejects all bids, proposals, or replies and provides notice to reissue the competitive solicitation, the exempt meeting's records will remain exempt until the agency provides notice of a decision to reissued competitive solicitation or withdraws the reissued competitive solicitation. An exempt meeting's records are not exempt for longer than 12 months after the initial agency notice rejecting all bids, proposals, or replies.<sup>26</sup>

### III. Effect of Proposed Changes:

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

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

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

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<sup>22</sup> Sections 119.071(1)(b)1., and 286.0113(2)(a)1., F.S.

<sup>23</sup> Section 119.071(1)(b), F.S.

<sup>24</sup> Section 286.0113(2)(b), F.S.

<sup>25</sup> Section 286.0113(2)(c), F.S.

<sup>26</sup> *Id.*

The bill creates a public meeting exemption for any portion of a meeting during which the exempt unsolicited proposal is discussed. A recording must be made of the closed portion of the meeting and no portion of the exempt meeting may be held off record. The recording and any records generated during the closed meeting are exempt from public record requirements until the underlying public record exemption expires. The bill does not require a public entity to provide notice to the public that such a meeting will take place.

The public record and public meeting exemptions are subject to the Open Government Sunset Review Act and will stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature. The bill provides a statement of public necessity as required by the State Constitution.

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

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

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

The mandates provision of Art. VII, s. 18 of the State Constitution may apply because counties and municipalities may incur additional costs relating to redacting information made exempt by the bill and the training necessary to comply with the new requirements. However, an exemption may apply based on the insignificant fiscal impact that is anticipated to be incurred.

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

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

##### **Vote Requirement**

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

##### **Public Necessity Statement**

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

##### **Breadth of Exemption**

Article I, s. 24(c) of the State Constitution requires a newly created public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The public necessity statement provides that unsolicited proposals

should be made temporarily exempt in order to encourage private entities to submit proposals and prevent competitors from gaining an unfair advantage.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

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

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Section 119.071, F.S., provides that all responses to a competitive solicitation become public upon the earlier of a notice of intended decision is published or 30 days after the sealed bid, proposal, or final reply has been opened. The bill does not provide such a requirement, thus treating competitive solicitations and unsolicited proposals differently.

**VIII. Statutes Affected:**

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

**IX. Additional Information:**

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

**CS by Governmental Oversight and Accountability on February 1, 2016:**  
The CS inserts the linked bill’s number (124) into the bill.

- 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 Committee on Governmental Oversight and Accountability;  
and Senator Evers

585-02885-16

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A bill to be entitled

An act relating to public records and public meetings; transferring, renumbering, and amending s. 287.05712, F.S., relating to public-private partnerships for public facilities and infrastructure; providing a definition; providing an exemption from public records requirements for a specified period for unsolicited proposals received by a responsible public entity; providing an exemption from public meeting requirements for any portion of a meeting of a responsible public entity during which exempt proposals are discussed; requiring that a recording be made of the closed meeting; providing an exemption from public records requirements for a specified period for the recording of, and any records generated during, a closed meeting; providing for future legislative review and repeal of the exemptions; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. Subsection (15) is added to section 287.05712, Florida Statutes, as transferred, renumbered, and amended by SB 124, to read:

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

(15) PUBLIC RECORDS AND PUBLIC MEETINGS EXEMPTIONS.-

(a) As used in this subsection, the term "competitive solicitation" has the same meaning as provided in s. 119.071(1).

(b)1. An unsolicited proposal received by a responsible

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public entity is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such time as the responsible public entity provides notice of an intended decision for a qualifying project.

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

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

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

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

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

b. The recording of, and any records generated during, the exempt meeting are exempt from s. 119.07(1) and s. 24(a), Art. I

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61 of the State Constitution until such time as the responsible  
 62 public entity provides notice of an intended decision for a  
 63 qualifying project or 180 days after receipt of the unsolicited  
 64 proposal by the responsible public entity if such entity does  
 65 not issue a competitive solicitation for the project.

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

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

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

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

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

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

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585-02885-16

2016126c1

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

132 Section 3. This act shall take effect on the same date that  
133 SB 124 or similar legislation takes effect, if such legislation  
134 is adopted in the same legislative session or an extension  
135 thereof and becomes a law.



The Florida Senate

## Committee Agenda Request

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

**Subject:** Committee Agenda Request

February 1, 2016

Dear Senator Flores,

I respectfully request that **Senate Bill 126**, regarding **Public Records/Public Meetings/Project Proposals**, be placed on the:

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

C

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

---

Senator Greg Evers  
Florida Senate, District 2

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/24/14  
Meeting Date

126  
Bill Number (if applicable)

Topic Pub Records Exemption

Amendment Barcode (if applicable)

Name Richard Watson

Job Title Chief Counsel

Address Po Box 10038  
Street

Phone 850-591-4770

Tallahassee FL 32302  
City State Zip

Email rc@rwatsonandassociates.com

Speaking:  For  Against  Information

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

Representing Associated Builders and Contractors

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/24/16

Meeting Date

126  
~~332~~

Bill Number (if applicable)

Topic exemption

Amendment Barcode (if applicable)

Name Greg Round

Job Title

Address 9166 Sunrise Dr.

Phone

Street

Largo

City

Fla.

State

33773

Zip

Email

Speaking:  For  Against  Information

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

Representing Pinellas County Florida Government Corruption

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

**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

---

**BILL:** CS/SB 268  
**INTRODUCER:** Fiscal Policy Committee and Senator Ring  
**SUBJECT:** Bullying and Harassment Policies in Schools  
**DATE:** February 26, 2016      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Scott	Klebacha	ED	<b>Favorable</b>
2.	Sikes	Elwell	AED	<b>Recommend: Favorable</b>
3.	Pace	Hrdlicka	FP	<b>Fav/CS</b>

---

**I. Summary:**

CS/SB 268 requires a school district’s policy on bullying and harassment to be implemented by each school principal and revised at least every 3 years. The bill also requires the policy to include a procedure for reporting alleged acts of bullying or harassment and a list of bullying prevention and intervention programs.

The bill has no fiscal impact.

**II. Present Situation:**

**Bullying and Harassment in Schools**

In 2008,<sup>1</sup> the Florida Legislature enacted s. 1006.147, F.S., which prohibits the bullying and harassment of any student or employee of a public K-12 educational institution.<sup>2</sup> Bullying is prohibited during a public K-12 education program or activity, school-sponsored event, or on a school bus.<sup>3</sup> Bullying and harassment are also prohibited through the use of data or computer software accessed through a computer within the scope<sup>4</sup> of a public K-12 educational institution or accessed at a non-school related event, if the bullying substantially interferes with or limits the victim’s ability to participate in or benefit from the services, activities, or opportunities offered by a school or substantially disrupts the education process or orderly operation of a school.<sup>5</sup>

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<sup>1</sup> Chapter 2008-123, L.O.F., also known as the “Jeffrey Johnston Stand Up for All Students” Act.

<sup>2</sup> Section 1006.147(2), F.S.

<sup>3</sup> Section 1006.147(a) and (b), F.S.

<sup>4</sup> Section 1006.147(3)(d), F.S., defines “within the scope of a public K-12 educational institution” to mean regardless of ownership, any computer, computer system, or computer network that is physically located on school property or at a school-related or school-sponsored program or activity.

<sup>5</sup> Section 1006.147(2)(c) and (d), F.S. The law does not require a school to staff or monitor any non-school related activity, function, or program in its efforts to prevent bullying and harassment. See s. 1006.147(2)(d), F.S.

**Bullying** is the systemic and chronic infliction of physical hurt or psychological distress on one or more students, including cyberbullying,<sup>6</sup> and may involve:

- Teasing;
- Social exclusion;
- Threat;
- Intimidation;
- Stalking;
- Physical violence;
- Theft;
- Sexual, religious, or racial harassment;
- Public humiliation; or
- Destruction of property.<sup>7</sup>

**Harassment** is any threatening, insulting, or dehumanizing gesture, use of data or computer software, or written, verbal, or physical conduct directed against a student or school employee that:

- Places a student or school employee in reasonable fear of harm to his or her person or damage to his or her property;
- Has the effect of substantially interfering with a student's educational performance, opportunities, or benefits; or
- Has the effect of substantially disrupting the orderly operation of a school.<sup>8</sup>

The law further specifies that bullying and harassment include:

- Retaliating against a student or school employee for reporting bullying or harassment;
- Reporting bullying or harassment in bad faith;
- Perpetuating bullying or harassment with the intent to demean, dehumanize, embarrass, or cause physical harm to a student or school employee by:
  - Incitement or coercion;
  - Accessing or providing access to a school district's computer, computer system, or computer network; or
  - Engaging in conduct substantially similar in effect to bullying or harassment.<sup>9</sup>

### ***Policy and Reporting Requirements***

Each school district is required to adopt a policy prohibiting the bullying and harassment of a student or employee of a public K-12 educational institution.<sup>10</sup> The school district must involve students, parents, teachers, administrators, school volunteers, community representatives, and

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<sup>6</sup> "Cyberbullying" is a form of bullying through the use of technology or other means of electronic communication, including, but not limited to, creating webpages or blogs and distributing or posting materials that perpetuate the conduct. *See s. 1006.147(3)(b), F.S.*

<sup>7</sup> Section 1006.147(3)(a), F.S.

<sup>8</sup> Section 1006.147(3)(c), F.S.

<sup>9</sup> Section 1006.147(3)(f), F.S.

<sup>10</sup> Section 1006.147(4), F.S. The policy must be in substantial compliance with the Department of Education's model policy. *See Florida Department of Education, Bullying Prevention, Model Policy Against Bullying and Harassment* (Revised July 2013), available at: <http://www.fldoe.org/schools/safe-healthy-schools/safe-schools/bullying-prevention.stml> (last visited Feb. 12, 2016).

local law enforcement agencies in the process of adopting the policy.<sup>11</sup> The policy must, at a minimum:

- Prohibit and define bullying and harassment;
- Describe the type of behavior expected from each student and employee of a public K-12 educational institution;
- Identify the consequences for a student or employee of a public K-12 educational institution who commits an act of bullying or harassment;
- Establish procedures for:
  - Reporting and investigating acts of bullying and harassment;
  - Immediately notifying a victim's parents, the parents of the perpetrator, and all local agencies where criminal charges may be pursued;
  - Referring victims and perpetrators to counseling;
  - Including incidents of bullying or harassment in each school's safety and discipline report submitted to the Department of Education;<sup>12</sup>
  - Providing instruction to students, parents, teachers, school administrators, counseling staff, and school volunteers on identifying, preventing, and responding to bullying or harassment, including instruction on recognizing behaviors that leads to bullying and harassment and taking appropriate preventative action based on those observations;
  - Regularly reporting to a victim's parents the actions taken to protect the victim; and
  - Publicizing the policy, including publication in the code of student conduct and all employee handbooks.<sup>13</sup>

The policy must be implemented in a manner that is ongoing throughout the school year and integrated with a school's curriculum, a school's discipline policies, and other violence prevention efforts.<sup>14</sup>

Distribution of safe schools funds to a school district is contingent upon the school district's compliance with implementing the reporting procedures required as part of its bullying and harassment policy.<sup>15</sup> By January 1 of each year, the Commissioner of Education must submit a report on the statewide implementation of bullying and harassment policies, including data regarding incidents of bullying and harassment and resulting consequences, to the Governor, the President of the Senate, and the Speaker of the House of Representatives.<sup>16</sup>

### III. Effect of Proposed Changes:

The bill requires that each school district revise its anti-bullying and harassment policy at least every 3 years.

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<sup>11</sup> Section 1006.147(4), F.S.

<sup>12</sup> Section 1006.09(6), F.S. The School Environmental Safety Incident Reporting System is used by the Office for Safe Schools within the Department of Education to compile data on incidents of crime, violence, and disruptive behaviors that occur on school grounds, on school transportation, and at off-campus, school-sponsored events. Such data is contained in the *Statewide Report on School Safety and Discipline Data*, available at: <http://www.fl DOE.org/safeschools/sesir.asp> (last visited Feb. 12, 2016).

<sup>13</sup> *Supra* note 11.

<sup>14</sup> *Id.*

<sup>15</sup> Section 1006.147(7), F.S.

<sup>16</sup> Section 1006.147(8), F.S.



The bill requires each school principal to implement the school district's anti-bullying and harassment policy.

The bill also requires that the school district's anti-bullying and harassment policy include:

- A procedure for reporting an alleged act of bullying or harassment; and
- A list of bullying prevention and intervention programs authorized by the school district to provide instruction to students, parents, teachers, school administrators, counseling staff, and school volunteers on identifying, preventing, and responding to bullying or harassment.

The bill is effective on 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 bill has no fiscal impact.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

The bill substantially amends section 1006.147 of the Florida Statutes.

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

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

**CS by Fiscal Policy on February 24, 2016:**

The committee substitute:

- Removes the requirement that a school district implement the policy on bullying and harassment, and instead requires the policy to be implemented by each school principal; and
- Removes the requirement that the policy on bullying and harassment provide a procedure for the mandatory reporting of an act of bullying or harassment, and instead requires the policy to include a procedure for receiving reports of an alleged act of bullying or harassment.

**B. Amendments:**

None.



632060

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/24/2016	.	
	.	
	.	
	.	

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

**Senate Amendment (with directory and title amendments)**

Between lines 19 and 20

insert:

(3) For purposes of this section:

(a) "Bullying" includes cyberbullying and means systematically and chronically inflicting physical hurt or psychological distress on one or more students and may involve:

1. Teasing;
2. Social exclusion;



632060

- 11           3. Threat;
- 12           4. Intimidation;
- 13           5. Stalking;
- 14           6. Physical violence;
- 15           7. Theft;
- 16           8. Sexual, sexual orientation, religious, or racial
- 17 harassment;
- 18           9. Public or private humiliation; or
- 19           10. Destruction of property.

20  
21 ===== D I R E C T O R Y   C L A U S E   A M E N D M E N T =====

22 And the directory clause is amended as follows:  
23           Delete lines 17 - 18  
24 and insert:  
25           Section 1. Paragraph (a) of subsection (3) and subsection  
26 (4) of section 1006.147, Florida Statutes, are amended to read:

27  
28 ===== T I T L E   A M E N D M E N T =====

29 And the title is amended as follows:  
30           Delete line 3  
31 and insert:  
32           schools; amending s. 1006.147, F.S.; revising the  
33           definition of the term "bullying"; requiring school



292820

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/24/2016	.	
	.	
	.	
	.	

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

**Senate Amendment (with title amendment)**

Delete lines 33 - 53  
and insert:  
policy must be implemented by each school principal in a manner that is ongoing throughout the school year and integrated with a school's curriculum, a school's bullying prevention and intervention program, a school's discipline policies, and other violence prevention efforts. The school district policy must contain, at a minimum, the following components:



292820

- 11 (a) A statement prohibiting bullying and harassment.
- 12 (b) A definition of bullying and a definition of harassment
- 13 that include the definitions listed in this section.
- 14 (c) A description of the type of behavior expected from
- 15 each student and employee of a public K-12 educational
- 16 institution.
- 17 (d) The consequences for a student or employee of a public
- 18 K-12 educational institution who commits an act of bullying or
- 19 harassment.
- 20 (e) The consequences for a student or employee of a public
- 21 K-12 educational institution who is found to have wrongfully and
- 22 intentionally accused another of an act of bullying or
- 23 harassment.
- 24 (f) A procedure for receiving reports ~~reporting of~~ an
- 25 alleged act of

26  
27 ===== T I T L E A M E N D M E N T =====

28 And the title is amended as follows:

29 Delete lines 5 - 10

30 and insert:

31 policy at specified intervals; requiring each school  
32 principal to implement the bullying and harassment  
33 policy in a certain manner and integrate it with the  
34 school's bullying prevention and intervention program;  
35 requiring the policy to include a procedure for  
36 receiving reports of alleged acts of bullying and a  
37 list of authorized programs that

By Senator Ring

29-00417-16

2016268\_\_

A bill to be entitled

An act relating to bullying and harassment policies in schools; amending s. 1006.147, F.S.; requiring school districts to revise their bullying and harassment policy at specified intervals; requiring schools to implement the bullying and harassment policy in a certain manner and integrate it with the school's bullying prevention and intervention program; requiring the policy to include mandatory reporting procedures and a list of authorized programs that provide bullying and harassment identification, prevention, and response instruction; providing an effective date.

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

Section 1. Subsection (4) of section 1006.147, Florida Statutes, is amended to read:

1006.147 Bullying and harassment prohibited.—

(4) Each school district shall adopt and revise at least every 3 years a policy prohibiting bullying and harassment of a student or employee of a public K-12 educational institution. Each school district's policy shall be in substantial conformity with the Department of Education's model policy. The school district bullying and harassment policy shall afford all students the same protection regardless of their status under the law. The school district may establish separate discrimination policies that include categories of students. The school district shall involve students, parents, teachers,

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29-00417-16

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administrators, school staff, school volunteers, community representatives, and local law enforcement agencies in the process of adopting and revising the policy. The school district policy must require a school to implement the policy ~~be implemented~~ in a manner that is ongoing throughout the school year and integrated with a school's curriculum, a school's bullying prevention and intervention program, a school's discipline policies, and other violence prevention efforts. The school district policy must contain, at a minimum, the following components:

(a) A statement prohibiting bullying and harassment.

(b) A definition of bullying and a definition of harassment that include the definitions listed in this section.

(c) A description of the type of behavior expected from each student and employee of a public K-12 educational institution.

(d) The consequences for a student or employee of a public K-12 educational institution who commits an act of bullying or harassment.

(e) The consequences for a student or employee of a public K-12 educational institution who is found to have wrongfully and intentionally accused another of an act of bullying or harassment.

(f) A procedure for the mandatory reporting of an act of bullying or harassment, including provisions that permit a person to anonymously report such an act. However, this paragraph does not permit formal disciplinary action to be based solely on an anonymous report.

(g) A procedure for the prompt investigation of a report of

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59 bullying or harassment and the persons responsible for the  
 60 investigation. The investigation of a reported act of bullying  
 61 or harassment is deemed to be a school-related activity and  
 62 begins with a report of such an act. Incidents that require a  
 63 reasonable investigation when reported to appropriate school  
 64 authorities shall include alleged incidents of bullying or  
 65 harassment allegedly committed against a child while the child  
 66 is en route to school aboard a school bus or at a school bus  
 67 stop.

68 (h) A process to investigate whether a reported act of  
 69 bullying or harassment is within the scope of the district  
 70 school system and, if not, a process for referral of such an act  
 71 to the appropriate jurisdiction. Computers without web-filtering  
 72 software or computers with web-filtering software that is  
 73 disabled shall be used when complaints of cyberbullying are  
 74 investigated.

75 (i) A procedure for providing immediate notification to the  
 76 parents of a victim of bullying or harassment and the parents of  
 77 the perpetrator of an act of bullying or harassment, as well as  
 78 notification to all local agencies where criminal charges may be  
 79 pursued against the perpetrator.

80 (j) A procedure to refer victims and perpetrators of  
 81 bullying or harassment for counseling.

82 (k) A procedure for including incidents of bullying or  
 83 harassment in the school's report of data concerning school  
 84 safety and discipline required under s. 1006.09(6). The report  
 85 must include each incident of bullying or harassment and the  
 86 resulting consequences, including discipline and referrals. The  
 87 report must include in a separate section each reported incident

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29-00417-16

2016268\_\_

88 of bullying or harassment that does not meet the criteria of a  
 89 prohibited act under this section with recommendations regarding  
 90 such incidents. The Department of Education shall aggregate  
 91 information contained in the reports.

92 (l) A list of programs authorized by the school district  
 93 ~~which provide procedure for providing~~ instruction to students,  
 94 parents, teachers, school administrators, counseling staff, and  
 95 school volunteers on identifying, preventing, and responding to  
 96 bullying or harassment, including instruction on recognizing  
 97 behaviors that lead to bullying and harassment and taking  
 98 appropriate preventive action based on those observations.

99 (m) A procedure for regularly reporting to a victim's  
 100 parents the actions taken to protect the victim.

101 (n) A procedure for publicizing the policy, which must  
 102 include its publication in the code of student conduct required  
 103 under s. 1006.07(2) and in all employee handbooks.

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

Page 4 of 4

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



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

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

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

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BILL: CS/CS/SB 332

INTRODUCER: Fiscal Policy Committee; Transportation Committee; and Senator Altman

SUBJECT: Highway Safety

DATE: February 26, 2016

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Eichin</u>	<u>Eichin</u>	<u>TR</u>	<u>Fav/CS</u>
2.	<u>Dugger</u>	<u>Cannon</u>	<u>CJ</u>	<u>Favorable</u>
3.	<u>Pace</u>	<u>Hrdlicka</u>	<u>FP</u>	<u>Fav/CS</u>

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 332 seeks to increase the safety of “vulnerable users of a public roadway.” The bill:

- Revises and creates various statutory provisions and penalties relating to traffic control laws and vulnerable users, such as pedestrians and bicyclists;
- Clarifies provisions relating to overtaking and passing vulnerable users, particularly with respect to maintaining the required distance between a passing vehicle and a vulnerable user;
- Sets requirements for making turns at certain locations when passing a vulnerable user;
- Allows drivers to cross the centerline in an identified no-passing zone when passing a vulnerable user;
- Requires appearance at a mandatory hearing for certain infractions contributing to the bodily injury of a vulnerable user;
- Provides a discretionary fine of not more than \$2,500 for a violation under s. 316.192, F.S., related to reckless driving, if the violation contributed to the bodily injury of a vulnerable user;
- Requires law enforcement officers issuing certain citations to note if the violation contributed to the bodily injury of a vulnerable user; and
- Revises cross-references to conform definitions.

The bill has an indeterminate impact on state and local government (see Section V.)

## II. Present Situation:

### Definitions

Current law defines certain relevant terms for purposes of ch. 316, F.S., relating to traffic control laws, as follows:

- “Vehicle” means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices used exclusively upon stationary rails or tracks.<sup>1</sup>
- “Bicycle” means every vehicle propelled solely by human power, and every motorized bicycle propelled by a combination of human power and an electric helper motor capable of propelling the vehicle at a speed of not more than 20 miles per hour on level ground upon which any person may ride, having two tandem wheels, and including any device generally recognized as a bicycle though equipped with two front or two rear wheels. The term does not include such a vehicle with a seat height of no more than 25 inches from the ground when the seat is adjusted to its highest position or a scooter or similar device.<sup>2</sup>
- “Roadway” means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder.<sup>3</sup>

The term “bodily injury,” is defined identically in various sections of Florida Statutes to mean:

- A cut, abrasion, bruise, burn, or disfigurement;
- Physical pain;
- Illness;
- Impairment of the function of a bodily member, organ, or mental faculty; or
- Any other injury to the body, no matter how temporary.<sup>4</sup>

The term “vulnerable road user,” as used in provisions relating to crashes involving death or personal injuries, is defined to mean:

- A pedestrian, including a person actually engaged in work upon a highway, upon utility facilities along a highway, or engaged in the provision of emergency services within the right-of-way;
- A person operating a bicycle, motorcycle, scooter, or moped lawfully on the roadway;
- A person riding an animal; or
- A person lawfully operating on a public right-of-way, crosswalk, or shoulder of the roadway:
  - A farm tractor or similar vehicle designed primarily for farm use;
  - A skateboard, roller skates, or in-line skates;
  - A horse-drawn carriage;
  - An electric personal assistive mobility device; or
  - A wheelchair.<sup>5</sup>

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<sup>1</sup> Section 316.003(75), F.S.

<sup>2</sup> Section 316.003(2), F.S.

<sup>3</sup> Section 316.003(42), F.S.

<sup>4</sup> See ss. 501.001(1)(c), F.S., 831.03(1), F.S., and 914.21(1), F.S.

<sup>5</sup> Section 316.027(1), F.S.

### **Driving on Right Side of Roadway**

Vehicles must generally be driven up the right half of the roadway, with certain exceptions, such as when overtaking and passing another vehicle proceeding in the same direction and when an obstruction exists making it necessary to drive to the left of the center of the highway.<sup>6</sup> Additionally, any vehicle traveling at less than the normal speed of traffic under existing conditions must be driven in the right-hand lane or as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.<sup>7</sup> A violation is a noncriminal traffic infraction, punishable as a moving violation, the penalty for which is \$60.<sup>8</sup>

Similarly, any person operating a bicycle upon a roadway at less than normal speed of traffic under existing conditions must be ridden in the lane marked for bicycle use or, if no marked lane exists, as close as practicable to the right-hand curb or edge of the roadway except when:

- Overtaking and passing another bicycle or vehicle traveling in the same direction;
- Preparing for a left turn at an intersection or into a private road or driveway; or
- Reasonably necessary to avoid any condition or potential conflict, including a fixed or moving object, parked or moving vehicle, bicycle, pedestrian, animal, surface hazard, turn lane, or substandard-width lane, which makes it unsafe to continue along the right-hand curb or edge or within a bicycle lane.<sup>9</sup>

### **Overtaking and Passing**

Section 316.083, F.S., requires the driver of a vehicle overtaking another proceeding in the same direction to appropriately signal,<sup>10</sup> pass to the left at a safe distance, and not again drive to the right side of the roadway until safely clear of the overtaken vehicle.<sup>11</sup> When overtaking a bicycle or other nonmotorized vehicle, the driver of the overtaking vehicle must pass at a safe distance of not less than three feet between the vehicle and the bicycle or nonmotorized vehicle.<sup>12</sup>

### **Right Turns on Red**

Generally, a vehicle facing a red signal must stop before entering a crosswalk on the near side of an intersection or, if none, then before entering the intersection, and remain stopped until a green indication is shown. Right turns on red are authorized, but a driver must yield the right-of-way to pedestrians and other traffic. Cities and counties may prohibit right-turns-on-red at any intersection with notice of the prohibition erected in a location visible to traffic approaching the intersection.<sup>13</sup>

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<sup>6</sup> Section 316.081(1), F.S.

<sup>7</sup> Section 316.081(2), F.S.

<sup>8</sup> Sections 316.081(5) and 318.18(3), F.S. A person convicted of a noncriminal violation may not be sentenced to a term of imprisonment or to any other punishment more severe than a fine, forfeiture, or other civil penalty, except as provided in ch. 316, F.S., or by ordinance of any city or county. *See* Section 775.082(5), F.S.

<sup>9</sup> Section 316.2065(5)(a), F.S.

<sup>10</sup> Generally, by means of the hand and arm or by signal lamps. *See* ss. 316.155, 316.156, and 316.157, F.S.

<sup>11</sup> Section 316.083(1), F.S.

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

<sup>13</sup> Section 316.074(1), F.S., and s. 316.075(1)(c), F.S.

## **No-Passing Zones**

A driver is prohibited from driving on the left side of a roadway if signs or markings are in place to define a no-passing zone, or on the left side of any pavement striping designed to mark such no-passing zone throughout its length.<sup>14</sup> The driver is excluded from the provisions relating to no-passing zones if an obstruction exists making it necessary to drive to the left of the center of the highway, or if the driver is turning left into or from an alley, private road, or driveway.<sup>15</sup> A no-passing zone violation is a noncriminal traffic infraction, punishable as a moving violation, the penalty for which is \$60.<sup>16</sup>

## **Infractions Requiring Mandatory Hearing**

Current law requires appearance at a mandatory hearing for any person cited for the following:

- Any infraction resulting in a crash that causes the death of another;
- Any infraction resulting in a crash that causes “serious bodily injury” of another;<sup>17</sup>
- Any infraction for passing a school bus displaying a stop signal, when passing on the side that children enter or exit;
- Any infraction for failure to secure the load being hauled on a vehicle; or
- Any infraction for exceeding certain speed limits by 30 miles per hour or more.<sup>18</sup>

## **Crash Report Forms**

A traffic crash report must be completed and submitted to the Department of Highway Safety and Motor Vehicles (DHSMV) if the crash resulted in the death of, personal injury to, or any indication of complaints of pain or discomfort by any of the parties or passengers involved in the crash.<sup>19</sup>

Crash reports that reveal the identity, home or work telephone number or address, or other personal information concerning the parties involved in the crash are confidential for a period of 60 days after the date the report is filed.<sup>20</sup>

The DHSMV must prepare and, upon request, supply to police departments, sheriffs, and other appropriate agencies or individuals forms for crash reports. The form must contain detailed information on the cause and conditions and the persons and vehicles involved in a crash. Every crash report form must contain the policy numbers of liability insurance and the names of carriers covering any vehicle involved in a crash. The crash report form must contain:

- The date, time, and location of the crash;

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<sup>14</sup> Section 316.0875(2), F.S. Section 316.0875(1), F.S., authorizes the Florida Department of Transportation and local authorities to determine those portions of any highway where overtaking and passing or driving to the left of the roadway would be hazardous and, by appropriate signs or markings on the roadway, to indicate the beginning and end of such zones.

<sup>15</sup> Section 316.0875(3), F.S.

<sup>16</sup> Sections 316.0875(4) and 318.18(3), F.S.

<sup>17</sup> Section 316.1933(1)(b), F.S., defines “serious bodily injury” to mean an injury to any person, including the driver, which consists of a physical condition that creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

<sup>18</sup> Section 318.19, F.S.

<sup>19</sup> Section 316.066(1)(a), F.S.

<sup>20</sup> Section 316.066(2)(a), F.S.

- A description of the vehicles involved;
- The names and addresses of the parties involved, all drivers and passengers in the vehicles involved, and any of witnesses;
- The name, badge number, and law enforcement agency of the officer investigating the crash; and
- The names of the insurance companies for the respective parties involved in the crash.<sup>21</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 316.003, F.S., transfers the definition of “vulnerable road user” from s. 315.027, F.S., to s. 316.003, F.S., and changes the term to “vulnerable user of a public roadway” or “vulnerable user.” The bill removes the users of skateboards, roller skates, or in-line skates from the definition and makes the following changes indicated in italics:

- A pedestrian, including a person actually engaged in work upon a highway, work upon utility facilities along a highway, or the provision of emergency services within the right-of-way;
- A person operating, or *who is a passenger* on, a bicycle, scooter, or moped lawfully on the roadway;
- A person riding an animal; or
- A person lawfully operating on a public *roadway*, crosswalk, or shoulder of the roadway:
  - A farm tractor or similar vehicle designed primarily for farm use;
  - A horse-drawn carriage;
  - An electric personal assistive mobility device; or
  - A wheelchair.

The bill defines “bicycle lane” as a portion of a roadway or highway that has been designated by pavement markings and signs for the preferential or exclusive use by bicycles.

This section also renumbers all of the definitions found in s. 316.003, F.S., to allow for them to be listed in alphabetical order.

**Section 2** amends s. 316.027, F.S., to make conforming changes.

**Section 3** amends s. 316.083, F.S., to require the driver of a *motor* vehicle overtaking a *person operating* a bicycle or other *vulnerable user* to pass at a safe distance of no less than 3 feet<sup>22</sup> *as measured from anything extending from the motor vehicle or trailer or other item towed by the motor vehicle*. A law enforcement officer issuing a citation for a violation must note on the citation if the violation contributed to the bodily injury of a vulnerable user of a public roadway.

**Section 4** revises s. 316.084, F.S., to clarify that a bicyclist in a bike lane or on the shoulder may pass another vehicle on the right.

**Section 5** amends s. 316.0875(3), F.S., to add an additional exclusion from the provisions relating to no-passing zones. The bill allows a driver to “safely and briefly” cross a double

<sup>21</sup> Section 316.068, F.S.

<sup>22</sup> Section 316.209, F.S., provides that motorcycles are entitled to full use of a lane and no motor vehicle shall be driven in such a manner as to deprive any motorcycle of the full use of a lane. *See* Related Issues (Section VII).

yellow striped centerline when passing a vulnerable user in order to provide at least 3 feet between the motor vehicle and anything extending from the motor vehicle, and the vulnerable user.

**Section 6** revises s. 316.151, F.S., to prohibit a driver overtaking and passing a vulnerable user traveling in the same direction from making a right or left turn unless the turn can be made at a safe distance from the vulnerable user. This bill also requires a driver to signal as provided in s. 316.155, F.S., and to yield the right of way to a bicycle or pedestrian when crossing a sidewalk, bicycle lane, or bicycle path. A law enforcement officer issuing a citation for a violation must note on the citation if the violation contributed to the bodily injury of a vulnerable user of a public roadway.

**Section 7** amends s. 316.1925, F.S., relating to careless driving, to require a law enforcement officer issuing a citation for a violation to note on the citation if the violation contributed to the bodily injury of a vulnerable user of a public roadway.

**Section 8** amends s. 316.2065, F.S., regarding bicycle regulations, to clarify that a bicycle is a vehicle to be operated in the same manner as other vehicles with all of the rights and all of the duties incumbent upon operators of other vehicles inured by ch. 316, F.S., except where regulations state otherwise or are clearly not applicable. The bill also extends the prohibition on riding bicycles more than two abreast in the road to bicycle lanes. A new provision is added allowing a group of four or more cyclists to proceed through a stop sign *as a group*, after coming to a complete stop.

**Section 9** creates s. 318.142, F.S., to allow a designated official to impose a fine of not more than \$2,500 for any violation that contributes to the bodily injury of a vulnerable user, in addition to any other penalties imposed under s. 316.192, F.S., relating to reckless driving.

**Section 10** amends s. 318.19, F.S., to require appearance at a mandatory hearing for any infraction of s. 316.083, s. 316.0833, or s. 316.1925, F.S., which contributes to the bodily injury of a vulnerable user of a public roadway.

**Sections 11 through 35** amend multiple sections of the Florida Statutes to revise cross-references related to the relocated and revised definitions in the bill.

**Section 36** provides that the bill is effective on October 1, 2016.

A number of editorial and grammatical revisions to existing statutes are also made in the bill.

#### **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:

Offenders of the revised statutes will be subject to penalties including a fine of \$60 per violation. A discretionary fine of up to \$2,500 could be imposed if a violation contributes to the bodily injury of a vulnerable user.

C. Government Sector Impact:

According to the Department of Highway Safety and Motor Vehicles (DHSMV), the bill's revisions to penalties associated with the rights and safety of vulnerable users for violations contributing to bodily injuries may result in positive fiscal impacts to local government. The amount of additional fines and resulting revenues, as well as any negative fiscal impact due to the need for reprogramming local e-citation systems, is indeterminate at this time.<sup>23</sup>

Similarly, the DHSMV estimates that the bill's revisions to penalties associated with the rights and safety of vulnerable users of public roadways and for violations contributing to bodily injuries may result in positive fiscal impacts to state government. The amount of additional fines and resulting revenues is indeterminate at this time. The DHSMV estimates that the bill will require program and software updates, costing \$57,520.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

According to the DHSMV, there is limited space available on citations to include bodily injury information since information "marked" on the citation is not captured in the data exchange process between the clerk of courts and the DHSMV. In order to capture the "marked" information the bill would require modification to the data process (programming) and the data exchange process, the driver license system, and the paper and electronic citation process.

VIII. **Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 316.003, 316.027, 316.083, 316.084, 316.0875, 316.151, 316.1925, 316.2065, and 318.19.

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<sup>23</sup> DHSMV, *2016 Agency Legislative Bill Analysis SB 332* (Oct. 6, 2015) (on file with the Senate Committee on Fiscal Policy).

This bill creates section 318.142 of the Florida Statutes.

This bill corrects cross-references in the following sections of the Florida Statutes: 212.05, 316.1303, 316.235, 316.545, 316.605, 316.6105, 316.613, 316.622, 316.650, 316.70, 320.01, 320.08, 320.0801, 320.38, 322.0261, 322.031, 450.181, 559.903, 655.960, 732.402, and 860.065.

The bill reenacts the following sections of the Florida Statutes for the purpose of incorporating amendments made by the act: 316.072, 316.1923, 318.14 and 318.18.

## **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 Fiscal Policy on February 24, 2016:**

The committee substitute deletes motorcycle from the definition of vulnerable user.

**CS by Transportation on January 27, 2016:**

The CS:

- Renumbered all of the definitions in s. 316.003, F.S., to accommodate alphabetization which resulted in numerous cross-reference corrections;
- Deleted the definition of “bodily injury”;
- Deleted provisions creating s. 316.0833, F.S., related to turns by motor vehicles, and instead revised s. 316.151, F.S., to prohibit certain turns;
- Added revisions to s. 316.084, F.S., related to bicyclists’ ability to pass on the right;
- Added revisions to s. 316.2065, F.S., allowing groups of cyclists to proceed from a stop sign; and
- Removed the \$2000 fine for violations involving bodily injury under ss. 316.083, 316.0833, and 316.1925, F.S., and replaced it with a \$2500 fine for violations of s. 316.192, F.S.

- B. **Amendments:**

None.





274136

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/24/2016	.	
	.	
	.	
	.	

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

**Senate Amendment**

Delete line 642  
and insert:  
bicycle, scooter, or moped lawfully on the roadway;



793960

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
02/24/2016	.	
	.	
	.	
	.	

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

**Senate Amendment (with title amendment)**

Between lines 706 and 707  
insert:

Section 3. Subsection (3) is added to section 316.068,  
Florida Statutes, to read:

316.068 Crash report forms.—

(3) A crash report form may not include personal telephone  
numbers of persons involved in the crash.

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



793960

12 And the title is amended as follows:

13 Delete line 6

14 and insert:

15 changes made by the act; amending s. 316.068, F.S.;

16 prohibiting a crash report form from including

17 personal telephone numbers of persons involved in the

18 crash; amending s. 316.083, F.S.;

By the Committee on Transportation; and Senator Altman

596-02693-16

2016332c1

1 A bill to be entitled  
 2 An act relating to highway safety; amending s.  
 3 316.003, F.S.; providing definitions; amending s.  
 4 316.027, F.S.; deleting the definition of the term  
 5 "vulnerable road user"; conforming provisions to  
 6 changes made by the act; amending s. 316.083, F.S.;  
 7 revising provisions relating to the passing of a  
 8 vehicle; directing a law enforcement officer issuing a  
 9 citation for specified violations to note certain  
 10 information on the citation; amending s. 316.084,  
 11 F.S.; exempting bicycles from provisions for passing a  
 12 vehicle on the right under certain circumstances;  
 13 amending s. 316.0875, F.S.; revising exceptions to  
 14 provisions for designated no-passing zones; amending  
 15 s. 316.151, F.S.; revising provisions for turning at  
 16 intersections; directing a law enforcement officer  
 17 issuing a citation for specified violations to note  
 18 certain information on the citation; amending s.  
 19 316.1925, F.S.; revising provisions relating to  
 20 careless driving; directing a law enforcement officer  
 21 issuing a citation for specified violations to note  
 22 certain information on the citation; amending s.  
 23 316.2065, F.S.; revising provisions for operation of a  
 24 bicycle; requiring motor vehicle operators to allow a  
 25 group of bicycles to travel through an intersection  
 26 under certain circumstances; creating s. 318.142,  
 27 F.S.; providing penalties for specified infractions  
 28 contributing to bodily injury of a vulnerable user;  
 29 amending s. 318.19, F.S.; requiring a hearing for  
 30 specified offenses; directing a law enforcement  
 31 officer issuing a citation for specified violations to  
 32 note certain information on the citation; amending s.

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

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33 322.0261, F.S., relating to driver improvement  
 34 courses; revising the definition of "vulnerable road  
 35 users"; amending ss. 212.05, 316.1303, 316.235,  
 36 316.545, 316.605, 316.6105, 316.613, 316.622, 316.650,  
 37 316.70, 320.01, 320.08, 320.0801, 320.38, 322.031,  
 38 450.181, 559.903, 655.960, 732.402, and 860.065, F.S.;  
 39 conforming cross-references; reenacting ss.  
 40 316.072(4)(b), 316.1923(5), 318.14(2), and  
 41 318.18(1)(b), F.S., relating to obedience to and  
 42 effect of traffic laws, aggressive careless driving,  
 43 noncriminal traffic infractions, and amount of  
 44 penalties, respectively, to incorporate amendments  
 45 made by the act in references thereto; providing an  
 46 effective date.  
 47  
 48 WHEREAS, the Legislature recognizes that everyone must  
 49 share the road, and  
 50 WHEREAS, there are laws in place, such as ss. 316.2065 and  
 51 316.2068, Florida Statutes, that require certain vulnerable road  
 52 users to follow safe practices when operating on the roadways of  
 53 the state, and  
 54 WHEREAS, there are laws in place that similarly require  
 55 persons who operate a vehicle on the highways of the state to  
 56 operate the vehicle in a safe manner, and  
 57 WHEREAS, it is the intent of the Legislature to amend the  
 58 Florida Uniform Traffic Control laws to protect vulnerable road  
 59 users while balancing their rights against the rights of those  
 60 who choose to travel by motor vehicle, NOW, THEREFORE,  
 61

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2016332c1

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

63  
64 Section 1. Section 316.003, Florida Statutes, is reordered  
65 and amended to read:

66 316.003 Definitions.—The following words and phrases, when  
67 used in this chapter, shall have the meanings respectively  
68 ascribed to them in this section, except where the context  
69 otherwise requires:

70 (1) AUTHORIZED EMERGENCY VEHICLES.—Vehicles of the fire  
71 department (fire patrol), police vehicles, and such ambulances  
72 and emergency vehicles of municipal departments, public service  
73 corporations operated by private corporations, the Fish and  
74 Wildlife Conservation Commission, the Department of  
75 Environmental Protection, the Department of Health, the  
76 Department of Transportation, and the Department of Corrections  
77 as are designated or authorized by their respective department  
78 or the chief of police of an incorporated city or any sheriff of  
79 any of the various counties.

80 (3)~~(2)~~ BICYCLE.—Every vehicle propelled solely by human  
81 power, and every motorized bicycle propelled by a combination of  
82 human power and an electric helper motor capable of propelling  
83 the vehicle at a speed of not more than 20 miles per hour on  
84 level ground upon which any person may ride, having two tandem  
85 wheels, and including any device generally recognized as a  
86 bicycle though equipped with two front or two rear wheels. The  
87 term does not include such a vehicle with a seat height of no  
88 more than 25 inches from the ground when the seat is adjusted to  
89 its highest position or a scooter or similar device. No person  
90 under the age of 16 may operate or ride upon a motorized

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91 bicycle.

92 (7)~~(3)~~ BUS.—Any motor vehicle designed for carrying more  
93 than 10 passengers and used for the transportation of persons  
94 and any motor vehicle, other than a taxicab, designed and used  
95 for the transportation of persons for compensation.

96 (8)~~(4)~~ BUSINESS DISTRICT.—The territory contiguous to, and  
97 including, a highway when 50 percent or more of the frontage  
98 thereon, for a distance of 300 feet or more, is occupied by  
99 buildings in use for business.

100 (4) BICYCLE LANE.—A portion of a roadway or highway that  
101 has been designated by pavement markings and signs for the  
102 preferential or exclusive use by bicycles.

103 (9)~~(5)~~ CANCELLATION.—Cancellation means that a license  
104 which was issued through error or fraud is declared void and  
105 terminated. A new license may be obtained only as permitted in  
106 this chapter.

107 (14)~~(6)~~ CROSSWALK.—

108 (a) That part of a roadway at an intersection included  
109 within the connections of the lateral lines of the sidewalks on  
110 opposite sides of the highway, measured from the curbs or, in  
111 the absence of curbs, from the edges of the traversable roadway.

112 (b) Any portion of a roadway at an intersection or  
113 elsewhere distinctly indicated for pedestrian crossing by lines  
114 or other markings on the surface.

115 (15)~~(7)~~ DAYTIME.—The period from a half hour before sunrise  
116 to a half hour after sunset. Nighttime means at any other hour.

117 (16)~~(8)~~ DEPARTMENT.—The Department of Highway Safety and  
118 Motor Vehicles as defined in s. 20.24. Any reference herein to  
119 Department of Transportation shall be construed as referring to

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120 the Department of Transportation, defined in s. 20.23, or the  
121 appropriate division thereof.

122 (17)~~(9)~~ DIRECTOR.—The Director of the Division of the  
123 Florida Highway Patrol of the Department of Highway Safety and  
124 Motor Vehicles.

125 (18)~~(10)~~ DRIVER.—Any person who drives or is in actual  
126 physical control of a vehicle on a highway or who is exercising  
127 control of a vehicle or steering a vehicle being towed by a  
128 motor vehicle.

129 (20)~~(11)~~ EXPLOSIVE.—Any chemical compound or mechanical  
130 mixture that is commonly used or intended for the purpose of  
131 producing an explosion and which contains any oxidizing and  
132 combustive units or other ingredients in such proportions,  
133 quantities, or packing that an ignition by fire, friction,  
134 concussion, percussion, or detonator of any part of the compound  
135 or mixture may cause such a sudden generation of highly heated  
136 gases that the resultant gaseous pressures are capable of  
137 producing destructive effect on contiguous objects or of  
138 destroying life or limb.

139 (22)~~(12)~~ FARM TRACTOR.—Any motor vehicle designed and used  
140 primarily as a farm implement for drawing plows, mowing  
141 machines, and other implements of husbandry.

142 (23)~~(13)~~ FLAMMABLE LIQUID.—Any liquid which has a flash  
143 point of 70 degrees Fahrenheit or less, as determined by a  
144 Tagliabue or equivalent closed-cup test device.

145 (25)~~(14)~~ GROSS WEIGHT.—The weight of a vehicle without load  
146 plus the weight of any load thereon.

147 (27)~~(15)~~ HOUSE TRAILER.—

148 (a) A trailer or semitrailer which is designed,

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149 constructed, and equipped as a dwelling place, living abode, or  
150 sleeping place (either permanently or temporarily) and is  
151 equipped for use as a conveyance on streets and highways, or

152 (b) A trailer or a semitrailer the chassis and exterior  
153 shell of which is designed and constructed for use as a house  
154 trailer, as defined in paragraph (a), but which is used instead,  
155 permanently or temporarily, for the advertising, sales, display,  
156 or promotion of merchandise or services or for any other  
157 commercial purpose except the transportation of property for  
158 hire or the transportation of property for distribution by a  
159 private carrier.

160 (28)~~(16)~~ IMPLEMENT OF HUSBANDRY.—Any vehicle designed and  
161 adapted exclusively for agricultural, horticultural, or  
162 livestock-raising operations or for lifting or carrying an  
163 implement of husbandry and in either case not subject to  
164 registration if used upon the highways.

165 (29)~~(17)~~ INTERSECTION.—

166 (a) The area embraced within the prolongation or connection  
167 of the lateral curblines; or, if none, then the lateral boundary  
168 lines of the roadways of two highways which join one another at,  
169 or approximately at, right angles; or the area within which  
170 vehicles traveling upon different highways joining at any other  
171 angle may come in conflict.

172 (b) Where a highway includes two roadways 30 feet or more  
173 apart, then every crossing of each roadway of such divided  
174 highway by an intersecting highway shall be regarded as a  
175 separate intersection. In the event such intersecting highway  
176 also includes two roadways 30 feet or more apart, then every  
177 crossing of two roadways of such highways shall be regarded as a

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178 separate intersection.

179 (30)~~(18)~~ LANED HIGHWAY.—A highway the roadway of which is  
180 divided into two or more clearly marked lanes for vehicular  
181 traffic.

182 (31)~~(19)~~ LIMITED ACCESS FACILITY.—A street or highway  
183 especially designed for through traffic and over, from, or to  
184 which owners or occupants of abutting land or other persons have  
185 no right or easement, or only a limited right or easement, of  
186 access, light, air, or view by reason of the fact that their  
187 property abuts upon such limited access facility or for any  
188 other reason. Such highways or streets may be parkways from  
189 which trucks, buses, and other commercial vehicles are excluded;  
190 or they may be freeways open to use by all customary forms of  
191 street and highway traffic.

192 (32)~~(20)~~ LOCAL AUTHORITIES.—Includes all officers and  
193 public officials of the several counties and municipalities of  
194 this state.

195 (38)~~(21)~~ MOTOR VEHICLE.—Except when used in s. 316.1001, a  
196 self-propelled vehicle not operated upon rails or guideway, but  
197 not including any bicycle, motorized scooter, electric personal  
198 assistive mobility device, swamp buggy, or moped. For purposes  
199 of s. 316.1001, "motor vehicle" has the same meaning as in s.  
200 320.01(1)(a).

201 (39)~~(22)~~ MOTORCYCLE.—Any motor vehicle having a seat or  
202 saddle for the use of the rider and designed to travel on not  
203 more than three wheels in contact with the ground, but excluding  
204 a tractor or a moped.

205 (42)~~(23)~~ OFFICIAL TRAFFIC CONTROL DEVICES.—All signs,  
206 signals, markings, and devices, not inconsistent with this

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207 chapter, placed or erected by authority of a public body or  
208 official having jurisdiction for the purpose of regulating,  
209 warning, or guiding traffic.

210 (43)~~(24)~~ OFFICIAL TRAFFIC CONTROL SIGNAL.—Any device,  
211 whether manually, electrically, or mechanically operated, by  
212 which traffic is alternately directed to stop and permitted to  
213 proceed.

214 (44)~~(25)~~ OPERATOR.—Any person who is in actual physical  
215 control of a motor vehicle upon the highway, or who is  
216 exercising control over or steering a vehicle being towed by a  
217 motor vehicle.

218 (45)~~(26)~~ OWNER.—A person who holds the legal title of a  
219 vehicle, or, in the event a vehicle is the subject of an  
220 agreement for the conditional sale or lease thereof with the  
221 right of purchase upon performance of the conditions stated in  
222 the agreement and with an immediate right of possession vested  
223 in the conditional vendee or lessee, or in the event a mortgagor  
224 of a vehicle is entitled to possession, then such conditional  
225 vendee, or lessee, or mortgagor shall be deemed the owner, for  
226 the purposes of this chapter.

227 (46)~~(27)~~ PARK OR PARKING.—The standing of a vehicle,  
228 whether occupied or not, otherwise than temporarily for the  
229 purpose of and while actually engaged in loading or unloading  
230 merchandise or passengers as may be permitted by law under this  
231 chapter.

232 (47)~~(28)~~ PEDESTRIAN.—Any person afoot.

233 (48)~~(29)~~ PERSON.—Any natural person, firm, copartnership,  
234 association, or corporation.

235 (49)~~(30)~~ PNEUMATIC TIRE.—Any tire in which compressed air

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236 is designed to support the load.

237 ~~(50)(31)~~ POLE TRAILER.—Any vehicle without motive power  
238 designed to be drawn by another vehicle and attached to the  
239 towing vehicle by means of a reach or pole, or by being boomed  
240 or otherwise secured to the towing vehicle, and ordinarily used  
241 for transporting long or irregularly shaped loads such as poles,  
242 pipes, or structural members capable, generally, of sustaining  
243 themselves as beams between the supporting connections.

244 ~~(51)(32)~~ POLICE OFFICER.—Any officer authorized to direct  
245 or regulate traffic or to make arrests for violations of traffic  
246 regulations, including Florida highway patrol officers,  
247 sheriffs, deputy sheriffs, and municipal police officers.

248 ~~(52)(33)~~ PRIVATE ROAD OR DRIVEWAY.—Except as otherwise  
249 provided in paragraph (74)(b) ~~(53)(b)~~, any privately owned way  
250 or place used for vehicular travel by the owner and those having  
251 express or implied permission from the owner, but not by other  
252 persons.

253 ~~(53)(34)~~ RADIOACTIVE MATERIALS.—Any materials or  
254 combination of materials which emit ionizing radiation  
255 spontaneously in which the radioactivity per gram of material,  
256 in any form, is greater than 0.002 microcuries.

257 ~~(54)(35)~~ RAILROAD.—A carrier of persons or property upon  
258 cars operated upon stationary rails.

259 ~~(55)(36)~~ RAILROAD SIGN OR SIGNAL.—Any sign, signal, or  
260 device erected by authority of a public body or official, or by  
261 a railroad, and intended to give notice of the presence of  
262 railroad tracks or the approach of a railroad train.

263 ~~(56)(37)~~ RAILROAD TRAIN.—A steam engine, electric or other  
264 motor, with or without cars coupled thereto, operated upon

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265 rails, except a streetcar.

266 ~~(57)(38)~~ RESIDENCE DISTRICT.—The territory contiguous to,  
267 and including, a highway, not comprising a business district,  
268 when the property on such highway, for a distance of 300 feet or  
269 more, is, in the main, improved with residences or residences  
270 and buildings in use for business.

271 ~~(58)(39)~~ REVOCATION.—Revocation means that a licensee's  
272 privilege to drive a motor vehicle is terminated. A new license  
273 may be obtained only as permitted by law.

274 ~~(59)(40)~~ RIGHT-OF-WAY.—The right of one vehicle or  
275 pedestrian to proceed in a lawful manner in preference to  
276 another vehicle or pedestrian approaching under such  
277 circumstances of direction, speed, and proximity as to give rise  
278 to danger of collision unless one grants precedence to the  
279 other.

280 ~~(60)(41)~~ ROAD TRACTOR.—Any motor vehicle designed and used  
281 for drawing other vehicles and not so constructed as to carry  
282 any load thereon, either independently or as any part of the  
283 weight of a vehicle or load so drawn.

284 ~~(61)(42)~~ ROADWAY.—That portion of a highway improved,  
285 designed, or ordinarily used for vehicular travel, exclusive of  
286 the berm or shoulder. In the event a highway includes two or  
287 more separate roadways, the term "roadway" as used herein refers  
288 to any such roadway separately, but not to all such roadways  
289 collectively.

290 ~~(62)(43)~~ SADDLE MOUNT; FULL MOUNT.—An arrangement whereby  
291 the front wheels of one vehicle rest in a secured position upon  
292 another vehicle. All of the wheels of the towing vehicle are  
293 upon the ground, and only the rear wheels of the towed vehicle



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294 rest upon the ground. Such combinations may include one full  
295 mount, whereby a smaller transport vehicle is placed completely  
296 on the last towed vehicle.

297 (63)-(44) SAFETY ZONE.—The area or space officially set  
298 apart within a roadway for the exclusive use of pedestrians and  
299 protected or so marked by adequate signs or authorized pavement  
300 markings as to be plainly visible at all times while set apart  
301 as a safety zone.

302 (65)-(45) SCHOOL BUS.—Any motor vehicle that complies with  
303 the color and identification requirements of chapter 1006 and is  
304 used to transport children to or from public or private school  
305 or in connection with school activities, but not including buses  
306 operated by common carriers in urban transportation of school  
307 children. The term "school" includes all preelementary,  
308 elementary, secondary, and postsecondary schools.

309 (66)-(46) SEMITRAILER.—Any vehicle with or without motive  
310 power, other than a pole trailer, designed for carrying persons  
311 or property and for being drawn by a motor vehicle and so  
312 constructed that some part of its weight and that of its load  
313 rests upon, or is carried by, another vehicle.

314 (67)-(47) SIDEWALK.—That portion of a street between the  
315 curblineline, or the lateral line, of a roadway and the adjacent  
316 property lines, intended for use by pedestrians.

317 (68)-(48) SPECIAL MOBILE EQUIPMENT.—Any vehicle not designed  
318 or used primarily for the transportation of persons or property  
319 and only incidentally operated or moved over a highway,  
320 including, but not limited to, ditchdigging apparatus, well-  
321 boring apparatus, and road construction and maintenance  
322 machinery, such as asphalt spreaders, bituminous mixers, bucket

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323 loaders, tractors other than truck tractors, ditchers, leveling  
324 graders, finishing machines, motor graders, road rollers,  
325 scarifiers, earthmoving carryalls and scrapers, power shovels  
326 and draglines, and self-propelled cranes and earthmoving  
327 equipment. The term does not include house trailers, dump  
328 trucks, truck-mounted transit mixers, cranes or shovels, or  
329 other vehicles designed for the transportation of persons or  
330 property to which machinery has been attached.

331 (69)-(49) STAND OR STANDING.—The halting of a vehicle,  
332 whether occupied or not, otherwise than temporarily, for the  
333 purpose of, and while actually engaged in, receiving or  
334 discharging passengers, as may be permitted by law under this  
335 chapter.

336 (70)-(50) STATE ROAD.—Any highway designated as a state-  
337 maintained road by the Department of Transportation.

338 (71)-(51) STOP.—When required, complete cessation from  
339 movement.

340 (72)-(52) STOP OR STOPPING.—When prohibited, any halting,  
341 even momentarily, of a vehicle, whether occupied or not, except  
342 when necessary to avoid conflict with other traffic or to comply  
343 with the directions of a law enforcement officer or traffic  
344 control sign or signal.

345 (74)-(53) STREET OR HIGHWAY.—

346 (a) The entire width between the boundary lines of every  
347 way or place of whatever nature when any part thereof is open to  
348 the use of the public for purposes of vehicular traffic;

349 (b) The entire width between the boundary lines of any  
350 privately owned way or place used for vehicular travel by the  
351 owner and those having express or implied permission from the

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352 owner, but not by other persons, or any limited access road  
 353 owned or controlled by a special district, whenever, by written  
 354 agreement entered into under s. 316.006(2)(b) or (3)(b), a  
 355 county or municipality exercises traffic control jurisdiction  
 356 over said way or place;

357 (c) Any area, such as a runway, taxiway, ramp, clear zone,  
 358 or parking lot, within the boundary of any airport owned by the  
 359 state, a county, a municipality, or a political subdivision,  
 360 which area is used for vehicular traffic but which is not open  
 361 for vehicular operation by the general public; or

362 (d) Any way or place used for vehicular traffic on a  
 363 controlled access basis within a mobile home park recreation  
 364 district which has been created under s. 418.30 and the  
 365 recreational facilities of which district are open to the  
 366 general public.

367 (75)~~(54)~~ SUSPENSION.—Temporary withdrawal of a licensee's  
 368 privilege to drive a motor vehicle.

369 (81)~~(55)~~ THROUGH HIGHWAY.—Any highway or portion thereof on  
 370 which vehicular traffic is given the right-of-way and at the  
 371 entrances to which vehicular traffic from intersecting highways  
 372 is required to yield right-of-way to vehicles on such through  
 373 highway in obedience to either a stop sign or yield sign, or  
 374 otherwise in obedience to law.

375 (82)~~(56)~~ TIRE WIDTH.—Tire width is that width stated on the  
 376 surface of the tire by the manufacturer of the tire, if the  
 377 width stated does not exceed 2 inches more than the width of the  
 378 tire contacting the surface.

379 (83)~~(57)~~ TRAFFIC.—Pedestrians, ridden or herded animals,  
 380 and vehicles, streetcars, and other conveyances either singly or

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381 together while using any street or highway for purposes of  
 382 travel.

383 (86)~~(58)~~ TRAILER.—Any vehicle with or without motive power,  
 384 other than a pole trailer, designed for carrying persons or  
 385 property and for being drawn by a motor vehicle.

386 (89)~~(59)~~ TRUCK.—Any motor vehicle designed, used, or  
 387 maintained primarily for the transportation of property.

388 (90)~~(60)~~ TRUCK TRACTOR.—Any motor vehicle designed and used  
 389 primarily for drawing other vehicles and not so constructed as  
 390 to carry a load other than a part of the weight of the vehicle  
 391 and load so drawn.

392 (35)~~(61)~~ MIGRANT OR SEASONAL FARM WORKER.—Any person  
 393 employed in hand labor operations in planting, cultivation, or  
 394 harvesting agricultural crops.

395 (21)~~(62)~~ FARM LABOR VEHICLE.—Any vehicle equipped and used  
 396 for the transportation of nine or more migrant or seasonal farm  
 397 workers, in addition to the driver, to or from a place of  
 398 employment or employment-related activities. The term does not  
 399 include:

400 (a) Any vehicle carrying only members of the immediate  
 401 family of the owner or driver.

402 (b) Any vehicle being operated by a common carrier of  
 403 passengers.

404 (c) Any carpool as defined in s. 450.28(3).

405 (5)~~(63)~~ BICYCLE PATH.—Any road, path, or way that is open  
 406 to bicycle travel, which road, path, or way is physically  
 407 separated from motorized vehicular traffic by an open space or  
 408 by a barrier and is located either within the highway right-of-  
 409 way or within an independent right-of-way.

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410 (10)~~(64)~~ CHIEF ADMINISTRATIVE OFFICER.—The head, or his or  
411 her designee, of any law enforcement agency which is authorized  
412 to enforce traffic laws.

413 (11)~~(65)~~ CHILD.—A child as defined in s. 39.01, s. 984.03,  
414 or s. 985.03.

415 (12)~~(66)~~ COMMERCIAL MOTOR VEHICLE.—Any self-propelled or  
416 towed vehicle used on the public highways in commerce to  
417 transport passengers or cargo, if such vehicle:

418 (a) Has a gross vehicle weight rating of 10,000 pounds or  
419 more;

420 (b) Is designed to transport more than 15 passengers,  
421 including the driver; or

422 (c) Is used in the transportation of materials found to be  
423 hazardous for the purposes of the Hazardous Materials  
424 Transportation Act, as amended (49 U.S.C. ss. 1801 et seq.).

425

426 A vehicle that occasionally transports personal property to and  
427 from a closed-course motorsport facility, as defined in s.  
428 549.09(1)(a), is not a commercial motor vehicle if it is not  
429 used for profit and corporate sponsorship is not involved. As  
430 used in this subsection, the term "corporate sponsorship" means  
431 a payment, donation, gratuity, in-kind service, or other benefit  
432 provided to or derived by a person in relation to the underlying  
433 activity, other than the display of product or corporate names,  
434 logos, or other graphic information on the property being  
435 transported.

436 (13)~~(67)~~ COURT.—The court having jurisdiction over traffic  
437 offenses.

438 (24)~~(68)~~ GOLF CART.—A motor vehicle designed and

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439 manufactured for operation on a golf course for sporting or  
440 recreational purposes.

441 (26)~~(69)~~ HAZARDOUS MATERIAL.—Any substance or material  
442 which has been determined by the secretary of the United States  
443 Department of Transportation to be capable of imposing an  
444 unreasonable risk to health, safety, and property. This term  
445 includes hazardous waste as defined in s. 403.703(13).

446 (73)~~(70)~~ STRAIGHT TRUCK.—Any truck on which the cargo unit  
447 and the motive power unit are located on the same frame so as to  
448 form a single, rigid unit.

449 (78)~~(71)~~ TANDEM TRAILER TRUCK.—Any combination of a truck  
450 tractor, semitrailer, and trailer coupled together so as to  
451 operate as a complete unit.

452 (79)~~(72)~~ TANDEM TRAILER TRUCK HIGHWAY NETWORK.—A highway  
453 network consisting primarily of four or more lanes, including  
454 all interstate highways; highways designated by the United  
455 States Department of Transportation as elements of the National  
456 Network; and any street or highway designated by the Florida  
457 Department of Transportation for use by tandem trailer trucks,  
458 in accordance with s. 316.515, except roads on which truck  
459 traffic was specifically prohibited on January 6, 1983.

460 (80)~~(73)~~ TERMINAL.—Any location where:

461 (a) Freight either originates, terminates, or is handled in  
462 the transportation process; or

463 (b) Commercial motor carriers maintain operating  
464 facilities.

465 (87)~~(74)~~ TRANSPORTATION.—The conveyance or movement of  
466 goods, materials, livestock, or persons from one location to  
467 another on any road, street, or highway open to travel by the

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468 public.

469 ~~(92)(75)~~ VEHICLE.—Every device, in, upon, or by which any  
470 person or property is or may be transported or drawn upon a  
471 highway, excepting devices used exclusively upon stationary  
472 rails or tracks.

473 ~~(6)(76)~~ BRAKE HORSEPOWER.—The actual unit of torque  
474 developed per unit of time at the output shaft of an engine, as  
475 measured by a dynamometer.

476 ~~(36)(77)~~ MOPED.—Any vehicle with pedals to permit  
477 propulsion by human power, having a seat or saddle for the use  
478 of the rider and designed to travel on not more than three  
479 wheels; with a motor rated not in excess of 2 brake horsepower  
480 and not capable of propelling the vehicle at a speed greater  
481 than 30 miles per hour on level ground; and with a power-drive  
482 system that functions directly or automatically without  
483 clutching or shifting gears by the operator after the drive  
484 system is engaged. If an internal combustion engine is used, the  
485 displacement may not exceed 50 cubic centimeters.

486 ~~(41)(78)~~ NONPUBLIC SECTOR BUS.—Any bus which is used for  
487 the transportation of persons for compensation and which is not  
488 owned, leased, operated, or controlled by a municipal, county,  
489 or state government or a governmentally owned or managed  
490 nonprofit corporation.

491 ~~(95)(79)~~ WORK ZONE AREA.—The area and its approaches on any  
492 state-maintained highway, county-maintained highway, or  
493 municipal street where construction, repair, maintenance, or  
494 other street-related or highway-related work is being performed  
495 or where one or more lanes is closed to traffic.

496 ~~(34)(80)~~ MAXI-CUBE VEHICLE.—A specialized combination

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497 vehicle consisting of a truck carrying a separable cargo-  
498 carrying unit combined with a semitrailer designed so that the  
499 separable cargo-carrying unit is to be loaded and unloaded  
500 through the semitrailer. The entire combination may not exceed  
501 65 feet in length, and a single component of that combination  
502 may not exceed 34 feet in length.

503 ~~(77)(81)~~ TANDEM AXLE.—Any two axles whose centers are more  
504 than 40 inches but not more than 96 inches apart and are  
505 individually attached to or articulated from, or both, a common  
506 attachment to the vehicle, including a connecting mechanism  
507 designed to equalize the load between axles.

508 ~~(40)(82)~~ MOTORIZED SCOOTER.—Any vehicle not having a seat  
509 or saddle for the use of the rider, designed to travel on not  
510 more than three wheels, and not capable of propelling the  
511 vehicle at a speed greater than 30 miles per hour on level  
512 ground.

513 ~~(19)(83)~~ ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICE.—Any  
514 self-balancing, two-nontandem-wheeled device, designed to  
515 transport only one person, with an electric propulsion system  
516 with average power of 750 watts (1 horsepower), the maximum  
517 speed of which, on a paved level surface when powered solely by  
518 such a propulsion system while being ridden by an operator who  
519 weighs 170 pounds, is less than 20 miles per hour. Electric  
520 personal assistive mobility devices are not vehicles as defined  
521 in this section.

522 ~~(85)(84)~~ TRAFFIC SIGNAL PREEMPTION SYSTEM.—Any system or  
523 device with the capability of activating a control mechanism  
524 mounted on or near traffic signals which alters a traffic  
525 signal's timing cycle.

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526 (93)~~(85)~~ VICTIM SERVICES PROGRAMS.—Any community-based  
 527 organization whose primary purpose is to act as an advocate for  
 528 the victims and survivors of traffic crashes and for their  
 529 families. The victims services offered by these programs may  
 530 include grief and crisis counseling, assistance with preparing  
 531 victim compensation claims excluding third-party legal action,  
 532 or connecting persons with other service providers, and  
 533 providing emergency financial assistance.

534 (37)~~(86)~~ MOTOR CARRIER TRANSPORTATION CONTRACT.—  
 535 (a) A contract, agreement, or understanding covering:

536 1. The transportation of property for compensation or hire  
 537 by the motor carrier;

538 2. Entrance on property by the motor carrier for the  
 539 purpose of loading, unloading, or transporting property for  
 540 compensation or hire; or

541 3. A service incidental to activity described in  
 542 subparagraph 1. or subparagraph 2., including, but not limited  
 543 to, storage of property.

544 (b) "Motor carrier transportation contract" does not  
 545 include the Uniform Intermodal Interchange and Facilities Access  
 546 Agreement administered by the Intermodal Association of North  
 547 America or other agreements providing for the interchange, use,  
 548 or possession of intermodal chassis, containers, or other  
 549 intermodal equipment.

550 (84)~~(87)~~ TRAFFIC INFRACTION DETECTOR.—A vehicle sensor  
 551 installed to work in conjunction with a traffic control signal  
 552 and a camera or cameras synchronized to automatically record two  
 553 or more sequenced photographic or electronic images or streaming  
 554 video of only the rear of a motor vehicle at the time the

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555 vehicle fails to stop behind the stop bar or clearly marked stop  
 556 line when facing a traffic control signal steady red light. Any  
 557 notification under s. 316.0083(1)(b) or traffic citation issued  
 558 by the use of a traffic infraction detector must include a  
 559 photograph or other recorded image showing both the license tag  
 560 of the offending vehicle and the traffic control device being  
 561 violated.

562 (88) TRI-VEHICLE.—An enclosed three-wheeled passenger  
 563 vehicle that:

564 (a) Is designed to operate with three wheels in contact  
 565 with the ground;

566 (b) Has a minimum unladen weight of 900 pounds;

567 (c) Has a single, completely enclosed, occupant  
 568 compartment;

569 (d) Is produced in a minimum quantity of 300 in any  
 570 calendar year;

571 (e) Is capable of a speed greater than 60 miles per hour on  
 572 level ground; and

573 (f) Is equipped with:

574 1. Seats that are certified by the vehicle manufacturer to  
 575 meet the requirements of Federal Motor Vehicle Safety Standard  
 576 No. 207, "Seating systems" (49 C.F.R. s. 571.207);

577 2. A steering wheel used to maneuver the vehicle;

578 3. A propulsion unit located forward or aft of the enclosed  
 579 occupant compartment;

580 4. A seat belt for each vehicle occupant certified to meet  
 581 the requirements of Federal Motor Vehicle Safety Standard No.  
 582 209, "Seat belt assemblies" (49 C.F.R. s. 571.209);

583 5. A windshield and an appropriate windshield wiper and

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584 washer system that are certified by the vehicle manufacturer to  
 585 meet the requirements of Federal Motor Vehicle Safety Standard  
 586 No. 205, "Glazing Materials" (49 C.F.R. s. 571.205) and Federal  
 587 Motor Vehicle Safety Standard No. 104, "Windshield Wiping and  
 588 Washing Systems" (49 C.F.R. s. 571.104); and

589 6. A vehicle structure certified by the vehicle  
 590 manufacturer to meet the requirements of Federal Motor Vehicle  
 591 Safety Standard No. 216, "Rollover crush resistance" (49 C.F.R.  
 592 s. 571.216).

593 (76)~~(89)~~ SWAMP BUGGY.—A motorized off-road vehicle that is  
 594 designed or modified to travel over swampy or varied terrain and  
 595 that may use large tires or tracks operated from an elevated  
 596 platform. The term does not include any vehicle defined in  
 597 chapter 261 or otherwise defined or classified in this chapter.

598 (2)~~(90)~~ AUTONOMOUS VEHICLE.—Any vehicle equipped with  
 599 autonomous technology. The term "autonomous technology" means  
 600 technology installed on a motor vehicle that has the capability  
 601 to drive the vehicle on which the technology is installed  
 602 without the active control or monitoring by a human operator.  
 603 The term excludes a motor vehicle enabled with active safety  
 604 systems or driver assistance systems, including, without  
 605 limitation, a system to provide electronic blind spot  
 606 assistance, crash avoidance, emergency braking, parking  
 607 assistance, adaptive cruise control, lane keep assistance, lane  
 608 departure warning, or traffic jam and queuing assistant, unless  
 609 any such system alone or in combination with other systems  
 610 enables the vehicle on which the technology is installed to  
 611 drive without the active control or monitoring by a human  
 612 operator.

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613 (33)~~(91)~~ LOCAL HEARING OFFICER.—The person, designated by a  
 614 department, county, or municipality that elects to authorize  
 615 traffic infraction enforcement officers to issue traffic  
 616 citations under s. 316.0083(1)(a), who is authorized to conduct  
 617 hearings related to a notice of violation issued pursuant to s.  
 618 316.0083. The charter county, noncharter county, or municipality  
 619 may use its currently appointed code enforcement board or  
 620 special magistrate to serve as the local hearing officer. The  
 621 department may enter into an interlocal agreement to use the  
 622 local hearing officer of a county or municipality.

623 (64)~~(92)~~ SANITATION VEHICLE.—A motor vehicle that bears an  
 624 emblem that is visible from the roadway and clearly identifies  
 625 that the vehicle belongs to or is under contract with a person,  
 626 entity, cooperative, board, commission, district, or unit of  
 627 local government that provides garbage, trash, refuse, or  
 628 recycling collection.

629 (91)~~(93)~~ UTILITY SERVICE VEHICLE.—A motor vehicle that  
 630 bears an emblem that is visible from the roadway and clearly  
 631 identifies that the vehicle belongs to or is under contract with  
 632 a person, entity, cooperative, board, commission, district, or  
 633 unit of local government that provides electric, natural gas,  
 634 water, wastewater, cable, telephone, or communications services.

635 (94) VULNERABLE USER OF A PUBLIC ROADWAY OR VULNERABLE  
 636 USER.—

637 (a) A pedestrian, including a person actually engaged in  
 638 work upon a highway, work upon utility facilities along a  
 639 highway, or the provision of emergency services within the  
 640 right-of-way;

641 (b) A person operating, or who is a passenger on, a

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642 bicycle, motorcycle, scooter, or moped lawfully on the roadway;  
 643 (c) A person riding an animal; or  
 644 (d) A person lawfully operating on a public roadway,  
 645 crosswalk, or shoulder of the roadway:  
 646 1. A farm tractor or similar vehicle designed primarily for  
 647 farm use;  
 648 2. A horse-drawn carriage;  
 649 3. An electric personal assistive mobility device; or  
 650 4. A wheelchair.

651 Section 2. Subsection (1) and paragraphs (e) and (f) of  
 652 subsection (2) of section 316.027, Florida Statutes, are amended  
 653 to read:

654 316.027 Crash involving death or personal injuries.—  
 655 (1) As used in this section, the term+  
 656 ~~(a)~~ "serious bodily injury" means an injury to a person,  
 657 including the driver, which consists of a physical condition  
 658 that creates a substantial risk of death, serious personal  
 659 disfigurement, or protracted loss or impairment of the function  
 660 of a bodily member or organ.  
 661 ~~(b) "Vulnerable road user" means:~~  
 662 1. A pedestrian, including a person actually engaged in  
 663 work upon a highway, or in work upon utility facilities along a  
 664 highway, or engaged in the provision of emergency services  
 665 within the right-of-way;  
 666 2. A person operating a bicycle, motorcycle, scooter, or  
 667 moped lawfully on the roadway;  
 668 3. A person riding an animal; or  
 669 4. A person lawfully operating on a public right of way,  
 670 crosswalk, or shoulder of the roadway;

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671 ~~a. A farm tractor or similar vehicle designed primarily for~~  
 672 ~~farm use;~~  
 673 ~~b. A skateboard, roller skates, or in-line skates;~~  
 674 ~~c. A horse-drawn carriage;~~  
 675 ~~d. An electric personal assistive mobility device; or~~  
 676 ~~e. A wheelchair.~~  
 677 (2)  
 678 (e) A driver who violates paragraph (a), paragraph (b), or  
 679 paragraph (c) shall have his or her driver license revoked for  
 680 at least 3 years as provided in s. 322.28(4).

681 1. A person convicted of violating paragraph (a), paragraph  
 682 (b), or paragraph (c) shall, before his or her driving privilege  
 683 may be reinstated, present to the department proof of completion  
 684 of a victim's impact panel session in a judicial circuit if such  
 685 a panel exists, or if such a panel does not exist, a department-  
 686 approved driver improvement course relating to the rights of  
 687 vulnerable ~~road~~ users relative to vehicles on the roadway as  
 688 provided in s. 322.0261(2).

689 2. The department may reinstate an offender's driving  
 690 privilege after he or she satisfies the 3-year revocation period  
 691 as provided in s. 322.28(4) and successfully completes either a  
 692 victim's impact panel session or a department-approved driver  
 693 improvement course relating to the rights of vulnerable ~~road~~  
 694 users relative to vehicles on the roadway as provided in s.  
 695 322.0261(2).

696 3. For purposes of this paragraph, an offender's driving  
 697 privilege may be reinstated only after the department verifies  
 698 that the offender participated in and successfully completed a  
 699 victim's impact panel session or a department-approved driver

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700 improvement course.

701 (f) For purposes of sentencing under chapter 921 and  
702 determining incentive gain-time eligibility under chapter 944,  
703 an offense listed in this subsection is ranked one level above  
704 the ranking specified in s. 921.0022 or s. 921.0023 for the  
705 offense committed if the victim of the offense was a vulnerable  
706 ~~read~~ user.

707 Section 3. Section 316.083, Florida Statutes, is amended to  
708 read:

709 316.083 Overtaking and passing a vehicle.—The following  
710 provisions ~~rules shall~~ govern the overtaking and passing of a  
711 vehicle ~~vehicles~~ proceeding in the same direction, ~~subject to~~  
712 ~~those limitations, exceptions, and special rules hereinafter~~  
713 ~~stated:~~

714 (1) The driver of a vehicle overtaking another vehicle  
715 proceeding in the same direction shall give an appropriate  
716 signal as provided for in s. 316.156, shall pass to the left  
717 thereof at a safe distance, and shall not again drive to the  
718 right side of the roadway until safely clear of the overtaken  
719 vehicle.

720 (2) The driver of a motor vehicle overtaking a person  
721 operating a bicycle or other vulnerable user of a public roadway  
722 ~~nonmotorized vehicle~~ must pass the person operating the bicycle  
723 or other vulnerable user ~~nonmotorized vehicle~~ at a safe distance  
724 of not less than 3 feet between any part of or attachment to the  
725 motor vehicle, anything extending from the motor vehicle, or any  
726 trailer or other thing being towed by the motor vehicle and the  
727 bicycle, the person operating the bicycle, or other vulnerable  
728 user ~~nonmotorized vehicle~~.

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729 ~~(3)(2)~~ Except when overtaking and passing on the right is  
730 permitted, the driver of an overtaken vehicle shall give way to  
731 the right in favor of the overtaking vehicle, on audible signal  
732 or upon the visible blinking of the headlamps of the overtaking  
733 vehicle if such overtaking is being attempted at nighttime, and  
734 shall not increase the speed of his or her vehicle until  
735 completely passed by the overtaking vehicle.

736 ~~(4)(3)~~ A violation of this section is a noncriminal traffic  
737 infraction, punishable as a moving violation as provided in  
738 chapter 318. If a violation of this section contributed to the  
739 bodily injury of a vulnerable user of a public roadway, the law  
740 enforcement officer issuing the citation for the violation shall  
741 note such information on the citation.

742 Section 4. Section 316.084, Florida Statutes, is amended to  
743 read:

744 316.084 When overtaking on the right is permitted.—

745 (1) The driver of a vehicle may overtake and pass on the  
746 right of another vehicle only under the following conditions:

747 (a) When the vehicle overtaken is making or about to make a  
748 left turn;

749 (b) Upon a street or highway with unobstructed pavement not  
750 occupied by parked vehicles of sufficient width for two or more  
751 lines of moving traffic in each direction;

752 (c) Upon a one-way street, or upon any roadway on which  
753 traffic is restricted to one direction of movement, where the  
754 roadway is free from obstructions and of sufficient width for  
755 two or more lines of moving vehicles.

756 (2) The driver of a vehicle may overtake and pass another  
757 vehicle on the right only under conditions permitting such

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758 movement in safety. In no event shall such movement be made by  
759 driving off the pavement or main-traveled portion of the  
760 roadway.

761 (3) This section does not prohibit a bicycle that is in a  
762 bicycle lane or on the shoulder of a roadway or highway from  
763 passing another vehicle on the right.

764 ~~(4)(3)~~ A violation of this section is a noncriminal traffic  
765 infraction, punishable as a moving violation as provided in  
766 chapter 318.

767 Section 5. Section 316.0875, Florida Statutes, is amended  
768 to read:

769 316.0875 No-passing zones.—

770 (1) The Department of Transportation and local authorities  
771 are authorized to determine those portions of any highway under  
772 their respective jurisdiction where overtaking and passing or  
773 driving to the left of the roadway would be especially hazardous  
774 and may, by appropriate signs or markings on the roadway,  
775 indicate the beginning and end of such zones, and, when such  
776 signs or markings are in place and clearly visible to an  
777 ordinarily observant person, each ~~every~~ driver of a vehicle  
778 shall obey the directions thereof.

779 (2) Where signs or markings are in place to define a no-  
780 passing zone as set forth in subsection (1), ~~a~~ ~~no~~ driver may  
781 not, shall at any time, drive on the left side of the roadway  
782 with such no-passing zone or on the left side of any pavement  
783 striping designed to mark such no-passing zone throughout its  
784 length.

785 (3) This section does not apply to a person who safely and  
786 briefly drives to the left of the center of the roadway or

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787 pavement striping only to the extent necessary to:

788 (a) Avoid ~~When an obstruction; exists making it necessary~~  
789 ~~to drive to the left of the center of the highway, nor~~

790 (b) Turn ~~To the driver of a vehicle turning left into or~~  
791 ~~from an alley, private road, or driveway; or~~

792 (c) Comply with the requirements regarding a safe distance  
793 to pass a vulnerable user, as required by s. 316.083(2).

794 (4) A violation of this section is a noncriminal traffic  
795 infraction, punishable as a moving violation as provided in  
796 chapter 318.

797 Section 6. Section 316.151, Florida Statutes, is amended to  
798 read:

799 316.151 Required position and method of turning at  
800 intersections.—

801 (1) (a) Right turn.—The driver of a vehicle intending to  
802 turn right at an intersection onto a highway, public or private  
803 roadway, or driveway shall do so as follows:

804 ~~1. (a) Right turn.~~—Both the approach for a right turn and a  
805 right turn shall be made as close as practicable to the right-  
806 hand curb or edge of the roadway.

807 2. When overtaking and passing a bicycle or other  
808 vulnerable user proceeding in the same direction, the driver of  
809 a motor vehicle shall give an appropriate signal as provided for  
810 in s. 316.155 and shall make the right turn only if it can be  
811 made at a safe distance from the bicycle or other vulnerable  
812 user.

813 3. When crossing a sidewalk, bicycle lane, or bicycle path  
814 to turn right, the driver of a motor vehicle shall yield the  
815 right-of-way to a bicycle or pedestrian.

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816 (b) *Left turn.*—The driver of a vehicle intending to turn  
 817 left at an any intersection onto a highway, public or private  
 818 roadway, or driveway shall do so as follows:

819 1. The driver shall approach the intersection in the  
 820 extreme left-hand lane lawfully available to traffic moving in  
 821 the direction of travel of such vehicle. ~~Thereafter, and, after~~  
 822 ~~entering the intersection,~~ the left turn shall be made so as to  
 823 leave the intersection in a lane lawfully available to traffic  
 824 moving in such direction upon the roadway being entered.

825 2. A person riding a bicycle and intending to turn left in  
 826 accordance with this section is entitled to the full use of the  
 827 lane from which the turn may legally be made. Whenever  
 828 practicable the left turn shall be made in that portion of the  
 829 intersection to the left of the center of the intersection.

830 ~~(c) Left turn by bicycle.~~—In addition ~~to the method of~~  
 831 ~~making a left turn described in paragraph (b),~~ a person riding a  
 832 bicycle and intending to turn left may do so as follows ~~has the~~  
 833 ~~option of following the course described hereafter:~~

834 a. The rider shall approach the turn as close as  
 835 practicable to the right curb or edge of the roadway;

836 b. After proceeding across the intersecting roadway, the  
 837 turn shall be made as close as practicable to the curb or edge  
 838 of the roadway on the far side of the intersection; and—

839 c. Before proceeding, the bicyclist shall comply with any  
 840 official traffic control device or police officer regulating  
 841 traffic on the highway along which the bicyclist intends to  
 842 proceed.

843 (2) The state, county, and local authorities in their  
 844 respective jurisdictions may cause official traffic control

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845 devices to be placed within or adjacent to intersections and  
 846 thereby require and direct that a different course from that  
 847 specified in this section be traveled by vehicles turning at an  
 848 intersection. When such devices are so placed, ~~the~~ no driver of  
 849 a vehicle may not turn a vehicle at an intersection other than  
 850 as directed and required by such devices.

851 (3) A violation of this section is a noncriminal traffic  
 852 infraction, punishable as a moving violation as provided in  
 853 chapter 318. If a violation of this section contributes to the  
 854 bodily injury of a vulnerable user of a public roadway, the law  
 855 enforcement officer issuing the citation for the violation shall  
 856 note such information on the citation.

857 Section 7. Section 316.1925, Florida Statutes, is amended  
 858 to read:

859 316.1925 Careless driving.—

860 (1) A Any person operating a vehicle upon the streets or  
 861 highways within the state shall drive the same in a careful and  
 862 prudent manner, having regard for the width, grade, curves,  
 863 corners, traffic, and all other attendant circumstances, so as  
 864 not to endanger the life, limb, or property of any person. A  
 865 person who fails ~~Failure~~ to drive in such manner commits shall  
 866 constitute careless driving and a violation of this section.

867 ~~(2) Any person who violates this section shall be cited for~~  
 868 a moving violation, punishable as provided in chapter 318.

869 (2) If a violation under subsection (1) contributed to the  
 870 bodily injury of a vulnerable user of a public roadway, the law  
 871 enforcement officer issuing the citation for the violation shall  
 872 note such information on the citation.

873 Section 8. Subsections (1), (5), and (6) of section

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874 316.2065, Florida Statutes, are amended to read:

875 316.2065 Bicycle regulations.—

876 (1) A bicycle is a vehicle under Florida law and shall be  
 877 operated in the same manner as any other vehicle and every  
 878 person operating a bicycle propelling a vehicle by human power  
 879 has all of the rights and all of the duties applicable to the  
 880 driver of any other vehicle under this chapter, except as to  
 881 special regulations in this chapter, and except as to provisions  
 882 of this chapter which by their nature can have no application.

883 (5) (a) Any person operating a bicycle upon a roadway at  
 884 less than the normal speed of traffic at the time and place and  
 885 under the conditions then existing shall ride in the bicycle  
 886 lane marked for bicycle use or, if there is no bicycle lane in  
 887 the roadway is marked for bicycle use, as close as practicable  
 888 to the right-hand curb or edge of the roadway except under any  
 889 of the following situations:

890 1. When overtaking and passing another bicycle or vehicle  
 891 proceeding in the same direction.

892 2. When preparing for a left turn at an intersection or  
 893 into a private road or driveway.

894 3. When reasonably necessary to avoid any condition or  
 895 potential conflict, including, but not limited to, a fixed or  
 896 moving object, parked or moving vehicle, bicycle, pedestrian,  
 897 animal, surface hazard, turn lane, or substandard-width lane,  
 898 which makes it unsafe to continue along the right-hand curb or  
 899 edge or within a bicycle lane. For the purposes of this  
 900 subsection, a "substandard-width lane" is a lane that is too  
 901 narrow for a bicycle and another vehicle to travel safely side  
 902 by side within the lane.

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903 (b) Any person operating a bicycle upon a one-way highway  
 904 with two or more marked traffic lanes may ride as near the left-  
 905 hand curb or edge of such roadway as practicable.

906 (6) (a) Persons riding bicycles upon a roadway or in a  
 907 bicycle lane may not ride more than two abreast except on  
 908 bicycle paths or parts of roadways set aside for the exclusive  
 909 use of bicycles. Persons riding two abreast may not impede  
 910 traffic when traveling at less than the normal speed of traffic  
 911 at the time and place and under the conditions then existing and  
 912 shall ride within a single lane.

913 (b) When stopping at a stop sign, persons riding bicycles  
 914 in groups of four or more, after coming to a full stop and  
 915 obeying all traffic laws, may proceed through the stop sign in a  
 916 group and motor vehicle operators shall allow the entire group  
 917 to travel through the intersection before moving forward.

918 Section 9. Section 318.142, Florida Statutes, is created to  
 919 read:

920 318.142 Infractions contributing to bodily injury of a  
 921 vulnerable user of a public roadway.—In addition to any other  
 922 penalty imposed for a violation under s. 316.192, if the  
 923 violation contributed to the bodily injury of a vulnerable user  
 924 of a public roadway as defined in s. 316.003, the law  
 925 enforcement officer issuing the citation for the infraction  
 926 shall note such information on the citation and the designated  
 927 official may impose a fine of not more than \$2,500.

928 Section 10. Section 318.19, Florida Statutes, is amended to  
 929 read:

930 318.19 Infractions requiring a mandatory hearing.—Any  
 931 person cited for the infractions listed in this section shall

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932 not have the provisions of s. 318.14(2), (4), and (9) available  
 933 to him or her but must appear before the designated official at  
 934 the time and location of the scheduled hearing:

935 (1) Any infraction which results in a crash that causes the  
 936 death of another;

937 (2) Any infraction which results in a crash that causes  
 938 "serious bodily injury" of another as defined in s. 316.1933(1);

939 (3) Any infraction of s. 316.172(1)(b);

940 (4) Any infraction of s. 316.520(1) or (2); ~~or~~

941 (5) Any infraction of s. 316.183(2), s. 316.187, or s.  
 942 316.189 of exceeding the speed limit by 30 m.p.h. or more; or

943 (6) Any infraction of s. 316.083, s. 316.151, or s.  
 944 316.1925 which contributes to bodily injury of a vulnerable user  
 945 of a public roadway as defined in s. 316.003. If an infraction  
 946 listed in this subsection contributes to the bodily injury of a  
 947 vulnerable user of a public roadway, the law enforcement officer  
 948 issuing the citation for the infraction shall note such  
 949 information on the citation.

950 Section 11. Paragraph (c) of subsection (1) of section  
 951 212.05, Florida Statutes, is amended to read:

952 212.05 Sales, storage, use tax.—It is hereby declared to be  
 953 the legislative intent that every person is exercising a taxable  
 954 privilege who engages in the business of selling tangible  
 955 personal property at retail in this state, including the  
 956 business of making mail order sales, or who rents or furnishes  
 957 any of the things or services taxable under this chapter, or who  
 958 stores for use or consumption in this state any item or article  
 959 of tangible personal property as defined herein and who leases  
 960 or rents such property within the state.

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961 (1) For the exercise of such privilege, a tax is levied on  
 962 each taxable transaction or incident, which tax is due and  
 963 payable as follows:

964 (c) At the rate of 6 percent of the gross proceeds derived  
 965 from the lease or rental of tangible personal property, as  
 966 defined herein; however, the following special provisions apply  
 967 to the lease or rental of motor vehicles:

968 1. When a motor vehicle is leased or rented for a period of  
 969 less than 12 months:

970 a. If the motor vehicle is rented in Florida, the entire  
 971 amount of such rental is taxable, even if the vehicle is dropped  
 972 off in another state.

973 b. If the motor vehicle is rented in another state and  
 974 dropped off in Florida, the rental is exempt from Florida tax.

975 2. Except as provided in subparagraph 3., for the lease or  
 976 rental of a motor vehicle for a period of not less than 12  
 977 months, sales tax is due on the lease or rental payments if the  
 978 vehicle is registered in this state; provided, however, that no  
 979 tax shall be due if the taxpayer documents use of the motor  
 980 vehicle outside this state and tax is being paid on the lease or  
 981 rental payments in another state.

982 3. The tax imposed by this chapter does not apply to the  
 983 lease or rental of a commercial motor vehicle as defined in s.  
 984 316.003(12)(a) ~~316.003(66)(a)~~ to one lessee or rentee for a  
 985 period of not less than 12 months when tax was paid on the  
 986 purchase price of such vehicle by the lessor. To the extent tax  
 987 was paid with respect to the purchase of such vehicle in another  
 988 state, territory of the United States, or the District of  
 989 Columbia, the Florida tax payable shall be reduced in accordance

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990 with the provisions of s. 212.06(7). This subparagraph shall  
 991 only be available when the lease or rental of such property is  
 992 an established business or part of an established business or  
 993 the same is incidental or germane to such business.

994 Section 12. Subsection (1) of section 316.1303, Florida  
 995 Statutes, is amended to read:

996 316.1303 Traffic regulations to assist mobility-impaired  
 997 persons.—

998 (1) Whenever a pedestrian who is mobility impaired is in  
 999 the process of crossing a public street or highway with the  
 1000 assistance of a guide dog or service animal designated as such  
 1001 with a visible means of identification, a walker, a crutch, an  
 1002 orthopedic cane, or a wheelchair, the driver of a vehicle  
 1003 approaching the intersection, as defined in s. 316.003  
 1004 ~~316.003(17)~~, shall bring his or her vehicle to a full stop  
 1005 before arriving at the intersection and, before proceeding,  
 1006 shall take precautions necessary to avoid injuring the  
 1007 pedestrian.

1008 Section 13. Subsection (5) of section 316.235, Florida  
 1009 Statutes, is amended to read:

1010 316.235 Additional lighting equipment.—

1011 (5) A bus, as defined in s. 316.003 ~~316.003(3)~~, may be  
 1012 equipped with a deceleration lighting system which cautions  
 1013 following vehicles that the bus is slowing, preparing to stop,  
 1014 or is stopped. Such lighting system shall consist of amber  
 1015 lights mounted in horizontal alignment on the rear of the  
 1016 vehicle at or near the vertical centerline of the vehicle, not  
 1017 higher than the lower edge of the rear window or, if the vehicle  
 1018 has no rear window, not higher than 72 inches from the ground.

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1019 Such lights shall be visible from a distance of not less than  
 1020 300 feet to the rear in normal sunlight. Lights are permitted to  
 1021 light and flash during deceleration, braking, or standing and  
 1022 idling of the bus. Vehicular hazard warning flashers may be used  
 1023 in conjunction with or in lieu of a rear-mounted deceleration  
 1024 lighting system.

1025 Section 14. Paragraph (b) of subsection (2) and paragraph  
 1026 (a) of subsection (4) of section 316.545, Florida Statutes, are  
 1027 amended to read:

1028 316.545 Weight and load unlawful; special fuel and motor  
 1029 fuel tax enforcement; inspection; penalty; review.—

1030 (2)

1031 (b) The officer or inspector shall inspect the license  
 1032 plate or registration certificate of the commercial motor  
 1033 vehicle, as defined in s. 316.003 ~~316.003(66)~~, to determine if  
 1034 its gross weight is in compliance with the declared gross  
 1035 vehicle weight. If its gross weight exceeds the declared weight,  
 1036 the penalty shall be 5 cents per pound on the difference between  
 1037 such weights. In those cases when the commercial motor vehicle,  
 1038 as defined in s. 316.003 ~~316.003(66)~~, is being operated over the  
 1039 highways of the state with an expired registration or with no  
 1040 registration from this or any other jurisdiction or is not  
 1041 registered under the applicable provisions of chapter 320, the  
 1042 penalty herein shall apply on the basis of 5 cents per pound on  
 1043 that scaled weight which exceeds 35,000 pounds on laden truck  
 1044 tractor-semitrailer combinations or tandem trailer truck  
 1045 combinations, 10,000 pounds on laden straight trucks or straight  
 1046 truck-trailer combinations, or 10,000 pounds on any unladen  
 1047 commercial motor vehicle. If the license plate or registration

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1048 has not been expired for more than 90 days, the penalty imposed  
 1049 under this paragraph may not exceed \$1,000. In the case of  
 1050 special mobile equipment as defined in s. 316.003 ~~316.003(48)~~,  
 1051 which qualifies for the license tax provided for in s.  
 1052 320.08(5)(b), being operated on the highways of the state with  
 1053 an expired registration or otherwise not properly registered  
 1054 under the applicable provisions of chapter 320, a penalty of \$75  
 1055 shall apply in addition to any other penalty which may apply in  
 1056 accordance with this chapter. A vehicle found in violation of  
 1057 this section may be detained until the owner or operator  
 1058 produces evidence that the vehicle has been properly registered.  
 1059 Any costs incurred by the retention of the vehicle shall be the  
 1060 sole responsibility of the owner. A person who has been assessed  
 1061 a penalty pursuant to this paragraph for failure to have a valid  
 1062 vehicle registration certificate pursuant to the provisions of  
 1063 chapter 320 is not subject to the delinquent fee authorized in  
 1064 s. 320.07 if such person obtains a valid registration  
 1065 certificate within 10 working days after such penalty was  
 1066 assessed.

1067 (4)(a) No commercial motor vehicle, as defined in s.  
 1068 316.003 ~~316.003(66)~~, shall be operated over the highways of this  
 1069 state unless it has been properly registered under the  
 1070 provisions of s. 207.004. Whenever any law enforcement officer  
 1071 identified in s. 207.023(1), upon inspecting the vehicle or  
 1072 combination of vehicles, determines that the vehicle is in  
 1073 violation of s. 207.004, a penalty in the amount of \$50 shall be  
 1074 assessed, and the vehicle may be detained until payment is  
 1075 collected by the law enforcement officer.

1076 Section 15. Subsection (2) of section 316.605, Florida

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1077 Statutes, is amended to read:  
 1078 316.605 Licensing of vehicles.—  
 1079 (2) Any commercial motor vehicle, as defined in s. 316.003  
 1080 ~~316.003(66)~~, operating over the highways of this state with an  
 1081 expired registration, with no registration from this or any  
 1082 other jurisdiction, or with no registration under the applicable  
 1083 provisions of chapter 320 shall be in violation of s. 320.07(3)  
 1084 and shall subject the owner or operator of such vehicle to the  
 1085 penalty provided. In addition, a commercial motor vehicle found  
 1086 in violation of this section may be detained by any law  
 1087 enforcement officer until the owner or operator produces  
 1088 evidence that the vehicle has been properly registered and that  
 1089 any applicable delinquent penalties have been paid.

1090 Section 16. Subsection (6) of section 316.6105, Florida  
 1091 Statutes, is amended to read:  
 1092 316.6105 Violations involving operation of motor vehicle in  
 1093 unsafe condition or without required equipment; procedure for  
 1094 disposition.—  
 1095 (6) This section does not apply to commercial motor  
 1096 vehicles as defined in s. 316.003 ~~316.003(66)~~ or transit buses  
 1097 owned or operated by a governmental entity.

1098 Section 17. Paragraph (a) of subsection (2) of section  
 1099 316.613, Florida Statutes, is amended to read:  
 1100 316.613 Child restraint requirements.—  
 1101 (2) As used in this section, the term "motor vehicle" means  
 1102 a motor vehicle as defined in s. 316.003 that is operated on the  
 1103 roadways, streets, and highways of the state. The term does not  
 1104 include:  
 1105 (a) A school bus as defined in s. 316.003 ~~316.003(45)~~.

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1106 Section 18. Subsection (8) of section 316.622, Florida  
 1107 Statutes, is amended to read:  
 1108 316.622 Farm labor vehicles.—  
 1109 (8) The department shall provide to the Department of  
 1110 Business and Professional Regulation each quarter a copy of each  
 1111 accident report involving a farm labor vehicle, as defined in s.  
 1112 316.003 ~~316.003(62)~~, commencing with the first quarter of the  
 1113 2006-2007 fiscal year.  
 1114 Section 19. Paragraph (b) of subsection (1) of section  
 1115 316.650, Florida Statutes, is amended to read:  
 1116 316.650 Traffic citations.—  
 1117 (1)  
 1118 (b) The department shall prepare, and supply to every  
 1119 traffic enforcement agency in the state, an appropriate  
 1120 affidavit-of-compliance form that shall be issued along with the  
 1121 form traffic citation for any violation of s. 316.610 and that  
 1122 indicates the specific defect needing to be corrected. However,  
 1123 such affidavit of compliance shall not be issued in the case of  
 1124 a violation of s. 316.610 by a commercial motor vehicle as  
 1125 defined in s. 316.003 ~~316.003(66)~~. Such affidavit-of-compliance  
 1126 form shall be distributed in the same manner and to the same  
 1127 parties as is the form traffic citation.  
 1128 Section 20. Subsection (1) of section 316.70, Florida  
 1129 Statutes, is amended to read:  
 1130 316.70 Nonpublic sector buses; safety rules.—  
 1131 (1) The Department of Transportation shall establish and  
 1132 revise standards to assure the safe operation of nonpublic  
 1133 sector buses, as defined in s. 316.003 ~~316.003(78)~~, which  
 1134 standards shall be those contained in 49 C.F.R. parts 382, 385,

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1135 and 390-397 and which shall be directed towards assuring that:  
 1136 (a) Nonpublic sector buses are safely maintained, equipped,  
 1137 and operated.  
 1138 (b) Nonpublic sector buses are carrying the insurance  
 1139 required by law and carrying liability insurance on the checked  
 1140 baggage of passengers not to exceed the standard adopted by the  
 1141 United States Department of Transportation.  
 1142 (c) Florida license tags are purchased for nonpublic sector  
 1143 buses pursuant to s. 320.38.  
 1144 (d) The driving records of drivers of nonpublic sector  
 1145 buses are checked by their employers at least once each year to  
 1146 ascertain whether the driver has a suspended or revoked driver  
 1147 license.  
 1148 Section 21. Paragraph (a) of subsection (1) of section  
 1149 320.01, Florida Statutes, is amended to read:  
 1150 320.01 Definitions, general.—As used in the Florida  
 1151 Statutes, except as otherwise provided, the term:  
 1152 (1) "Motor vehicle" means:  
 1153 (a) An automobile, motorcycle, truck, trailer, semitrailer,  
 1154 truck tractor and semitrailer combination, or any other vehicle  
 1155 operated on the roads of this state, used to transport persons  
 1156 or property, and propelled by power other than muscular power,  
 1157 but the term does not include traction engines, road rollers,  
 1158 special mobile equipment as defined in s. 316.003 ~~316.003(48)~~,  
 1159 vehicles that run only upon a track, bicycles, swamp buggies, or  
 1160 mopeds.  
 1161 Section 22. Section 320.08, Florida Statutes, is amended to  
 1162 read:  
 1163 320.08 License taxes.—Except as otherwise provided herein,

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1164 there are hereby levied and imposed annual license taxes for the  
 1165 operation of motor vehicles, mopeds, motorized bicycles as  
 1166 defined in s. ~~316.003~~ 316.003(2), tri-vehicles as defined in s.  
 1167 316.003, and mobile homes, as defined in s. 320.01, which shall  
 1168 be paid to and collected by the department or its agent upon the  
 1169 registration or renewal of registration of the following:

1170 (1) MOTORCYCLES AND MOPEDS.—  
 1171 (a) Any motorcycle: \$10 flat.  
 1172 (b) Any moped: \$5 flat.  
 1173 (c) Upon registration of a motorcycle, motor-driven cycle,  
 1174 or moped, in addition to the license taxes specified in this  
 1175 subsection, a nonrefundable motorcycle safety education fee in  
 1176 the amount of \$2.50 shall be paid. The proceeds of such  
 1177 additional fee shall be deposited in the Highway Safety  
 1178 Operating Trust Fund to fund a motorcycle driver improvement  
 1179 program implemented pursuant to s. 322.025, the Florida  
 1180 Motorcycle Safety Education Program established in s. 322.0255,  
 1181 or the general operations of the department.  
 1182 (d) An ancient or antique motorcycle: \$7.50 flat, of which  
 1183 \$2.50 shall be deposited into the General Revenue Fund.  
 1184 (2) AUTOMOBILES OR TRI-VEHICLES FOR PRIVATE USE.—  
 1185 (a) An ancient or antique automobile, as defined in s.  
 1186 320.086, or a street rod, as defined in s. 320.0863: \$7.50 flat.  
 1187 (b) Net weight of less than 2,500 pounds: \$14.50 flat.  
 1188 (c) Net weight of 2,500 pounds or more, but less than 3,500  
 1189 pounds: \$22.50 flat.  
 1190 (d) Net weight of 3,500 pounds or more: \$32.50 flat.  
 1191 (3) TRUCKS.—  
 1192 (a) Net weight of less than 2,000 pounds: \$14.50 flat.

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1193 (b) Net weight of 2,000 pounds or more, but not more than  
 1194 3,000 pounds: \$22.50 flat.  
 1195 (c) Net weight more than 3,000 pounds, but not more than  
 1196 5,000 pounds: \$32.50 flat.  
 1197 (d) A truck defined as a "goat," or other vehicle if used  
 1198 in the field by a farmer or in the woods for the purpose of  
 1199 harvesting a crop, including naval stores, during such  
 1200 harvesting operations, and which is not principally operated  
 1201 upon the roads of the state: \$7.50 flat. The term "goat" means a  
 1202 motor vehicle designed, constructed, and used principally for  
 1203 the transportation of citrus fruit within citrus groves or for  
 1204 the transportation of crops on farms, and which can also be used  
 1205 for hauling associated equipment or supplies, including required  
 1206 sanitary equipment, and the towing of farm trailers.  
 1207 (e) An ancient or antique truck, as defined in s. 320.086:  
 1208 \$7.50 flat.  
 1209 (4) HEAVY TRUCKS, TRUCK TRACTORS, FEES ACCORDING TO GROSS  
 1210 VEHICLE WEIGHT.—  
 1211 (a) Gross vehicle weight of 5,001 pounds or more, but less  
 1212 than 6,000 pounds: \$60.75 flat, of which \$15.75 shall be  
 1213 deposited into the General Revenue Fund.  
 1214 (b) Gross vehicle weight of 6,000 pounds or more, but less  
 1215 than 8,000 pounds: \$87.75 flat, of which \$22.75 shall be  
 1216 deposited into the General Revenue Fund.  
 1217 (c) Gross vehicle weight of 8,000 pounds or more, but less  
 1218 than 10,000 pounds: \$103 flat, of which \$27 shall be deposited  
 1219 into the General Revenue Fund.  
 1220 (d) Gross vehicle weight of 10,000 pounds or more, but less  
 1221 than 15,000 pounds: \$118 flat, of which \$31 shall be deposited



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1222 into the General Revenue Fund.

1223 (e) Gross vehicle weight of 15,000 pounds or more, but less  
1224 than 20,000 pounds: \$177 flat, of which \$46 shall be deposited  
1225 into the General Revenue Fund.

1226 (f) Gross vehicle weight of 20,000 pounds or more, but less  
1227 than 26,001 pounds: \$251 flat, of which \$65 shall be deposited  
1228 into the General Revenue Fund.

1229 (g) Gross vehicle weight of 26,001 pounds or more, but less  
1230 than 35,000: \$324 flat, of which \$84 shall be deposited into the  
1231 General Revenue Fund.

1232 (h) Gross vehicle weight of 35,000 pounds or more, but less  
1233 than 44,000 pounds: \$405 flat, of which \$105 shall be deposited  
1234 into the General Revenue Fund.

1235 (i) Gross vehicle weight of 44,000 pounds or more, but less  
1236 than 55,000 pounds: \$773 flat, of which \$201 shall be deposited  
1237 into the General Revenue Fund.

1238 (j) Gross vehicle weight of 55,000 pounds or more, but less  
1239 than 62,000 pounds: \$916 flat, of which \$238 shall be deposited  
1240 into the General Revenue Fund.

1241 (k) Gross vehicle weight of 62,000 pounds or more, but less  
1242 than 72,000 pounds: \$1,080 flat, of which \$280 shall be  
1243 deposited into the General Revenue Fund.

1244 (l) Gross vehicle weight of 72,000 pounds or more: \$1,322  
1245 flat, of which \$343 shall be deposited into the General Revenue  
1246 Fund.

1247 (m) Notwithstanding the declared gross vehicle weight, a  
1248 truck tractor used within a 150-mile radius of its home address  
1249 is eligible for a license plate for a fee of \$324 flat if:

1250 1. The truck tractor is used exclusively for hauling

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1251 forestry products; or

1252 2. The truck tractor is used primarily for the hauling of  
1253 forestry products, and is also used for the hauling of  
1254 associated forestry harvesting equipment used by the owner of  
1255 the truck tractor.

1256  
1257 Of the fee imposed by this paragraph, \$84 shall be deposited  
1258 into the General Revenue Fund.

1259 (n) A truck tractor or heavy truck, not operated as a for-  
1260 hire vehicle, which is engaged exclusively in transporting raw,  
1261 unprocessed, and nonmanufactured agricultural or horticultural  
1262 products within a 150-mile radius of its home address, is  
1263 eligible for a restricted license plate for a fee of:

1264 1. If such vehicle's declared gross vehicle weight is less  
1265 than 44,000 pounds, \$87.75 flat, of which \$22.75 shall be  
1266 deposited into the General Revenue Fund.

1267 2. If such vehicle's declared gross vehicle weight is  
1268 44,000 pounds or more and such vehicle only transports from the  
1269 point of production to the point of primary manufacture; to the  
1270 point of assembling the same; or to a shipping point of a rail,  
1271 water, or motor transportation company, \$324 flat, of which \$84  
1272 shall be deposited into the General Revenue Fund.

1273  
1274 Such not-for-hire truck tractors and heavy trucks used  
1275 exclusively in transporting raw, unprocessed, and  
1276 nonmanufactured agricultural or horticultural products may be  
1277 incidentally used to haul farm implements and fertilizers  
1278 delivered direct to the growers. The department may require any  
1279 documentation deemed necessary to determine eligibility prior to

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1280 issuance of this license plate. For the purpose of this  
 1281 paragraph, "not-for-hire" means the owner of the motor vehicle  
 1282 must also be the owner of the raw, unprocessed, and  
 1283 nonmanufactured agricultural or horticultural product, or the  
 1284 user of the farm implements and fertilizer being delivered.

1285 (5) SEMITRAILERS, FEES ACCORDING TO GROSS VEHICLE WEIGHT;  
 1286 SCHOOL BUSES; SPECIAL PURPOSE VEHICLES.—

1287 (a)1. A semitrailer drawn by a GVW truck tractor by means  
 1288 of a fifth-wheel arrangement: \$13.50 flat per registration year  
 1289 or any part thereof, of which \$3.50 shall be deposited into the  
 1290 General Revenue Fund.

1291 2. A semitrailer drawn by a GVW truck tractor by means of a  
 1292 fifth-wheel arrangement: \$68 flat per permanent registration, of  
 1293 which \$18 shall be deposited into the General Revenue Fund.

1294 (b) A motor vehicle equipped with machinery and designed  
 1295 for the exclusive purpose of well drilling, excavation,  
 1296 construction, spraying, or similar activity, and which is not  
 1297 designed or used to transport loads other than the machinery  
 1298 described above over public roads: \$44 flat, of which \$11.50  
 1299 shall be deposited into the General Revenue Fund.

1300 (c) A school bus used exclusively to transport pupils to  
 1301 and from school or school or church activities or functions  
 1302 within their own county: \$41 flat, of which \$11 shall be  
 1303 deposited into the General Revenue Fund.

1304 (d) A wrecker, as defined in s. 320.01, which is used to  
 1305 tow a vessel as defined in s. 327.02, a disabled, abandoned,  
 1306 stolen-recovered, or impounded motor vehicle as defined in s.  
 1307 320.01, or a replacement motor vehicle as defined in s. 320.01:  
 1308 \$41 flat, of which \$11 shall be deposited into the General

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1309 Revenue Fund.

1310 (e) A wrecker that is used to tow any nondisabled motor  
 1311 vehicle, a vessel, or any other cargo unless used as defined in  
 1312 paragraph (d), as follows:

1313 1. Gross vehicle weight of 10,000 pounds or more, but less  
 1314 than 15,000 pounds: \$118 flat, of which \$31 shall be deposited  
 1315 into the General Revenue Fund.

1316 2. Gross vehicle weight of 15,000 pounds or more, but less  
 1317 than 20,000 pounds: \$177 flat, of which \$46 shall be deposited  
 1318 into the General Revenue Fund.

1319 3. Gross vehicle weight of 20,000 pounds or more, but less  
 1320 than 26,000 pounds: \$251 flat, of which \$65 shall be deposited  
 1321 into the General Revenue Fund.

1322 4. Gross vehicle weight of 26,000 pounds or more, but less  
 1323 than 35,000 pounds: \$324 flat, of which \$84 shall be deposited  
 1324 into the General Revenue Fund.

1325 5. Gross vehicle weight of 35,000 pounds or more, but less  
 1326 than 44,000 pounds: \$405 flat, of which \$105 shall be deposited  
 1327 into the General Revenue Fund.

1328 6. Gross vehicle weight of 44,000 pounds or more, but less  
 1329 than 55,000 pounds: \$772 flat, of which \$200 shall be deposited  
 1330 into the General Revenue Fund.

1331 7. Gross vehicle weight of 55,000 pounds or more, but less  
 1332 than 62,000 pounds: \$915 flat, of which \$237 shall be deposited  
 1333 into the General Revenue Fund.

1334 8. Gross vehicle weight of 62,000 pounds or more, but less  
 1335 than 72,000 pounds: \$1,080 flat, of which \$280 shall be  
 1336 deposited into the General Revenue Fund.

1337 9. Gross vehicle weight of 72,000 pounds or more: \$1,322

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1338 flat, of which \$343 shall be deposited into the General Revenue  
 1339 Fund.

1340 (f) A hearse or ambulance: \$40.50 flat, of which \$10.50  
 1341 shall be deposited into the General Revenue Fund.

1342 (6) MOTOR VEHICLES FOR HIRE.—

1343 (a) Under nine passengers: \$17 flat, of which \$4.50 shall  
 1344 be deposited into the General Revenue Fund; plus \$1.50 per cwt,  
 1345 of which 50 cents shall be deposited into the General Revenue  
 1346 Fund.

1347 (b) Nine passengers and over: \$17 flat, of which \$4.50  
 1348 shall be deposited into the General Revenue Fund; plus \$2 per  
 1349 cwt, of which 50 cents shall be deposited into the General  
 1350 Revenue Fund.

1351 (7) TRAILERS FOR PRIVATE USE.—

1352 (a) Any trailer weighing 500 pounds or less: \$6.75 flat per  
 1353 year or any part thereof, of which \$1.75 shall be deposited into  
 1354 the General Revenue Fund.

1355 (b) Net weight over 500 pounds: \$3.50 flat, of which \$1  
 1356 shall be deposited into the General Revenue Fund; plus \$1 per  
 1357 cwt, of which 25 cents shall be deposited into the General  
 1358 Revenue Fund.

1359 (8) TRAILERS FOR HIRE.—

1360 (a) Net weight under 2,000 pounds: \$3.50 flat, of which \$1  
 1361 shall be deposited into the General Revenue Fund; plus \$1.50 per  
 1362 cwt, of which 50 cents shall be deposited into the General  
 1363 Revenue Fund.

1364 (b) Net weight 2,000 pounds or more: \$13.50 flat, of which  
 1365 \$3.50 shall be deposited into the General Revenue Fund; plus  
 1366 \$1.50 per cwt, of which 50 cents shall be deposited into the

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1367 General Revenue Fund.

1368 (9) RECREATIONAL VEHICLE-TYPE UNITS.—

1369 (a) A travel trailer or fifth-wheel trailer, as defined by  
 1370 s. 320.01(1)(b), that does not exceed 35 feet in length: \$27  
 1371 flat, of which \$7 shall be deposited into the General Revenue  
 1372 Fund.

1373 (b) A camping trailer, as defined by s. 320.01(1)(b)2.:  
 1374 \$13.50 flat, of which \$3.50 shall be deposited into the General  
 1375 Revenue Fund.

1376 (c) A motor home, as defined by s. 320.01(1)(b)4.:  
 1377 1. Net weight of less than 4,500 pounds: \$27 flat, of which  
 1378 \$7 shall be deposited into the General Revenue Fund.  
 1379 2. Net weight of 4,500 pounds or more: \$47.25 flat, of  
 1380 which \$12.25 shall be deposited into the General Revenue Fund.

1381 (d) A truck camper as defined by s. 320.01(1)(b)3.:  
 1382 1. Net weight of less than 4,500 pounds: \$27 flat, of which  
 1383 \$7 shall be deposited into the General Revenue Fund.  
 1384 2. Net weight of 4,500 pounds or more: \$47.25 flat, of  
 1385 which \$12.25 shall be deposited into the General Revenue Fund.

1386 (e) A private motor coach as defined by s. 320.01(1)(b)5.:  
 1387 1. Net weight of less than 4,500 pounds: \$27 flat, of which  
 1388 \$7 shall be deposited into the General Revenue Fund.  
 1389 2. Net weight of 4,500 pounds or more: \$47.25 flat, of  
 1390 which \$12.25 shall be deposited into the General Revenue Fund.

1391 (10) PARK TRAILERS; TRAVEL TRAILERS; FIFTH-WHEEL TRAILERS;  
 1392 35 FEET TO 40 FEET.—

1393 (a) Park trailers.—Any park trailer, as defined in s.  
 1394 320.01(1)(b)7.: \$25 flat.

1395 (b) A travel trailer or fifth-wheel trailer, as defined in

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1396 s. 320.01(1)(b), that exceeds 35 feet: \$25 flat.  
 1397 (11) MOBILE HOMES.—  
 1398 (a) A mobile home not exceeding 35 feet in length: \$20  
 1399 flat.  
 1400 (b) A mobile home over 35 feet in length, but not exceeding  
 1401 40 feet: \$25 flat.  
 1402 (c) A mobile home over 40 feet in length, but not exceeding  
 1403 45 feet: \$30 flat.  
 1404 (d) A mobile home over 45 feet in length, but not exceeding  
 1405 50 feet: \$35 flat.  
 1406 (e) A mobile home over 50 feet in length, but not exceeding  
 1407 55 feet: \$40 flat.  
 1408 (f) A mobile home over 55 feet in length, but not exceeding  
 1409 60 feet: \$45 flat.  
 1410 (g) A mobile home over 60 feet in length, but not exceeding  
 1411 65 feet: \$50 flat.  
 1412 (h) A mobile home over 65 feet in length: \$80 flat.  
 1413 (12) DEALER AND MANUFACTURER LICENSE PLATES.—A franchised  
 1414 motor vehicle dealer, independent motor vehicle dealer, marine  
 1415 boat trailer dealer, or mobile home dealer and manufacturer  
 1416 license plate: \$17 flat, of which \$4.50 shall be deposited into  
 1417 the General Revenue Fund.  
 1418 (13) EXEMPT OR OFFICIAL LICENSE PLATES.—Any exempt or  
 1419 official license plate: \$4 flat, of which \$1 shall be deposited  
 1420 into the General Revenue Fund.  
 1421 (14) LOCALLY OPERATED MOTOR VEHICLES FOR HIRE.—A motor  
 1422 vehicle for hire operated wholly within a city or within 25  
 1423 miles thereof: \$17 flat, of which \$4.50 shall be deposited into  
 1424 the General Revenue Fund; plus \$2 per cwt, of which 50 cents

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1425 shall be deposited into the General Revenue Fund.  
 1426 (15) TRANSPORTER.—Any transporter license plate issued to a  
 1427 transporter pursuant to s. 320.133: \$101.25 flat, of which  
 1428 \$26.25 shall be deposited into the General Revenue Fund.  
 1429 Section 23. Subsection (1) of section 320.0801, Florida  
 1430 Statutes, is amended to read:  
 1431 320.0801 Additional license tax on certain vehicles.—  
 1432 (1) In addition to the license taxes specified in s. 320.08  
 1433 and in subsection (2), there is hereby levied and imposed an  
 1434 annual license tax of 10 cents for the operation of a motor  
 1435 vehicle, as defined in s. 320.01, and moped, as defined in s.  
 1436 316.003 ~~316.003(77)~~, which tax shall be paid to the department  
 1437 or its agent upon the registration or renewal of registration of  
 1438 the vehicle. Notwithstanding the provisions of s. 320.20,  
 1439 revenues collected from the tax imposed in this subsection shall  
 1440 be deposited in the Emergency Medical Services Trust Fund and  
 1441 used solely for the purpose of carrying out the provisions of  
 1442 ss. 395.401, 395.4015, 395.404, and 395.4045 and s. 11, chapter  
 1443 87-399, Laws of Florida.  
 1444 Section 24. Section 320.38, Florida Statutes, is amended to  
 1445 read:  
 1446 320.38 When nonresident exemption not allowed.—The  
 1447 provisions of s. 320.37 authorizing the operation of motor  
 1448 vehicles over the roads of this state by nonresidents of this  
 1449 state when such vehicles are duly registered or licensed under  
 1450 the laws of some other state or foreign country do not apply to  
 1451 any nonresident who accepts employment or engages in any trade,  
 1452 profession, or occupation in this state, except a nonresident  
 1453 migrant or seasonal farm worker as defined in s. 316.003

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 1454 ~~316.003(61)~~. In every case in which a nonresident, except a  
 1455 nonresident migrant or seasonal farm worker as defined in s.  
 1456 316.003 ~~316.003(61)~~, accepts employment or engages in any trade,  
 1457 profession, or occupation in this state or enters his or her  
 1458 children to be educated in the public schools of this state,  
 1459 such nonresident shall, within 10 days after the commencement of  
 1460 such employment or education, register his or her motor vehicles  
 1461 in this state if such motor vehicles are proposed to be operated  
 1462 on the roads of this state. Any person who is enrolled as a  
 1463 student in a college or university and who is a nonresident but  
 1464 who is in this state for a period of up to 6 months engaged in a  
 1465 work-study program for which academic credits are earned from a  
 1466 college whose credits or degrees are accepted for credit by at  
 1467 least three accredited institutions of higher learning, as  
 1468 defined in s. 1005.02, is not required to have a Florida  
 1469 registration for the duration of the work-study program if the  
 1470 person's vehicle is properly registered in another jurisdiction.  
 1471 Any nonresident who is enrolled as a full-time student in such  
 1472 institution of higher learning is also exempt for the duration  
 1473 of such enrollment.

1474 Section 25. Subsection (2) of section 322.0261, Florida  
 1475 Statutes, is amended to read:

1476 322.0261 Driver improvement course; requirement to maintain  
 1477 driving privileges; failure to complete; department approval of  
 1478 course.—

1479 (2) With respect to an operator convicted of, or who  
 1480 pleaded nolo contendere to, a traffic offense giving rise to a  
 1481 crash identified in paragraph (1) (a) or paragraph (1) (b), the  
 1482 department shall require that the operator, in addition to other

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 1483 applicable penalties, attend a department-approved driver  
 1484 improvement course in order to maintain his or her driving  
 1485 privileges. The department shall include in the course  
 1486 curriculum instruction specifically addressing the rights of  
 1487 vulnerable ~~road~~ users as defined in s. 316.003 ~~316.027~~ relative  
 1488 to vehicles on the roadway. If the operator fails to complete  
 1489 the course within 90 days after receiving notice from the  
 1490 department, the operator's driver license shall be canceled by  
 1491 the department until the course is successfully completed.

1492 Section 26. Subsection (1) of section 322.031, Florida  
 1493 Statutes, is amended to read:

1494 322.031 Nonresident; when license required.—

1495 (1) In each case in which a nonresident, except a  
 1496 nonresident migrant or seasonal farm worker as defined in s.  
 1497 316.003 ~~316.003(61)~~, accepts employment or engages in a trade,  
 1498 profession, or occupation in this state or enters his or her  
 1499 children to be educated in the public schools of this state,  
 1500 such nonresident shall, within 30 days after beginning such  
 1501 employment or education, be required to obtain a Florida driver  
 1502 license if such nonresident operates a motor vehicle on the  
 1503 highways of this state. The spouse or dependent child of such  
 1504 nonresident shall also be required to obtain a Florida driver  
 1505 license within that 30-day period before operating a motor  
 1506 vehicle on the highways of this state.

1507 Section 27. Subsection (3) of section 450.181, Florida  
 1508 Statutes, is amended to read:

1509 450.181 Definitions.—As used in part II, unless the context  
 1510 clearly requires a different meaning:

1511 (3) The term "migrant laborer" has the same meaning as

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1512 migrant or seasonal farm workers as defined in s. 316.003  
 1513 ~~316.003(61)~~.  
 1514 Section 28. Subsection (5) of section 559.903, Florida  
 1515 Statutes, is amended to read:  
 1516 559.903 Definitions.—As used in this act:  
 1517 (5) "Motor vehicle" means any automobile, truck, bus,  
 1518 recreational vehicle, motorcycle, motor scooter, or other motor  
 1519 powered vehicle, but does not include trailers, mobile homes,  
 1520 travel trailers, trailer coaches without independent motive  
 1521 power, watercraft or aircraft, or special mobile equipment as  
 1522 defined in s. 316.003 ~~316.003(48)~~.  
 1523 Section 29. Subsection (1) of section 655.960, Florida  
 1524 Statutes, is amended to read:  
 1525 655.960 Definitions; ss. 655.960-655.965.—As used in this  
 1526 section and ss. 655.961-655.965, unless the context otherwise  
 1527 requires:  
 1528 (1) "Access area" means any paved walkway or sidewalk which  
 1529 is within 50 feet of any automated teller machine. The term does  
 1530 not include any street or highway open to the use of the public,  
 1531 as defined in s. 316.003(74) (a) or (b) ~~316.003(53) (a) or (b)~~,  
 1532 including any adjacent sidewalk, as defined in s. 316.003  
 1533 ~~316.003(47)~~.  
 1534 Section 30. Paragraph (b) of subsection (2) of section  
 1535 732.402, Florida Statutes, is amended to read:  
 1536 732.402 Exempt property.—  
 1537 (2) Exempt property shall consist of:  
 1538 (b) Two motor vehicles as defined in s. 316.003  
 1539 ~~316.003(21)~~, which do not, individually as to either such motor  
 1540 vehicle, have a gross vehicle weight in excess of 15,000 pounds,

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1541 held in the decedent's name and regularly used by the decedent  
 1542 or members of the decedent's immediate family as their personal  
 1543 motor vehicles.  
 1544 Section 31. Subsection (1) of section 860.065, Florida  
 1545 Statutes, is amended to read:  
 1546 860.065 Commercial transportation; penalty for use in  
 1547 commission of a felony.—  
 1548 (1) It is unlawful for any person to attempt to obtain,  
 1549 solicit to obtain, or obtain any means of public or commercial  
 1550 transportation or conveyance, including vessels, aircraft,  
 1551 railroad trains, or commercial motor vehicles as defined in s.  
 1552 316.003 ~~316.003(66)~~, with the intent to use such public or  
 1553 commercial transportation or conveyance to commit any felony or  
 1554 to facilitate the commission of any felony.  
 1555 Section 32. For the purpose of incorporating the amendment  
 1556 made by this act to section 316.1925, Florida Statutes, in a  
 1557 reference thereto, paragraph (b) of subsection (4) of section  
 1558 316.072, Florida Statutes, is reenacted to read:  
 1559 316.072 Obedience to and effect of traffic laws.—  
 1560 (4) PUBLIC OFFICERS AND EMPLOYEES TO OBEY CHAPTER;  
 1561 EXCEPTIONS.—  
 1562 (b) Unless specifically made applicable, the provisions of  
 1563 this chapter, except those contained in ss. 316.192, 316.1925,  
 1564 and 316.193, shall not apply to persons, teams, or motor  
 1565 vehicles and other equipment while actually engaged in work upon  
 1566 the surface of a highway, but shall apply to such persons and  
 1567 vehicles when traveling to or from such work.  
 1568 Section 33. For the purpose of incorporating the amendment  
 1569 made by this act to sections 316.083 and 316.084, Florida

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1570 Statutes, in references thereto, subsection (5) of section  
 1571 316.1923, Florida Statutes, is reenacted to read:  
 1572 316.1923 Aggressive careless driving.—“Aggressive careless  
 1573 driving” means committing two or more of the following acts  
 1574 simultaneously or in succession:  
 1575 (5) Improperly passing as defined in s. 316.083, s.  
 1576 316.084, or s. 316.085.  
 1577 Section 34. For the purpose of incorporating the amendment  
 1578 made by this act to section 318.19, Florida Statutes, in a  
 1579 reference thereto, subsection (2) of section 318.14, Florida  
 1580 Statutes, is reenacted to read:  
 1581 318.14 Noncriminal traffic infractions; exception;  
 1582 procedures.—  
 1583 (2) Except as provided in ss. 316.1001(2) and 316.0083, any  
 1584 person cited for a violation requiring a mandatory hearing  
 1585 listed in s. 318.19 or any other criminal traffic violation  
 1586 listed in chapter 316 must sign and accept a citation indicating  
 1587 a promise to appear. The officer may indicate on the traffic  
 1588 citation the time and location of the scheduled hearing and must  
 1589 indicate the applicable civil penalty established in s. 318.18.  
 1590 For all other infractions under this section, except for  
 1591 infractions under s. 316.1001, the officer must certify by  
 1592 electronic, electronic facsimile, or written signature that the  
 1593 citation was delivered to the person cited. This certification  
 1594 is prima facie evidence that the person cited was served with  
 1595 the citation.  
 1596 Section 35. For the purpose of incorporating the amendment  
 1597 made by this act to section 316.2065, Florida Statutes, in a  
 1598 reference thereto, paragraph (b) of subsection (1) of section

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1599 318.18, Florida Statutes, is reenacted to read:  
 1600 318.18 Amount of penalties.—The penalties required for a  
 1601 noncriminal disposition pursuant to s. 318.14 or a criminal  
 1602 offense listed in s. 318.17 are as follows:  
 1603 (1) Fifteen dollars for:  
 1604 (b) All infractions of s. 316.2065, unless otherwise  
 1605 specified.  
 1606 Section 36. This act shall take effect October 1, 2016.

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# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**SENATOR THAD ALTMAN**  
16th District

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

**SELECT COMMITTEE**  
Indian River Lagoon and Lake Okeechobee

**JOINT COMMITTEE:**  
Joint Administrative Procedures Committee

February 16, 2016

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

Dear Chairwoman Flores:

I respectfully request that SB 332, related to *Traffic Safety*, be placed on the Fiscal Policy committee agenda at your earliest convenience.

Thank you for your consideration, and please do not hesitate to contact me should you have any questions.

Sincerely,

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

Thad Altman

CC: Jennifer Hrdlicka, Staff Director, 225 Knott Building  
Tamra Lyon, Committee Administrative Assistant

TA/dw

**REPLY TO:**

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

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

**DON GAETZ**  
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)

2-24-16  
Meeting Date

332  
Bill Number (if applicable)

274136  
Amendment Barcode (if applicable)

Topic Highway Safety

Name James D. "Doc" Reichenbach II

Job Title State President

Address PO Box 712

Phone 352-362-2150

Street  
Silver Springs, FL 34489  
City State Zip

Email abate@att.net

Speaking:  For  Against  Information

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

Representing ABATE of Florida, Inc.

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/24

Meeting Date

332

Bill Number (if applicable)

Bear And

Amendment Barcode (if applicable)

793960

Topic Crash Report Amblut.

Name Mark Delegal

Job Title Counsel

Address Street

Phone

City

State

Zip

Email

Speaking: For Against Information

Waive Speaking: In Support Against

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

Representing State Farm Mutual Automobile Ins

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)

2-24-16

Meeting Date

332

Bill Number (if applicable)

Topic Highway Safety

Amendment Barcode (if applicable)

Name James D. "Doc" Reichenbach

Job Title State President

Address PO Box 712

Phone 352-362-2158

Silva Springs, FL 34489

Email abatefl@att.net

City State Zip

Speaking:  For  Against  Information

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

Representing ABATE of Florida, Inc.

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)

2/24/16

Meeting Date

332

Bill Number (if applicable)

Topic S 332

Amendment Barcode (if applicable)

Name MIKE LASCHKE

Job Title Executive Director, Florida Walks and Bikes

Address POB 3746  
Street

Phone 941-544-7788

SARASOTA  
City

FL

State

34230

Zip

Email mike@floridawalksandbikes.org

Speaking:  For  Against  Information

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

Representing FLORIDA WALKS AND BIKES

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)

2-24-16

Meeting Date

332

Bill Number (if applicable)

Topic Highway Safety

Amendment Barcode (if applicable)

Name Tim Morgan

Job Title UCSO

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

Phone 804 3497 (396)

City

State

Zip

Email TMORGAN@UCSO.US

Speaking:  For  Against  Information

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

Representing Florida Sheriffs Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2-24-16

Meeting Date

332

Bill Number (if applicable)

Topic Highway Safety

Amendment Barcode (if applicable)

Name Beky Afonso

Job Title EXECUTIVE Director

Address 250 SWATHMORE AVE

Phone 813-748-1513

Street

Oldsmar FL 34677

Email beky@florida.bicycle.org

City

State

Zip

Speaking:  For  Against  Information

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

Representing Florida Bicycle Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-24-16

Meeting Date

332

Bill Number (if applicable)

Topic Highway Safety / Transp.

Amendment Barcode (if applicable)

Name Laura Hallam

Job Title Admin Asst

Address 367 Buckhorn Creek Rd.

Phone 407-399-9961

Street Sopchoppy FL 32358

Email laura@florida

City State Zip

bicycle.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against

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

Representing Florida Bicycle 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.

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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)

2/24  
Meeting Date

332  
Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name KEVIN SWEENEY

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

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

Phone \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing FLORIDA JUSTICE ASS

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

Tallahassee, Florida 32399-1100

### COMMITTEES:

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

**SENATOR THAD ALTMAN**  
16th District

February 23, 2016

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

Dear Chairman Flores:

Senate Bill 332, related to *Highway Safety*, is on the Fiscal Policy committee agenda on February 24, 2016.

Please recognize my Legislative Aide Ms. Devon West to present SB 332 on my behalf. Please feel free to contact me if you have any questions.

Sincerely,

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

Thad Altman

CC: Jennifer Hrdlicka, Staff Director, 225 Knott Building  
Tamra Lyon, Committee Administrative Assistant

TA/dv

#### REPLY TO:

- 8910 Astronaut Blvd, Cape Canaveral, FL 32920 (321) 868-2132
- 314 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5016

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

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

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

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

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

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BILL: SB 418

INTRODUCER: Senators Smith and Thompson

SUBJECT: Law Enforcement Officer Body Cameras

DATE: February 23, 2016

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Cannon</u>	<u>CJ</u>	<b>Favorable</b>
2.	<u>Cochran</u>	<u>Yeatman</u>	<u>CA</u>	<b>Favorable</b>
3.	<u>Jones</u>	<u>Hrdlicka</u>	<u>FP</u>	<b>Favorable</b>

---

## I. Summary:

SB 418 creates s. 943.1718, F.S., pertaining to body cameras. The bill requires a law enforcement agency that authorizes its law enforcement officers to wear body cameras to establish policies and procedures addressing the proper use, maintenance, and storage of body cameras and the data recorded by body cameras. The bill specifies what must be included in those policies and procedures, such as general guidelines for the proper use, maintenance, and storage of body cameras and limitations on recording law enforcement-related encounters and activities. The bill also requires these agencies to conduct training, retain audio and video data recorded by body cameras, and perform periodic review of practices.

The bill specifies that ch. 934, F.S. (interception of communications), does not apply to body camera recordings made by law enforcement agencies that elect to use body cameras.

The bill may have an indeterminate fiscal impact on state or local governments. See Section V. Fiscal Impact Statement.

The bill is effective upon becoming law.

## II. Present Situation:

### Body-Worn Cameras

Body-Worn Cameras (BWCs) or “body cameras” are currently being used or considered for use by many law enforcement agencies. BWCs are mobile audio and video devices worn by officers to record what they see and hear. They can record officer interactions that previously could only be captured by in-car or interrogation room camera systems.<sup>1</sup>

---

<sup>1</sup> National Institute of Justice, *A Primer on Body-Worn Cameras for Law Enforcement*, p. 5 (September 2012), available at <https://www.justnet.org/pdf/00-Body-Worn-Cameras-508.pdf> (last visited on February 19, 2016).

A 2014 study of BWCs noted some of the perceived benefits and perceived concerns and problems regarding BWCs use. The perceived benefits are that:

- BWCs increase transparency and citizen views of police legitimacy;
- BWCs have a civilizing effect, resulting in improved behavior among both police officers and citizens;
- BWCs have evidentiary benefits that expedite resolution of citizen complaints or lawsuits and that improve evidence for arrest and prosecution; and
- BWCs provide opportunities for police training.<sup>2</sup>

Whereas, the perceived concerns and problems are that:

- BWCs create concerns for citizen and police officer privacy;
- BWCs create concerns for officer health and safety;
- BWCs require investments in terms of training and policy development; and
- BWCs require substantial commitment of finances, resources, and logistics.<sup>3</sup>

Data provided by the Florida Police Chiefs Association in October of 2015 indicated that out of 301 police departments in Florida, 18 police departments used body cameras, and another 10 agencies had pilot body camera programs in place.<sup>4</sup>

Florida law does not require agencies to have policies in place that govern the use of BWCs.

### **2015 Legislation on Body Cameras**

During the 2015 Regular Session, legislation was passed and signed into law that makes audio or video data recorded by a law enforcement body camera confidential and exempt.<sup>5</sup> The body camera recording is confidential and exempt if it is taken:

- Within the interior of a private residence;
- Within the interior of a facility that offers health care, mental health care, or social services; or
- In a place that a reasonable person would expect to be private.<sup>6</sup>

The public records exemption provides specific circumstances in which a law enforcement agency may disclose a body camera recording and circumstances in which the agency must disclose the recording.<sup>7</sup>

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<sup>2</sup> White, Michael D., *Police Officer Body-Worn Cameras Assessing the Evidence*, p. 6-7 (2014), available at <https://ojpdiagnosticcenter.org/sites/default/files/spotlight/download/Police%20Officer%20Body-Worn%20Cameras.pdf> (last visited on February 19, 2016).

<sup>3</sup> *Id.* at pp. 7-9.

<sup>4</sup> Telephone communication between the Committee on Criminal Justice staff and the Florida Police Chiefs Association (FPCA) (January 27, 2015). Additionally, FPCA staff indicated that in 2015 that there were 262 police departments in Florida, as well as an additional 39 law enforcement agencies that serve university and college campuses and airports. FPCA staff informed Senate Criminal Justice staff that the 2015 data provided may not reflect current data (if collected) but FPCA staff does not believe that any changes in the 2015 data would alter the statement in this analysis that only a small number of Florida law enforcement agencies have elected to use body cameras.

<sup>5</sup> Chapter 2015-41, L.O.F.

<sup>6</sup> Section 119.071(2)(1)2., F.S. The exemption is retroactive and a law enforcement agency must retain a body camera recording for at least 90 days. Section 119.071(2)(1)5.- 6., F.S.

<sup>7</sup> Sections 119.071(2)(1)3.- 4., F.S.

This exemption does not supersede any other public records exemption that existed before or created after July 1, 2015. Portions of a recording protected from disclosure by another public records exemption continue to be exempt or confidential and exempt.<sup>8</sup>

The General Records Schedule, issued by the Florida Department of State, Division of Library and Information Services, establishes the requirements and timelines for agencies to maintain public records. General Records Schedule GS2 governs the records maintenance and retention requirements for law enforcement, correctional facilities, and district medical examiners.<sup>9</sup> Schedule GS2 does not specify a retention requirement for video or audio recordings from body cameras.<sup>10</sup>

However, a recording from a body camera could fall under existing areas of the retention schedule, depending on what is recorded. For example, if a body camera records a criminal incident, retention of the recording for most offenses is governed by Item #129 Criminal Investigative Records in the retention schedule, and must be retained for 4 anniversary years after the offense is committed.<sup>11</sup>

### **Interception of Communications**

Chapter 934, F.S., governs the security of various types of communications in the state, limits the ability to intercept, monitor, and record such communications and provides criminal penalties<sup>12</sup> and civil remedies.<sup>13</sup>

Section 934.03, F.S. makes it a third degree felony<sup>14</sup> to intentionally “intercept” an “oral communication.”<sup>15</sup> The statute provides for a number of exceptions,<sup>16</sup> for example, it is lawful for:

- A law enforcement officer to intercept an oral communication if the officer is a party to the communication or one of the parties to the communication has given prior consent to the interception and the purpose of the interception is to obtain evidence of a criminal act; or
- A person to intercept an oral communication when all of the parties to the communication have given prior consent to the interception.<sup>17</sup>

---

<sup>8</sup> Section 119.071(2)(l)7., F.S. For example, an exemption that may apply to information in the recording is the exemption for active criminal intelligence information or active criminal investigative information. Section 119.071(2)(c)1., F.S.

<sup>9</sup> Rule 1B-24.003(1), F.A.C.

<sup>10</sup> State of Florida, Florida Department of State, Division of Library and Information Services, *General Records Schedule GS2 for Law Enforcement, Correctional Facilities, and District Medical Examiners*, (February 19, 2015), available at <http://dos.myflorida.com/media/693578/gso2.pdf> (last visited February 19, 2016).

<sup>11</sup> *Id.*, at p. 7-8.

<sup>12</sup> Sections 934.04, 934.21, 934.215, 934.31, and 934.43, F.S.

<sup>13</sup> Section 934.05, F.S.

<sup>14</sup> A third degree felony is punishable by up to 5 years in state prison and a fine of up to \$5,000. Sections 775.082 and 775.083, F.S.

<sup>15</sup> Section 934.02(3), F.S., defines “intercept” as the aural or other acquisition of the contents of any wire, electronic, or oral communication through the use of any electronic, mechanical, or other device. Section 934.02(2), F.S., defines “oral communication” as any oral communication uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation and does not mean any public oral communication uttered at a public meeting or any electronic communication.

<sup>16</sup> Section 934.03(2), F.S.

<sup>17</sup> Section 934.03(2), F.S.

The contents of an intercepted communication and any evidence derived from its contents may not be received in evidence in court proceedings and other specified proceedings if the disclosure of the information would violate ch. 934, F.S.<sup>18</sup>

Florida state courts have not addressed whether a body camera recording that records “oral communications” constitutes an “intercept” within the meaning of s. 934.02, F.S. The Florida Supreme Court has previously held that other recordings of “oral communications” constituted an “intercept.”<sup>19</sup>

Body camera recordings are not expressly addressed in any existing exception in ch. 934, F.S., or otherwise excluded from ch. 934, F.S. Assuming body camera recordings are an “intercept,” some recordings might fall under an existing exception but others might not. Absent the body camera recording falling under a current exception or otherwise being excluded from ch. 934, F.S., it might be in violation of ch. 934, F.S., and therefore inadmissible in court.

### III. Effect of Proposed Changes:

The bill creates s. 943.1718, F.S., to govern body cameras and body cameras policies and procedures.

The bill defines the following terms:

- “Body camera” means a portable electronic recording device that is worn on a law enforcement officer’s person that records audio and video data of the officer’s law-enforcement-related encounters and activities;
- “Law enforcement agency” means an agency that has a primary mission of preventing and detecting crime and enforcing the penal, criminal, traffic, and motor vehicle laws of the state and in furtherance of that primary mission employs law enforcement officers as defined in s. 943.10, F.S.;
- “Law enforcement officer” means any person who is elected, appointed, or employed full time by any municipality or the state or its political subdivisions; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state.<sup>20</sup>

The bill requires a law enforcement agency that authorizes its law enforcement officers to wear body cameras to establish policies and procedures addressing the proper use, maintenance, and storage of body cameras and the data recorded by body cameras. The policies and procedures must include:

- General guidelines for the proper use, maintenance, and storage of body cameras;
- Any limitations on which law enforcement officers are permitted to wear body cameras;

---

<sup>18</sup> Section 934.06, F.S.

<sup>19</sup> See *Guilder v. State*, 899 So.2d 412 (Fla. 4th DCA 2005).

<sup>20</sup> Section 943.10(1), F.S. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.

- Any limitations on law-enforcement-related encounters and activities in which law enforcement officers are permitted to wear body cameras; and
- General guidelines for the proper storage, retention, and release of audio and video data recorded by body cameras.

A law enforcement agency that authorizes its law enforcement officers to wear body cameras must:

- Ensure that all personnel who wear, use, maintain, or store body cameras are trained in the agency's policies and procedures concerning them;
- Ensure that all personnel who use, maintain, store, or release audio or video data recorded by body cameras are trained in the agency's policies and procedures;
- Retain audio and video data recorded by body cameras in accordance with the requirements of s. 119.021, F.S. (maintenance of public records); and
- Perform a periodic review of actual agency body camera practices to ensure conformity with the agency's policies and procedures.

The bill provides that ch. 934, F.S. (interception of communications), does not apply to body camera recordings made by law enforcement agencies that elect to use body cameras. This allows law enforcement officers to wear body cameras when on duty without having to inform each individual he or she encounters that they are being recorded. If the body camera recording does not consist of "audio and video data of the officer's law-enforcement-related encounters and activities," the exclusion does not apply.

The bill is effective upon becoming a law.

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

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

The mandate provisions of art. VII, s. 18(a) of the Florida Constitution do not apply because the requirements of the bill apply only to local governments that voluntarily use body cameras.

##### **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:**

If an agency chooses to use body cameras, the bill may have an indeterminate impact on state expenditures because the bill creates a new requirement for law enforcement agencies that use body cameras to establish policies and procedures governing body cameras and to train personnel accordingly. There would also be costs associated with purchasing the equipment, data storage, and maintenance.

The bill may also have an indeterminate impact on local expenditures because the bill creates a new requirement for local law enforcement agencies that use body cameras to establish policies and procedures governing body cameras, and to train personnel accordingly. There would also be costs associated with purchasing the equipment, data storage, and maintenance.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 943.1718 of the Florida Statutes.

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

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

None.

**B. Amendments:**

None.

By Senator Smith

31-00493-16

2016418\_\_

1 A bill to be entitled  
 2 An act relating to law enforcement officer body  
 3 cameras; creating s. 943.1718, F.S.; providing  
 4 definitions; requiring a law enforcement agency that  
 5 authorizes its law enforcement officers to wear body  
 6 cameras to establish policies and procedures  
 7 addressing the proper use, maintenance, and storage of  
 8 body cameras and the data recorded by body cameras;  
 9 requiring such policies and procedures to include  
 10 specified information; requiring such a law  
 11 enforcement agency to ensure that specified personnel  
 12 are trained in the law enforcement agency's policies  
 13 and procedures; requiring that data recorded by body  
 14 cameras be retained in accordance with specified  
 15 requirements; requiring a periodic review of agency  
 16 body camera practices to ensure conformity with the  
 17 agency's policies and procedures; exempting the  
 18 recordings from ch. 934, F.S., relating to security of  
 19 communications and surveillance; providing an  
 20 effective date.  
 21  
 22 WHEREAS, advancements in technology allow body cameras to  
 23 be affordable and practical tools for law enforcement use, and  
 24 WHEREAS, body cameras can provide a valuable source of  
 25 information to both law enforcement and the general public, and  
 26 WHEREAS, the audio and video recording of police and  
 27 citizen interactions allows law enforcement agencies to improve  
 28 efforts to reduce crime and properly address citizen complaints,  
 29 and

Page 1 of 3

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

31-00493-16

2016418\_\_

30 WHEREAS, establishing uniform procedural requirements for  
 31 the use of body cameras by law enforcement will provide  
 32 consistency and reliability throughout the state, and  
 33 WHEREAS, there are currently no statewide mandatory and  
 34 uniform standards or guidelines that apply to use of body  
 35 cameras by law enforcement officers, NOW, THEREFORE,  
 36  
 37 Be It Enacted by the Legislature of the State of Florida:  
 38  
 39 Section 1. Section 943.1718, Florida Statutes, is created  
 40 to read:  
 41 943.1718 Body cameras; policies and procedures.-  
 42 (1) As used in this section, the term:  
 43 (a) "Body camera" means a portable electronic recording  
 44 device that is worn on a law enforcement officer's person that  
 45 records audio and video data of the officer's law-enforcement-  
 46 related encounters and activities.  
 47 (b) "Law enforcement agency" means an agency that has a  
 48 primary mission of preventing and detecting crime and enforcing  
 49 the penal, criminal, traffic, and motor vehicle laws of the  
 50 state and in furtherance of that primary mission employs law  
 51 enforcement officers as defined in s. 943.10.  
 52 (c) "Law enforcement officer" has the same meaning as  
 53 provided in s. 943.10.  
 54 (2) A law enforcement agency that authorizes its law  
 55 enforcement officers to wear body cameras shall establish  
 56 policies and procedures addressing the proper use, maintenance,  
 57 and storage of body cameras and the data recorded by body  
 58 cameras. The policies and procedures must include:

Page 2 of 3

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



31-00493-16

2016418\_\_

59 (a) General guidelines for the proper use, maintenance, and  
60 storage of body cameras.

61 (b) Any limitations on which law enforcement officers are  
62 authorized to wear body cameras.

63 (c) Any limitations on law-enforcement-related encounters  
64 and activities in which law enforcement officers are authorized  
65 to wear body cameras.

66 (d) General guidelines for the proper storage, retention,  
67 and release of audio and video data recorded by body cameras.

68 (3) A law enforcement agency that authorizes its law  
69 enforcement officers to wear body cameras shall:

70 (a) Ensure that all personnel who wear, use, maintain, or  
71 store body cameras are trained in the law enforcement agency's  
72 policies and procedures concerning them.

73 (b) Ensure that all personnel who use, maintain, store, or  
74 release audio or video data recorded by body cameras are trained  
75 in the law enforcement agency's policies and procedures.

76 (c) Retain audio and video data recorded by body cameras in  
77 accordance with the requirements of s. 119.021, except as  
78 otherwise provided by law.

79 (d) Perform a periodic review of actual agency body camera  
80 practices to ensure conformity with the agency's policies and  
81 procedures.

82 (4) Chapter 934 does not apply to body camera recordings  
83 made by law enforcement agencies that elect to use body cameras.

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

The Florida Senate

## Committee Agenda Request

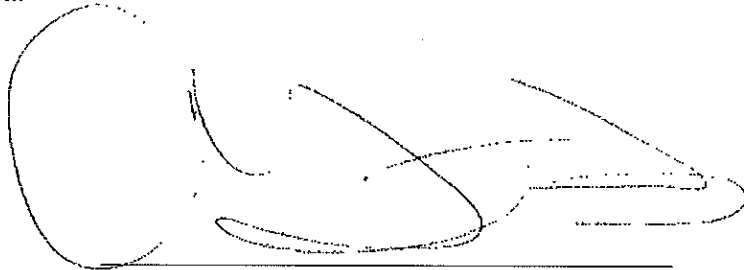
To: Senator Anitere Flores, Chair  
Committee on Fiscal Policy

Subject: Committee Agenda Request

Date: February 16, 2016

I respectfully request that **Senate Bill #418**, relating to Officer Body Cameras, be placed on the II committee agenda at your earliest possible convenience.

next committee agenda.

A handwritten signature in black ink, appearing to read "Chris Smith", written over a horizontal line.

Senator Christopher L. Smith  
Florida Senate, District 31

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/24/2014  
Meeting Date

418  
Bill Number (if applicable)

Topic Law Enforcement officer Body Cameras

Amendment Barcode (if applicable)

Name Matt Puckett

Job Title Lobbyist

Address 300 East Brevard St.

Phone \_\_\_\_\_

Tallahassee FL 32301

City State Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing Florida Police Benevolent Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/24/16  
Meeting Date

SB 418  
Bill Number (if applicable)

Topic Body camera

Amendment Barcode (if applicable)

Name TIM MORGAN

Job Title LIEUTENANT

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

Phone 386 904 3497

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Email TMORGAN@JCSO.US

Speaking:  For  Against  Information

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

Representing FLORIDA SHERIFFS 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.

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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)

2/24/2016  
Meeting Date

418  
Bill Number (if applicable)

Topic Law Enforcement Officer Body Cameras

Amendment Barcode (if applicable)

Name Bernadette Howard

Job Title Government Affairs Coordinator

Address 2636 Mitcham Drive  
Street

Phone 850-219-3631

Tallahassee FL 32308  
City State Zip

Email: bhoward@fpca.com

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.

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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)

7/24/16  
Meeting Date

530418  
Bill Number (if applicable)

Topic L.E.O. Body Cameras

N/A  
Amendment Barcode (if applicable)

Name DENNIS STRANGE

Job Title Captain

Address 240 West Colonial Dr  
Street

Phone 407-254-7000

Orlando  
City State Zip

Email dennis.strange@ocfl.net

Speaking:  For  Against  Information

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

Representing Orange County Sheriff's Office

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)

418

Bill Number (if applicable)

Meeting Date

Amendment Barcode (if applicable)

Topic

Name JESS MCCARTY

Job Title

Address 111 NW 1st St 2810

Phone 305-979-7110

Street MIAMI 33128 City State Zip

Email JMM2@MIAMI.DAOF.GOV

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

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

Representing MIAMI - DADE COUNTY

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**  
**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/CS/SB 562

INTRODUCER: Fiscal Policy Committee; Commerce and Tourism Committee; Banking and Insurance Committee; and Senator Stargel and others

SUBJECT: Consumer Debt Collection

DATE: February 24, 2016

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
2.	<u>Little</u>	<u>McKay</u>	<u>CM</u>	<u>Fav/CS</u>
3.	<u>Jones</u>	<u>Hrdlicka</u>	<u>FP</u>	<u>Fav/CS</u>

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/CS/SB 562 amends a provision of the Florida Consumer Collection Practices Act (FCCPA) which regulates consumer collection practices in order to protect consumers from deceptive, unfair, or abusive collection practices. The FCCPA prohibits a person collecting a consumer debt from communicating with a debtor if the person knows that a debtor is represented by an attorney.

The bill provides that a creditor collecting a debt is not liable for communicating with a debtor if the debtor or debtor's attorney fails to provide notification of representation. A debtor's attorney provides notice of representation to a creditor with respect to such debt by:

- Service of pleadings in a filed action;
- Providing written notice of representation to a location or person according to a prior agreement between the creditor and the debtor's attorney which states the debtor is represented by an attorney and discloses the attorney's name and address;
- Providing written notice of representation by certified mail to the registered agent of the creditor which states that the debtor is represented by an attorney and discloses the attorney's name and address; or
- Providing written notice of representation by mail, facsimile, email, or other electronic format designated by the creditor on a billing statement or other written communication pertaining to the debt which states that the debtor is represented by an attorney and discloses the attorney's name and address.



The bill requires a creditor to designate, on a billing statement or other written communication pertaining to the debt, a method for communicating notice of representation.

A debtor may notify the creditor that he or she is represented by an attorney, including oral notice, in response to a communication initiated by the creditor with respect to such debt.

A creditor must cease direct communication with the debtor within 5 business days upon receiving notice of representation from the debtor's attorney.

The bill does not have a fiscal impact on state government.

The bill is effective July 1, 2016.

## II. Present Situation:

Federal and state debt collection laws provide consumer protection against deceptive, unfair, or abusive collection practices that may occur before the debtor is sued, as well as during the litigation process.

Consumer debt covers personal debt such as mortgages, credit cards, medical debts, and other debts incurred mainly for individual, family, or household purposes. Depending on the terms of the loan, a grace period may be provided before a debt becomes delinquent.<sup>1</sup> Most credit issuers will attempt to collect on a delinquent debt between 120-180 days after delinquency, before it is deemed uncollectible and is "charged-off" corporate accounts.<sup>2</sup> Typically, the charged-off debt is then either assigned or sold to a third-party collection agency or collection law firm, which uses a variety of collection methods and judgment remedies to recover the asset, subject to applicable statutes of limitations. These remedies enable creditors to minimize losses due to nonpayment by borrowers, and help ensure the availability and affordability of consumer credit.<sup>3</sup>

Between 2001 and 2013, on average, 10.1 percent of outstanding credit card debt was reported as being more than 90 days delinquent. For the same period, 8 percent of student loans and 3.8 percent of mortgage loans were reported as being more than 90 days delinquent.<sup>4</sup> In 2013, the proportion of American consumers with at least one account in third-party collections stood at 14 percent and the total amount collected from them by third-party debt collectors was approximately \$55 billion.<sup>5</sup>

In 2014, the federal Consumer Financial Protection Bureau processed over 88,300 debt collection complaints, making debt collection the leading source of consumer complaints.

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<sup>1</sup> Consumer Financial Protection Bureau, Debt Collection, *Are there laws that limit what debt collectors can say or do?* (September 15, 2014), available at <http://www.consumerfinance.gov/> (last visited February 5, 2016).

<sup>2</sup> A debt "charged-off" is generally a debt that is deemed uncollectible by the reporting firm and subsequently written off. Investopedia, *Charge-off*, available at <http://www.investopedia.com/terms/c/chargeoff.asp> (last visited February 5, 2016).

<sup>3</sup> *Supra* note 1 at *What is a debt collector?*

<sup>4</sup> Viktor Fedaseyev, Working Papers Research Department, *Working Paper NO. 15-23 Debt Collection Agencies and the Supply of Consumer Credit*, p. 1, (June 19, 2015).

<sup>5</sup> Viktor Fedaseyev and Robert Hunt, Working Papers Research Department, *Working Paper NO. 15-43 The Economics of Debt Collection: Enforcement of Consumer Credit Contracts*, p. 1, (November 2015).

Approximately 2 percent of these complaints related to a consumer being contacted directly, instead of the debt collector contacting the attorney.<sup>6</sup>

### **Federal Fair Debt Collection Practices Act**

The Fair Debt Collection Practices Act (FDCPA) protects consumers from harmful debt collection practices and to protect ethical collectors from an unfair competitive disadvantage. The Federal Trade Commission and the Consumer Financial Protection Bureau are the primary federal enforcement agencies of the FDCPA. The FDCPA establishes standards of conduct for the collection industry by prohibiting abusive, deceptive, and unfair debt collection practices. The FDCPA applies to third-party debt collectors, which include contingency agencies, collection law firms, and debt buyers. A violation of the FDCPA carries a penalty of up to \$1,000 per violation.<sup>7</sup>

### **Florida Consumer Collection Practices Act**

In Florida, consumer debt collection practices are regulated by the FDCPA and the Florida Consumer Collection Practices Act (FCCPA).<sup>8</sup> The FCCPA gives regulatory oversight authority to the Office of Financial Regulation and authorizes the Attorney General to initiate enforcement actions against out-of-state consumer debt collectors that violate the act.<sup>9</sup>

Both acts provide private civil remedies to debtors for violations and if successful, the debtor may recover actual and statutory damages and reasonable attorney's fees and costs.<sup>10</sup> The FCCPA also provides that a person cannot be held liable if the person shows that the violation was not intentional and resulted from a bona fide error. If the court finds that the suit fails to raise justiciable issue of law or fact, the debtor is liable for court costs and reasonable attorney's fees incurred by the defendant.<sup>11</sup>

The FCCPA prohibits many of the same debt collection practices prohibited by the FDCPA but also provides additional requirements and regulations.<sup>12</sup> For instance, the FDCPA excludes creditors from its provisions while the FCCPA has been construed to apply to both debt collectors and creditors.<sup>13</sup> The FCCPA provides greater protection than the FDCPA because it forbids *a person*, rather than only debt collectors, from practicing certain consumer debt collection practices.<sup>14</sup>

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<sup>6</sup> Consumer Financial Protection Bureau, *Fair Debt Collection Practices Act, CFPB Annual Report 2015*, pp. 2 and 15, (March 2015) available at [http://files.consumerfinance.gov/f/201503\\_cfpb-fair-debt-collection-practices-act.pdf](http://files.consumerfinance.gov/f/201503_cfpb-fair-debt-collection-practices-act.pdf) (last visited February 5, 2016).

<sup>7</sup> 15 U.S.C. s. 1692, *et seq.*

<sup>8</sup> Part VI of ch. 559, F.S.

<sup>9</sup> Section 559.565, F.S.

<sup>10</sup> 15 U.S.C. s. 1692k and s. 559.77, F.S.

<sup>11</sup> Section 559.77, F.S.

<sup>12</sup> Section 559.552, F.S.

<sup>13</sup> *Craig v. Park Fin. of Broward County, Inc.*, 390 F. Supp. 2d 1150, 1154-1155 (M.D. Fla. 2005).

<sup>14</sup> Section 559.72, F.S.

### Communication with Debtor Represented by Counsel

Both the federal and state laws generally prohibit a debt collector from communicating with a debtor when the debt collector knows the debtor is represented by an attorney.<sup>15</sup> However, the FCCPA prohibits *a person* from communicating with a debtor if the person knows that the debtor is represented by an attorney with respect to such debt and has knowledge of, or can readily ascertain, such attorney's name and address.<sup>16</sup>

There are three exceptions to this prohibition, thus allowing the communication if:

- Debtor's attorney fails to respond within 30 days to a communication from the person;
- Debtor's attorney consents to a direct communication with the debtor; or
- Debtor initiates the communication.<sup>17</sup>

If a person contacts a debtor known to be represented by an attorney and one of the listed exceptions does not apply, that person may be liable for violating s. 559.72(18), F.S., unless the person can show by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error.<sup>18</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 559.72(18), F.S., to clarify when a creditor may contact a debtor.

The bill provides that a creditor collecting a debt is not liable for communicating with a debtor if the debtor or debtor's attorney fails to provide notification of representation.

A creditor has knowledge that a debtor is represented by an attorney if the debtor, individually, has provided notice of representation by any reasonable means, including oral notice to a creditor if such oral notice is provided in response to a communication initiated by the creditor with respect to such debt.

A creditor has knowledge that a debtor is represented by an attorney if the attorney representing the debtor has provided notice of such representation by:

- Service of pleadings in a filed action with respect to such debt;
- Providing written notice of representation to a location or person according to a prior agreement between the creditor and the debtor's attorney which states the debtor is represented by an attorney with respect to such debt and discloses the attorney's name and address;
- Providing written notice of representation by certified mail to the registered agent of the creditor which states that the debtor is represented by an attorney with respect to such debt and discloses the attorney's name and address; or
- Providing written notice of representation by mail, facsimile, email, or other electronic format designated by the creditor on a billing statement or other written communication

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<sup>15</sup> 15 U.S.C. 1692c and s. 559.72(18), F.S.

<sup>16</sup> Section 559.72(18), F.S.

<sup>17</sup> *Id.*

<sup>18</sup> Section 559.77, F.S.

pertaining to the debt which states that the debtor is represented by an attorney with respect to such debt and discloses the attorney's name and address.

The bill requires a creditor to designate, on a billing statement or other written communication pertaining to the debt, at least one of the following communication methods for notice of representation:

- A mailing address;
- A facsimile;
- An email address; or
- Other electronic means.

The bill requires that a creditor to cease direct communication with the debtor within 5 business days upon receiving notice of representation from the debtor's attorney.<sup>19</sup>

**Section 2** provides 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:**

A debtor may incur additional costs associated with the requirement to provide the notice of attorney representation if the debtor's attorney decides to give notice by certified mail. Creditors may benefit by requiring notice of attorney representation to be delivered by one of the means provided in the bill. If notice is received at the proper address, creditors will be less likely to violate the statute and incur associated fines.

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<sup>19</sup> This allows the creditor avoid liability for violations of the FCCPA that may occur within 5 days business days upon receiving notice of attorney representation has occurred.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 559.72 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/CS by Fiscal Policy on February 24, 2016:**

The committee substitute:

- Clarifies that a creditor has knowledge that a debtor is represented by an attorney if:
  - The debtor has provided notice of the representation by any reasonable means, including oral notice if it is in response to a communication initiated by the creditor.
- Provides that a creditor has knowledge that the debtor is represented by an attorney if:
  - The attorney provided written notice to a location or person according to a prior agreement between the creditor and the debtor's attorney which states that the debtor is represented and states the attorney's name and address.

**CS/CS by Commerce and Tourism on February 1, 2016:**

The bill is amended to clarify that a debtor or a debtor's attorney may provide notice of attorney representation. The bill creates a requirement that an original creditor must cease communication with a debtor within 5 business days of receiving notice of representation from the debtor's attorney.

The bill also provides additional alternatives for a debtor's attorney to provide notice of representation. A debtor's attorney may provide notice of representation by:

- Service of pleadings in a filed action;
- Providing written notification by certified mail; or
- Providing notice of representation by mail, fax, email, or other electronic format, to a location designated by the creditor on a billing statement.

**CS by Banking and Insurance on January 19, 2016:**

The CS provides the following changes:

- Reinstates current law, which provides a prohibition on contacting a debtor when the person collecting the debt knows that the debtor is represented by an attorney with respect to the debt and, though lacking actual knowledge of the name and address of the debtor's attorney, the person is otherwise able to "*readily ascertain*" the name and address of the debtor's attorney.
- Provides that the prohibition against an original creditor contacting the debtor would also not apply if the debtor's attorney fails to provide notice of representation by certified mail at the address designated on the billing statement by the original creditor or to the registered agent of the original creditor. A debtor's attorney may also provide notice of representation to an original creditor by virtue of pleadings and other filings in a filed action.
- Eliminates the provision allowing the Office of Financial Regulation to adopt rules for notice of representation and receipt of response

**B. Amendments:**

None.



216992

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/24/2016	.	
	.	
	.	
	.	

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

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsection (18) of section 559.72, Florida  
Statutes, is amended to read:

559.72 Prohibited practices generally.—In collecting  
consumer debts, no person shall:

(18) Communicate with a debtor if the person knows that the  
debtor is represented by an attorney with respect to such debt



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11 and has knowledge of, or can readily ascertain, such attorney's  
12 name and address.

13 (a) This subsection does not apply if: ~~unless~~

14 1. The debtor's attorney fails to respond within 30 days to  
15 a communication from the person; ~~unless~~

16 2. The debtor's attorney consents to a direct communication  
17 with the debtor; ~~or~~

18 3. ~~unless~~ The debtor initiates the communication.

19 (b) A creditor has knowledge that a debtor is represented  
20 by an attorney if the debtor, individually, has provided notice  
21 of representation by any reasonable means, including oral notice  
22 to a creditor if such oral notice is provided in response to a  
23 communication initiated by the creditor with respect to such  
24 debt.

25 (c) A creditor has knowledge that a debtor is represented  
26 by an attorney if the attorney representing the debtor has  
27 provided notice of such representation by:

28 1. Service of pleadings in a filed action with respect to  
29 such debt;

30 2. Providing written notice of representation to a location  
31 or person according to a prior agreement between the creditor  
32 and the debtor's attorney which states the debtor is represented  
33 by an attorney with respect to such debt and discloses the  
34 attorney's name and address;

35 3. Providing written notice of representation by certified  
36 mail to the registered agent of the creditor which states that  
37 the debtor is represented by an attorney with respect to such  
38 debt and discloses the attorney's name and address; or

39 4. Providing written notice of representation by mail,





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40 facsimile, email, or other electronic format designated by the  
41 creditor on a billing statement or other written communication  
42 pertaining to the debt which states that the debtor is  
43 represented by an attorney with respect to such debt and  
44 discloses the attorney's name and address.

45 (d) A creditor shall designate, on a billing statement or  
46 other written communication pertaining to the debt, at least one  
47 of the following communication methods for notice of  
48 representation:

- 49 1. A mailing address;
- 50 2. A facsimile;
- 51 3. An email address; or
- 52 4. Other electronic format.

53 (e) For the purposes of this subsection, a creditor must  
54 cease direct communication with the debtor subject to the  
55 limitations and exceptions of this subsection within 5 business  
56 days upon receiving notice of representation from the attorney  
57 representing the debtor.

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

59  
60 ===== T I T L E A M E N D M E N T =====

61 And the title is amended as follows:

62 Delete everything before the enacting clause  
63 and insert:

64 A bill to be entitled  
65 An act relating to consumer debt collection; amending  
66 s. 559.72, F.S.; specifying methods by which a debtor,  
67 represented by an attorney, may notify a creditor of  
68 such representation; specifying methods by which an



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69 attorney representing a debtor may notify a creditor  
70 of such representation; requiring a creditor to  
71 identify the manner by which a debtor may communicate  
72 notice of representation; providing a creditor must  
73 cease direct communication with the debtor under  
74 certain circumstances; providing an effective date.

By the Committees on Commerce and Tourism; and Banking and Insurance; and Senators Stargel and Gaetz

577-02904-16

2016562c2

A bill to be entitled

An act relating to consumer debt collection; amending s. 559.72, F.S.; authorizing a debtor to individually notify a person that is represented by an attorney under certain circumstances; providing that an original creditor is not liable for a violation of prohibited communication practices if the debtor or the debtor's attorney fails to provide certain notice or information; providing notification requirements; providing that an original creditor must cease direct communication with the debtor under certain circumstances; providing an effective date.

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

Section 1. Subsection (18) of section 559.72, Florida Statutes, is amended to read:

559.72 Prohibited practices generally.—In collecting consumer debts, no person shall:

(18) Communicate with a debtor if the person knows that the debtor is represented by an attorney with respect to such debt and has knowledge of, or can readily ascertain, such attorney's name and address, unless the debtor's attorney fails to respond within 30 days to a communication from the person, ~~unless~~ the debtor's attorney consents to a direct communication with the debtor, or ~~unless~~ the debtor initiates the communication. A debtor, individually, may notify such person of attorney representation by way of any reasonable means, including verbal notice.

(a) An original creditor is not liable for a violation of this subsection if the debtor or debtor's attorney fails to

Page 1 of 2

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

577-02904-16

2016562c2

provide notification of representation. With respect to notification of representation by a debtor's attorney, an original creditor has knowledge that a debtor is represented by an attorney if the attorney representing the debtor has provided notification of such representation by:

1. Service of pleadings in a filed action;

2. Providing written notice of representation by certified mail to the registered agent of the original creditor which states that the debtor is represented by an attorney with respect to such debt and which discloses the attorney's name and address; or

3. Providing notice of representation by mail, facsimile, e-mail, or other electronic format designated by the creditor on a billing statement which states that the debtor is represented by an attorney with respect to such debt and which discloses the attorney's name and address. The original creditor shall designate at least one of the following communication methods on a billing statement: a mailing address facsimile, e-mail, or other electronic format.

(b) For purposes of this subsection, an original creditor must cease direct communication with the debtor subject to the limitations and exceptions of this subsection within 5 business days upon receiving notice of representation from the attorney representing the debtor.

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

Page 2 of 2

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

Feb 24

Meeting Date

562

Bill Number (if applicable)

216992

Amendment Barcode (if applicable)

Topic Consumer Debt Collection- Physicians

Name Toni Largo

Job Title

Address 519 E. Park Ave

Street

Phone (850) 556-1461

Tallahassee, FL 32308

City

State

Zip

Email toni@sulawinet

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

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

Representing FL Orthopedic Society

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

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

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

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THE FLORIDA SENATE

APPEARANCE RECORD

2/24/16

Meeting Date

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

562

Bill Number (if applicable)

216992

Amendment Barcode (if applicable)

Topic SA 562 Debt Collection

Name Jared Lee

Job Title

Address 310 Evansdale Rd

Street

Phone 813 846 9760

Lake Mary

City

FL

State

32746

Zip

Email

Speaking:  For  Against  Information

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

Representing Self & Consumers

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)

2/24/16  
Meeting/Date

SB 562  
Bill Number (if applicable)

216992  
Amendment Barcode (if applicable)

Topic \_\_\_\_\_

Name Frank Meinens

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

Address PO Box 1433  
Street  
Tell FL 32302  
City State Zip

Phone (550) 591-0177

Email frank@chymos1.com

Speaking:  For  Against  Information

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

Representing FL Collectors Assoc.

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

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2/24/16

Meeting Date

562

Bill Number (if applicable)

216992

Amendment Barcode (if applicable)

Topic SB 562

Name MAX STORV

Job Title Attorney

Address 328 2nd Ave North

Phone 904-372-4109

Jacksonville Beach FL 32250

Email Mat@maxstorklaw.com

City State Zip

Speaking:  For  Against  Information

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

Representing self & Florida consumers

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)

2/24/16

Meeting Date

562

Bill Number (if applicable)

216992

Amendment Barcode (if applicable)

Topic Consumer Collection

Name Clint Shoupe

Job Title State Govt Belsh

Address 2985 Drew St

Street

Phone \_\_\_\_\_

Clearwater

City

State

Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing BayCare

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)

2/24/16  
Meeting Date

562  
Bill Number (if applicable)

216992  
Amendment Barcode (if applicable)

Topic Consumer Debt Collection

Name Alice Vickers

Job Title Attorney

Address 623 Beard St.

Phone 850 556 3121

Tallahassee, FL 32303  
City State Zip

Email alicevickers@flacp.org

Speaking:  For  Against  Information

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

Representing Florida Alliance for Consumer Protection

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)

2/24/16

Meeting Date

562

Bill Number (if applicable)

216992

Amendment Barcode (if applicable)

Topic Consumer Debt Collection

Name William Cotterall

Job Title Attorney

Address 207 West Park Ave  
Street

Phone \_\_\_\_\_

Tallahassee FL 32301  
City State Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing Cotterall Law Firm

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)

2/24  
Meeting Date

562  
Bill Number (if applicable)

Topic Consumer Debt collection

Amendment Barcode (if applicable)

Name Mary Thomas

Job Title Assistant General Counsel

Address 1430 Piedmont Dr E

Phone 850 224 6496

Street

TLH

City

FL

State

32308

Zip

Email MThomas@flmedical.org

Speaking:  For  Against  Information

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

Representing Florida Medical Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/24/16

Meeting Date

562

Bill Number (if applicable)

Topic Debt Collection

Amendment Barcode (if applicable)

Name Tammy Perdue

Job Title General Counsel

Address 516 N. Adams St

Phone 850-224-7173

Street

Tallahassee

FL

32301

City

State

Zip

Email tperdue@aif.com

Speaking: [X] 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 [X] No

Lobbyist registered with Legislature: [X] 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)

2/24/16  
Meeting Date

562

Bill Number (if applicable)

Topic Consumer Collection

Amendment Barcode (if applicable)

Name Clint Shoups

Job Title State Govt Admin

Address 2575 Dow St  
Street

Phone \_\_\_\_\_

Clearwater  
City State Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing BayCare

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)

2/24/16

Meeting Date

562

Bill Number (if applicable)

Topic SB 562 Debt Collection

Amendment Barcode (if applicable)

Name Jared Lee

Job Title

Address 310 Evansdale Rd

Phone 813 846 9700

Street

Lake Mary

City

FL

State

32746

Zip

Email

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

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

Representing Self & Florida Consumers

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

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

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THE FLORIDA SENATE

APPEARANCE RECORD

02/24/16

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

Meeting Date

562

Bill Number (if applicable)

Topic SB 562

Amendment Barcode (if applicable)

Name Max Story

Job Title Attorney

Address 328 2nd Ave North

Phone 904-372-4109

Street Jacksonville Beach, FL 32250

Email mat@mastorylaw.com

City State Zip

Speaking:  For  Against  Information

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

Representing Self & Florida Consumers

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

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

February 24, 2016

Senator Anitere Flores, Chair  
Committee on Fiscal Policy  
225 Knott Building  
404 S. Monroe Street  
Tallahassee, Florida 32399

Dear Madame Chair,

Due to a misunderstanding on my part on SB 562, Consumer Debt Collection, I wish to change my vote from a "yes" to a "no".

Thank you,

A handwritten signature in black ink, appearing to read "Gwen Margolis".

**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



**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 706

INTRODUCER: Regulated Industries Committee and Senator Altman

SUBJECT: Culinary Education Programs

DATE: February 23, 2016

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Caldwell</u>	<u>RI</u>	<b>Fav/CS</b>
2.	<u>Lloyd</u>	<u>Stovall</u>	<u>HP</u>	<b>Favorable</b>
3.	<u>Pace</u>	<u>Hrdlicka</u>	<u>FP</u>	<b>Favorable</b>

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

COMMITTEE SUBSTITUTE - Substantial Changes

**I. Summary:**

CS/SB 706 permits a culinary education program with a public food service establishment license to obtain a special alcoholic beverage license under certain conditions. The special license allows for the sale of alcoholic beverages on the licensed premise in designated areas only. If the culinary education program is a licensed caterer, the bill allows for the sale and consumption of alcoholic beverages on the premises of the catered event at which the licensee is also providing prepared food. The bill does not permit the sale of alcoholic beverages by the package for off-premises consumption.

The requirement that the caterer derive 51 percent of its gross revenue from the sale of food and nonalcoholic beverages to be eligible for a special alcoholic beverage license does not apply to a culinary education program with a public food service establishment license.

The bill defines culinary education program and provides for the applicability of the Department of Health sanitation rules to a licensed culinary education program. The bill also revises the definition of “public food service establishment” to include a culinary education program, which requires the culinary education program to be licensed as a public food service establishment by the DBPR.

The bill authorizes the DBPR to adopt rules to administer the bill’s provisions.

See Section V. Fiscal Impact statement. The bill will generate additional state revenue.

## II. Present Situation:

### Culinary Education Programs

A culinary education program prepares individuals for a career in the culinary arts, which includes developing knowledge of food science, diet, and nutrition.<sup>1</sup> In Florida, culinary education programs fall within the Hospitality and Tourism Career curriculum under the Department of Education's (DOE) Career and Technical Education programs. The curriculum offers students hands-on educational opportunities in a variety of trades and programs throughout the state in school districts, community colleges, and state universities.<sup>2</sup>

Currently, there are no stand-alone culinary education programs approved in the State University System.<sup>3</sup> Hospitality management majors may take courses in law, food and beverage management, leadership and ethics, catering management, resort operations, beverages (alcoholic and non-alcoholic), event, and convention management.<sup>4</sup>

The DOE reports that there are a total of 75 postsecondary culinary education programs including: 16 culinary schools licensed by the Commission for Independent Education,<sup>5</sup> 36 postsecondary adult vocational programs, and 23 programs offered by state colleges.<sup>6</sup>

### Food Safety Programs

Three state agencies operate food safety programs in Florida: the Department of Business and Professional Regulation (DBPR), the Department of Agriculture and Consumer Services (DACS), and the Department of Health (DOH). Each agency regulates a separate sector of the food service industry, issues food establishment licenses or permits, conducts food safety and sanitation inspections, and enforcement capabilities.<sup>7</sup> In general, the DACS regulates grocery stores, supermarkets, bakeries, and convenience stores that offer food service; the DBPR regulates restaurants and caterers; and the DOH regulates facilities that serve high-risk populations such as hospitals, nursing homes, residential care facilities, and schools.<sup>8</sup>

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<sup>1</sup> Course Advisor, *What is Culinary Education?*, available at <http://resources.courseadvisor.com/culinary-hospitality/culinary-education-cooking-schools> (last visited Feb. 19, 2016).

<sup>2</sup> DOE, *Career & Technical Education - Hospitality & Tourism*, available at <http://www.fldoe.org/academics/career-adult-edu/career-tech-edu/hospitality-tourism.stml> (last visited Feb. 19, 2016).

<sup>3</sup> State University System of Florida, Board of Governors, *Senate Bill 706 Analysis*, p. 1 (Nov. 10, 2015) (on file with the Senate Committee on Health Policy).

<sup>4</sup> Florida State University, Dedman School of Hospitality, *B.S. Degree in Hospitality Mgmt., Requirements for the Hospitality Management Major* (2015-2016) available at <http://business.fsu.edu/docs/default-source/cob/Department-Docs/undergraduate-programs/hospitality2015-2016.pdf?sfvrsn=2> (last visited Feb. 19, 2016).

<sup>5</sup> The Commission for Independent Education is responsible for matters relating to nonpublic, postsecondary, educational institutions. See DOE, *Commission for Independent Education*, available at <http://www.fldoe.org/policy/cie> (last visited Feb. 19, 2016).

<sup>6</sup> Florida House of Representatives, *Staff Analysis CS/HB 249* (Oct. 22, 2015) (on file with the Senate Committee on Fiscal Policy).

<sup>7</sup> Office of Program Policy Analysis and Gov't Accountability, *State Food Safety Programs Should Improve Performance and Financial Self-Sufficiency*, Report No. 08-67 (Dec. 2008), available at <http://www.oppaga.state.fl.us/reports/pdf/0867rpt.pdf> (last visited Feb. 19, 2016).

<sup>8</sup> Office of Program Policy Analysis and Gov't Accountability, *State's Food Safety Programs Have Improved Performance and Financial Self-Sufficiency*, Report No. 10-44 (June 2010), available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1044rpt.pdf> (last visited Feb. 19, 2016).

***Department of Business and Professional Regulation: Public Food Service Establishments***

The Division of Hotels and Restaurants within the DBPR, regulates and inspects “public food service establishments” pursuant to part I of ch. 509, F.S.<sup>9</sup> A public food service establishment is any building, vehicle, place, structure, or any room or division in a building where food is prepared, served, or sold for immediate consumption on or near the premises; called for or taken out by customers; or prepared prior to being delivered to another location for consumption.<sup>10</sup>

There are several exclusions from the definition of public food service establishment, including:

- Any place maintained and operated by a public or private school, college, or university for the use of students and faculty or temporarily to serve events such as fairs, carnivals, and athletic contests.
- Any eating place maintained by a facility certified or licensed and regulated by the Agency for Health Care Administration (AHCA), the Department of Children and Families (DCF), or other similar place regulated as a food service establishment by the DOH.
- Any place of business issued a permit or inspected by the DACS under s. 500.12, F.S.<sup>11</sup>

License fees can vary depending on the type of establishment and its size.<sup>12</sup>

***Department of Agriculture and Consumer Services: Florida Food Safety Act***

The DACS administers and enforces the Florida Food Safety Act (the act) pursuant to ch. 500, F.S. The purpose of the act is to prevent fraud, harm, adulteration, misbranding, or false advertising in the preparation, manufacture, or sale of articles of food.<sup>13</sup> The DACS also regulates the production, manufacture, transportation, and sale of food.<sup>14</sup>

Food establishments<sup>15</sup> and retail food stores must obtain a food permit from the DACS.<sup>16</sup> The DACS inspects the food establishment, its equipment, and the methods of operation for compliance with the Food Safety Act prior to the issuance of a permit.

***Department of Health: Food Service Protections***

The DOH regulates and inspects food service establishments to protect the public from food borne illness.<sup>17</sup> Generally, these food service establishments include food service operations

<sup>9</sup> Section 509.032, F.S.

<sup>10</sup> Section 509.013(5)(a), F.S.

<sup>11</sup> Section 509.013(5)(b), F.S.

<sup>12</sup> Rule 61C-1.008, F.A.C.

<sup>13</sup> See ch. 500, F.S.

<sup>14</sup> Section 500.032, F.S.

<sup>15</sup> Section 500.03(1), F.S., defines “food establishment” as a factory, food outlet, or other facility manufacturing, processing, packing, holding, or preparing food or selling food at wholesale or retail. The term does not include vending stands operated by eligible blind persons, cottage food operations, lodging and food service establishments, and citrus facilities. Further, a “food service establishment” is defined as any place where food is prepared and intended for individual portion service, and includes the site at which individual portions are provided, regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food.

<sup>16</sup> Section 500.12(1), F.S.

<sup>17</sup> See s. 381.0072, F.S., and Rule ch. 64E-11, F.A.C. The DOH regulation of food service establishments is limited to establishments not permitted or licensed by the DACS or by the Division of Hotels and Restaurants within the DBPR.

located in institutional settings (such as detention facilities, schools, assisted living facilities, and adult day care centers), civic and fraternal organizations, bars and lounges that don't prepare food, and theaters.<sup>18</sup>

All food service establishments require a sanitation certificate issued by the DOH. The DOH is authorized to charge an annual fee for the sanitation certificate. The annual fee can range from \$85 to \$300, depending on the type of facility and number of food operations within the facility.<sup>19</sup>

The DOH is authorized to inspect food service establishments as often as necessary.<sup>20</sup> The DOH utilizes a risk-based inspection program to conduct more frequent inspections of food service establishments that pose a greater risk to the public of food borne illness. High risk facilities are inspected 4 times per year, moderate risk 2 times per year, and low risk once per year. The inspections are performed by the environmental health sections of the local county health departments in which the food service establishment is located.<sup>21</sup>

There are several types of inspections including routine inspections, re-inspections, and complaint inspections. Routine inspections are periodic inspections that are performed as a part of the on-going food safety system. Re-inspections are completed when a facility has violations that need corrections in more than the standard time frame. Complaint inspections are performed in response to a citizen's complaint. Both routine and complaint inspections are unannounced inspections.<sup>22</sup>

### **Florida's Beverage Law**

Florida's Beverage Law regulates alcoholic beverages.<sup>23</sup> The Division of Alcoholic Beverages and Tobacco, within the DBPR, is responsible for the regulation of the manufacture, packaging, distribution, and sale of alcoholic beverages within the state.<sup>24</sup>

Florida law limits the number of alcoholic beverage licenses that permit the sale of beer, wine, and distilled spirits that may be issued per county.<sup>25</sup> The number of licenses is limited to one license per 7,500 residents within the county. These limited alcoholic beverage licenses are known as "quota" licenses. New quota licenses are created and issued when there is an increase in the population of a county or when a county initially changes from a county which does not permit the sale of intoxicating liquors to one that does permit their sale. The quota license is the only type of alcoholic beverage license that is limited in number. Due to the limitation on the number of quota licenses that may be issued, a prospective applicant must either purchase an existing license or enter a drawing to win the right to apply for a newly authorized quota

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<sup>18</sup> Section 381.0072(1)(b), F.S.

<sup>19</sup> See Rule 64E-11.013, F.A.C.

<sup>20</sup> Section 381.0072(2)(d), F.S.

<sup>21</sup> DOH, *Food Safety and Sanitation*, available at <http://www.floridahealth.gov/%5C/environmental-health/food-safety-and-sanitation/index.html> (last visited Feb. 19, 2016).

<sup>22</sup> *Id.*

<sup>23</sup> Chapters 561-565 and 567-568, F.S., comprise Florida's Beverage Law. Section 561.01(4), F.S. defines "alcoholic beverages" as distilled spirits and all beverages containing one-half of 1 percent or more alcohol by volume.

<sup>24</sup> Section 561.02, F.S.

<sup>25</sup> Section 561.20, F.S.

license.<sup>26</sup> However, there are several exceptions to the number of quota licenses issued known as “special licenses.”<sup>27</sup>

The annual fee for a quota license to sell alcoholic beverages on the premises varies based on county population but ranges from \$624 to \$1,820.<sup>28</sup> Upon the approval of a new license by the Division of Alcoholic Beverages and Tobacco the licensee must pay a one-time fee of \$10,750.<sup>29</sup> For the purchase and transfer of an existing license, a licensee must pay a transfer fee (not to exceed \$5,000). The cost of purchasing an existing license is determined by the market condition for quota licenses.<sup>30</sup>

#### ***Quota License Exception for Caterers***

The limitation on the number of licenses per county does not apply to a caterer licensed by the Division of Hotels and Restaurants under ch. 509, F.S., who derives at least 51 percent of its gross revenue from the sale of food and nonalcoholic beverages, and sells or serves alcoholic beverages only for consumption on the premises of a catered event at which the licensee is also providing prepared food.<sup>31</sup>

A caterer’s annual fee is \$1,820 for a license to sell or serve beer, wine, and distilled spirits on the premises of events at which the caterer is also providing prepared food.<sup>32</sup>

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

#### **Department of Business and Professional Regulation: Public Food Service Establishments**

**Section 2** amends s. 509.013, F.S., to provide that the term “public food service establishments” includes a culinary education program that offers, prepares, serves, or sells food to the general public, regardless of whether it is inspected by another agency for compliance with sanitation standards. Such a culinary education program will be subject to regulation by the Division of Hotels and Restaurants of the DBPR.

#### **Department of Health: Food Service Protections**

**Section 1** amends s. 381.0072, F.S., to provide that the term “food service establishments” includes a culinary education program where food is prepared and intended for individual portion service, regardless of the whether there is a charge for the food or whether the program is inspected by another state agency for compliance with sanitation standards.

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<sup>26</sup> DBPR, Division of Alcoholic Beverages and Tobacco, *Frequently Asked Questions, Licensing-related*, available at [http://www.myfloridalicense.com/dbpr/abt/documents/abt\\_frequently\\_asked\\_questions\\_001.pdf](http://www.myfloridalicense.com/dbpr/abt/documents/abt_frequently_asked_questions_001.pdf) (last visited Feb. 19, 2016).

<sup>27</sup> Section 561.20(2), F.S., also provides special licenses for hotels and motels, condominiums licensed under ch. 509, F.S., restaurants that derive at least 51 percent of gross profits from the sale of food and nonalcoholic beverages, specialty centers built on government-owned land, bowling establishments, and airports.

<sup>28</sup> See s. 565.02(1), F.S.

<sup>29</sup> Section 561.19(5), F.S.

<sup>30</sup> *Supra* note 27.

<sup>31</sup> Section 561.20(2)(a)5., F.S.

<sup>32</sup> See ss. 561.20(2)(a)5. and 565.02(1)(b), F.S.

Establishments permitted or licensed by the DACS under ch. 500, F.S., or the DBPR under ch. 509, F.S., are not subject to DOH sanitation rules. However, the bill provides that a food service establishment, that is a culinary education program licensed under ch. 509, F.S., is subject to the sanitation rules of the DOH.

### **Culinary Education Programs**

The bill defines the term “culinary education program” as a program that educates enrolled students in the culinary arts, including the preparation, cooking, and presentation of food, or provides education and experience in culinary arts-related businesses. A culinary education program must be inspected by a state agency for compliance with sanitation standards. The culinary education program must be provided by a:

- State university;<sup>33</sup>
- Florida College System institution;<sup>34</sup>
- Career center;<sup>35</sup>
- Charter technical career center;<sup>36</sup>
- Nonprofit independent college or university that is located and chartered in this state and accredited by the Commission on Colleges of the Southern Association of Colleges and Schools to grant baccalaureate degrees, that is under the jurisdiction of the Department of Education, and that is eligible to participate in the William L. Boyd, IV, Florida Resident Access Grant Program;<sup>37</sup> or
- Nonpublic postsecondary educational institution.<sup>38</sup>

Culinary education programs located in secondary schools are not included in this definition.<sup>39</sup>

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<sup>33</sup> Section 1000.21(6), F.S., defines “state university” as the 12 state universities and any branch campuses, centers, or other affiliates of the institutions.

<sup>34</sup> Section 1000.21(3), F.S., defines “Florida College System institution” as the 28 state colleges and any branch campuses, centers, or other affiliates of the institutions.

<sup>35</sup> Section 1001.44, F.S., defines a “career center” as an educational institution offering terminal courses of a technical nature and courses for out-of-school youth and adults, and is subject to the state’s education code and the control of the district school board of the school district in which it is located.

<sup>36</sup> Section 1002.34(3)(a), F.S., defines a “charter technical career center” as a public school or a public technical center operated under a charter granted by a district school board or Florida College System institution board of trustees or a consortium, including one or more district school boards and Florida College System institution boards of trustees, that includes the district in which the facility is located, that is nonsectarian in its programs, admission policies, employment practices, and operations, and is managed by a board of directors.

<sup>37</sup> The William L. Boyd, IV, Florida Resident Access Grant Program provides tuition assistance to Florida undergraduate students attending an eligible independent, non-profit college or university located in Florida. *See* s. 1009.89, F.S.

<sup>38</sup> Section 1005.02(11), F.S., defines a “nonpublic postsecondary educational institution” as any postsecondary educational institution that operates in this state or makes application to operate in this state, and is not provided, operated, or supported by the state, its political subdivisions, or the federal government.

<sup>39</sup> The term “secondary school” generally refers to a high school or similar institution providing instruction for students between elementary school and college and usually offering general, technical, vocational, or college-preparatory courses. *See* Merriam-Webster Dictionary, *Definition for Secondary School*, available at <http://www.merriam-webster.com/dictionary/secondary%20school> (last visited Feb. 19, 2016).

### Alcoholic Beverage License for Caterers

**Section 3** amends s. 561.20, F.S., to allow a culinary education program which is licensed as a “public food service establishment” by the Division of Hotels and Restaurants to be able to obtain a special license allowing the sale and consumption of alcoholic beverages on the licensed premises. The bill exempts a culinary education program that is licensed as a public food service establishment and that provides catering, from the requirement that the caterer derive 51 percent of its gross revenue from the sale of food and nonalcoholic beverages.

To obtain a special beverage license, the bill requires a culinary education program to specify in its application the designated areas in its facility where alcoholic beverages may be consumed. A licensee is also required to:

- Prohibit alcoholic beverages from being removed from the designated area;
- Sell alcoholic beverages for consumption on premises only;<sup>40</sup>
- Comply with age requirements for vendors as provided under the Beverage Law.<sup>41</sup>

A culinary education program is not permitted to sell alcoholic beverages by the package for off-premises consumption.

If a culinary education program also provides catering services, the bill allows for the sale and consumption of alcoholic beverages on the premises of a catered event at which the licensee is also providing prepared food. The culinary education program must:

- Prominently display its beverage license at catered events at which it will be selling or serving alcoholic beverages; and
- Maintain for 3 years all records required by the DBPR by rule to demonstrate compliance;
- Pay the annual state license tax of \$1,820.

If a culinary education program also has any other license under the Beverage Law, the special license, as allowed under the bill, does not authorize the holder to conduct activities on the premises that are governed by the other license or licenses that would otherwise be prohibited by the terms of that license or the Beverage Law. Nothing in this bill authorizes a licensee to conduct activities that are prohibited by the Beverage Law or local law.

The bill authorizes the Division of Alcoholic Beverages and Tobacco to adopt rules to administer the special license, including rules governing licensure, recordkeeping, and enforcement.

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<sup>40</sup> Section 561.01(11), F.S., defines “licensed premises” as not only the rooms where alcoholic beverages are stored or sold by the licensee, but also all other rooms in the building which are so closely connected as to admit of free passage from drink parlor to other rooms over which the licensee has some dominion or control and include all of the area embraced within the sketch, appearing on or attached to the application for the license involved and designated as such on said sketch, in addition to that included or designated by general law.

<sup>41</sup> Sections 562.11(4) and 562.111(2), F.S., allows alcoholic beverages to be served to a student who is at least 18 years of age if the alcoholic beverage is delivered as part of the student’s required curriculum at an accredited postsecondary educational institution and the student is enrolled in the college and required to taste alcoholic beverages for instructional purposes only during class under the supervision of authorized personnel. Section 562.13, F.S., prohibits the employment of a person under the age of 18 by vendors licensed under the Beverage Law; however, this prohibition does not apply to employees under the age of 18 for certain types of establishments, such as drug stores, grocery stores, hotels, or bowling alleys.

The bill is effective on July 1, 2016.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

The Revenue Estimating Conference has not yet reviewed the impact of this bill.

The bill creates a new special alcoholic beverage license for culinary education programs that are licensed public food service establishments. Licensees will pay the annual fee up to \$1,820 depending on the population of the county. The DBPR estimates that 62 entities are currently known to operate culinary education programs in the state which could qualify for the new license. The city and county where each new license is issued will receive 38 percent and 24 percent of the license fees, respectively.<sup>42</sup>

The bill also requires a culinary education program that provides catering services to pay a state license tax of \$1,820 annually.

The bill requires culinary education programs to obtain a public food service establishment license from the Division of Hotels and Restaurants. According to the DBPR, the initial public food service establishment license fee is \$473 and the annual fee \$273, depending on the county and number of seats of the establishment.<sup>43</sup>

B. Private Sector Impact:

The DBPR notes that it is not clear whether there are any significant differences between the inspection standards used by the Division of Hotels and Restaurants and the standards that are required by the DOH.<sup>44</sup> Culinary education programs in the private sector may face an increased burden to the extent that meeting such standards are different than any current standards.

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<sup>42</sup> DBPR, *CS/HB 249 Analysis*, p. 6 (Nov. 10, 2015) (on file with the Senate Committee on Health Policy).

<sup>43</sup> *Id.* at 6. This estimate is based on the price of a whole year new public food service establishment license for a 100 seat establishment (\$50 application fee + \$150 plan review + \$273 license fee = \$473).

<sup>44</sup> *Id.* at 5.



Culinary education programs seeking a license as a public food service establishment from the Division of Hotels and Restaurants will likely pay an initial fee of \$473 and an annual fee of \$273.<sup>45</sup>

Culinary education programs seeking a special alcoholic beverages license from the Division of Alcoholic Beverage and Tobacco must pay the annual fee of up to \$1,820 depending on the population of county. In addition, a culinary education program that provides catering services must pay a state license tax of \$1,820 annually.

**C. Government Sector Impact:**

The DBPR states that the number of special license for alcoholic beverages is contingent upon the number of entities that meet the license qualifications. The DBPR estimates that 62 entities are currently known to operate culinary education programs in the state which could qualify for the special license. The city and county where each new license is issued will receive 38 percent and 24 percent of the license fees, respectively.<sup>46</sup>

The DBPR anticipates an increase in food service establishment licenses, plan reviews, and statutorily required inspections due to the bills requirement that culinary education programs be licensed as public food service establishments. The DBPR estimated that new public food service establishment licenses will generate additional license revenue of approximately \$473 per new license the initial year and \$273 per license for annual renewals, depending on county and number of seats (estimates based upon 100 seat establishments for the 62 entities currently known to operate culinary education programs).

New licenses will need to be created, rules adopted, and updates made to the application and the inspectors' electronic device inspection program. According to the DBPR, technology changes can be made within existing resources.

The DBPR estimated the following fiscal impact:

<b>Fiscal Year:</b>	<b>2016-2017</b>	<b>2017-2018</b>	<b>2018-2019</b>
<b>Revenues:</b>			
Division of Alcoholic Beverages and Tobacco	\$112,840	\$112,840	\$112,840
Division of Hotels and Restaurants	\$29,326	\$16,926	\$16,926
<b>Expenditures:</b>			
Service charge to General Revenue	\$11,373	\$10,381	\$10,381

Cities and counties would receive \$42,879 and \$27,082, respectively, of the above listed revenues of the Division of Alcoholic Beverages and Tobacco.<sup>47</sup>

<sup>45</sup> *Id.* at 5.

<sup>46</sup> *Id.* at 6.

<sup>47</sup> *Id.* at 4.

Universities and other public colleges may be required to pay associated fees for licenses and inspection which may affect the availability and cost of culinary education programs.<sup>48</sup>

The Department of Health reports no fiscal impact.<sup>49</sup>

## **VI. Technical Deficiencies:**

None.

## **VII. Related Issues:**

The DBPR notes that the bill creates a special alcoholic beverage license which expands privileges for the sale and service of liquor in Florida as an additional exception to Florida's quota beverage license provisions based on county population size. The standards and qualifications for the culinary education programs are beyond the control and jurisdiction of the DBPR, and the determination of who qualifies for this license will be primarily controlled by the manner in which other agencies establish, interpret, modify, or enforce the core qualifications of a culinary education program.<sup>50</sup>

Culinary education programs may be subject to multiple sanitation requirements and penalties for the same violations and disparate timeframes to remedy such violations.

The bill authorizes the Division of Alcoholic Beverages and Tobacco to adopt the special license for culinary education programs. Additionally, the DBPR's Division of Hotels and Restaurants will adopt rules to regulate and inspect culinary education programs as "public food service establishments." The DOH will adopt rules to regulate and inspect culinary education programs as "food service establishments."

## **VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 381.0072, 509.013, and 561.20.

## **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 Regulated Industries on February 9, 2016:**

The committee substitute includes the following places within the definition of a culinary arts education program: a career center, as defined in s. 1001.44, F.S., and a charter technical career center, as defined in s. 1002.34, F.S.

<sup>48</sup> *Supra* note 3.

<sup>49</sup> DOH, *HB 249 Analysis*, (Oct. 1, 2015) (on file with the Senate Committee on Fiscal Policy).

<sup>50</sup> *Supra* note 42 at 6.

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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967092

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/24/2016	.	
	.	
	.	
	.	

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

**Senate Amendment**

Delete lines 59 - 60

and insert:

Resident Access Grant Program;

f. The Jewish Association for Residential Care; or

g. A nonpublic postsecondary educational institution

By the Committee on Regulated Industries; and Senator Altman

580-03280-16

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1                                   A bill to be entitled  
 2       An act relating to culinary education programs;  
 3       amending s. 381.0072, F.S.; providing for the  
 4       applicability of Department of Health sanitation rules  
 5       to a licensed culinary education program; defining the  
 6       term "culinary education program"; including certain  
 7       culinary education programs under the term "food  
 8       service establishment" and providing for the  
 9       applicability of food service protection requirements  
 10       thereto; conforming provisions to changes made by the  
 11       act; amending s. 509.013, F.S.; revising the term  
 12       "public food service establishment" to include a  
 13       culinary education program; amending s. 561.20, F.S.;  
 14       authorizing a culinary education program with a public  
 15       food service establishment license to obtain an  
 16       alcoholic beverage license under certain conditions;  
 17       authorizing the Division of Alcoholic Beverages and  
 18       Tobacco to adopt rules to administer such licenses;  
 19       providing an effective date.  
 20  
 21 Be It Enacted by the Legislature of the State of Florida:  
 22  
 23       Section 1. Section 381.0072, Florida Statutes, is amended  
 24 to read:  
 25       381.0072 Food service protection.—  
 26       (1) DEPARTMENT OF HEALTH; SANITATION RULES.—  
 27       (a) It shall be the duty of the Department of Health to  
 28 adopt and enforce sanitation rules consistent with law to ensure  
 29 the protection of the public from food-borne illness. These  
 30 rules shall provide the standards and requirements for the  
 31 storage, preparation, serving, or display of food in food  
 32 service establishments as defined in this section ~~and which are~~

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33 ~~not permitted or licensed under chapter 500 or chapter 509.~~  
 34       (b) A food service establishment is subject to the  
 35 sanitation rules adopted and enforced by the department. This  
 36 section does not apply to a food service establishment permitted  
 37 or licensed under chapter 500 or chapter 509 unless the food  
 38 service establishment is a culinary education program licensed  
 39 under chapter 509.  
 40       (2) ~~(1)~~ DEFINITIONS.—As used in this section, the term:  
 41       (a) "Culinary education program" means a program that:  
 42       1. Educates enrolled students in the culinary arts,  
 43 including the preparation, cooking, and presentation of food, or  
 44 provides education and experience in culinary arts-related  
 45 businesses;  
 46       2. Is provided by:  
 47       a. A state university as defined in s. 1000.21;  
 48       b. A Florida College System institution as defined in s.  
 49 1000.21;  
 50       c. A career center as provided for in s. 1001.44;  
 51       d. A charter technical career center as defined in s.  
 52 1002.34;  
 53       e. A nonprofit independent college or university that is  
 54 located and chartered in this state and accredited by the  
 55 Commission on Colleges of the Southern Association of Colleges  
 56 and Schools to grant baccalaureate degrees, that is under the  
 57 jurisdiction of the Department of Education, and that is  
 58 eligible to participate in the William L. Boyd, IV, Florida  
 59 Resident Access Grant Program; or  
 60       f. A nonpublic postsecondary educational institution  
 61 licensed pursuant to part III of chapter 1005; and

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62 3. Is inspected by any state agency or agencies for  
 63 compliance with sanitation standards.

64 ~~(b)(a)~~ "Department" means the Department of Health or its  
 65 representative county health department.

66 ~~(c)(b)~~ "Food service establishment" means detention  
 67 facilities, public or private schools, migrant labor camps,  
 68 assisted living facilities, facilities participating in the  
 69 United States Department of Agriculture Afterschool Meal Program  
 70 that are located at a facility or site that is not inspected by  
 71 another state agency for compliance with sanitation standards,  
 72 adult family-care homes, adult day care centers, short-term  
 73 residential treatment centers, residential treatment facilities,  
 74 homes for special services, transitional living facilities,  
 75 crisis stabilization units, hospices, prescribed pediatric  
 76 extended care centers, intermediate care facilities for persons  
 77 with developmental disabilities, boarding schools, civic or  
 78 fraternal organizations, bars and lounges, vending machines that  
 79 dispense potentially hazardous foods at facilities expressly  
 80 named in this paragraph, and facilities used as temporary food  
 81 events or mobile food units at any facility expressly named in  
 82 this paragraph, where food is prepared and intended for  
 83 individual portion service, including the site at which  
 84 individual portions are provided, regardless of whether  
 85 consumption is on or off the premises and regardless of whether  
 86 there is a charge for the food. The term includes a culinary  
 87 education program where food is prepared and intended for  
 88 individual portion service, regardless of whether there is a  
 89 charge for the food or whether the program is inspected by  
 90 another state agency for compliance with sanitation standards.

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91 The term does not include any entity not expressly named in this  
 92 paragraph; nor does the term include a domestic violence center  
 93 certified by the Department of Children and Families and  
 94 monitored by the Florida Coalition Against Domestic Violence  
 95 under part XII of chapter 39 if the center does not prepare and  
 96 serve food to its residents and does not advertise food or drink  
 97 for public consumption.

98 ~~(d)(e)~~ "Operator" means the owner, operator, keeper,  
 99 proprietor, lessee, manager, assistant manager, agent, or  
 100 employee of a food service establishment.

101 ~~(3)(2)~~ DUTIES.—

102 (a) The department may advise and consult with the Agency  
 103 for Health Care Administration, the Department of Business and  
 104 Professional Regulation, the Department of Agriculture and  
 105 Consumer Services, and the Department of Children and Families  
 106 concerning procedures related to the storage, preparation,  
 107 serving, or display of food at any building, structure, or  
 108 facility not expressly included in this section that is  
 109 inspected, licensed, or regulated by those agencies.

110 (b) The department shall adopt rules, including definitions  
 111 of terms which are consistent with law prescribing minimum  
 112 sanitation standards and manager certification requirements as  
 113 prescribed in s. 509.039, and which shall be enforced in food  
 114 service establishments as defined in this section. The  
 115 sanitation standards must address the construction, operation,  
 116 and maintenance of the establishment; lighting, ventilation,  
 117 laundry rooms, lockers, use and storage of toxic materials and  
 118 cleaning compounds, and first-aid supplies; plan review; design,  
 119 construction, installation, location, maintenance, sanitation,

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120 and storage of food equipment and utensils; employee training,  
 121 health, hygiene, and work practices; food supplies, preparation,  
 122 storage, transportation, and service, including access to the  
 123 areas where food is stored or prepared; and sanitary facilities  
 124 and controls, including water supply and sewage disposal;  
 125 plumbing and toilet facilities; garbage and refuse collection,  
 126 storage, and disposal; and vermin control. Public and private  
 127 schools, if the food service is operated by school employees,  
 128 bars and lounges, civic organizations, and any other facility  
 129 that is not regulated under this section are exempt from the  
 130 rules developed for manager certification. The department shall  
 131 administer a comprehensive inspection, monitoring, and sampling  
 132 program to ensure such standards are maintained. With respect to  
 133 food service establishments permitted or licensed under chapter  
 134 500 or chapter 509, the department shall assist the Division of  
 135 Hotels and Restaurants of the Department of Business and  
 136 Professional Regulation and the Department of Agriculture and  
 137 Consumer Services with rulemaking by providing technical  
 138 information.

139 (c) The department shall carry out all provisions of this  
 140 chapter and all other applicable laws and rules relating to the  
 141 inspection or regulation of food service establishments as  
 142 defined in this section, for the purpose of safeguarding the  
 143 public's health, safety, and welfare.

144 (d) The department shall inspect each food service  
 145 establishment as often as necessary to ensure compliance with  
 146 applicable laws and rules. The department shall have the right  
 147 of entry and access to these food service establishments at any  
 148 reasonable time. In inspecting food service establishments under

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149 this section, the department shall provide each inspected  
 150 establishment with the food recovery brochure developed under s.  
 151 595.420.

152 (e) The department or other appropriate regulatory entity  
 153 may inspect theaters ~~exempted in subsection (1)~~ to ensure  
 154 compliance with applicable laws and rules pertaining to minimum  
 155 sanitation standards. A fee for inspection shall be prescribed  
 156 by rule, but the aggregate amount charged per year per theater  
 157 establishment shall not exceed \$300, regardless of the entity  
 158 providing the inspection.

159 (4)(3) LICENSES REQUIRED.—

160 (a) *Licenses; annual renewals.*—Each food service  
 161 establishment regulated under this section shall obtain a  
 162 license from the department annually. Food service establishment  
 163 licenses shall expire annually and are not transferable from one  
 164 place or individual to another. However, those facilities  
 165 licensed by the department's Office of Licensure and  
 166 Certification, the Child Care Services Program Office, or the  
 167 Agency for Persons with Disabilities are exempt from this  
 168 subsection. It shall be a misdemeanor of the second degree,  
 169 punishable as provided in s. 381.0061, s. 775.082, or s.  
 170 775.083, for such an establishment to operate without this  
 171 license. The department may refuse a license, or a renewal  
 172 thereof, to any establishment that is not constructed or  
 173 maintained in accordance with law and with the rules of the  
 174 department. Annual application for renewal is not required.

175 (b) *Application for license.*—Each person who plans to open  
 176 a food service establishment regulated under this section and  
 177 not regulated under chapter 500 or chapter 509 shall apply for

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178 and receive a license prior to the commencement of operation.

179 (5)~~(4)~~ LICENSE; INSPECTION; FEES.-

180 (a) The department is authorized to collect fees from  
181 establishments licensed under this section and from those  
182 facilities exempted from licensure under paragraph (4) (a)  
183 ~~(3)~~ ~~(a)~~. It is the intent of the Legislature that the total fees  
184 assessed under this section be in an amount sufficient to meet  
185 the cost of carrying out the provisions of this section.

186 (b) The fee schedule for food service establishments  
187 licensed under this section shall be prescribed by rule, but the  
188 aggregate license fee per establishment shall not exceed \$300.

189 (c) The license fees shall be prorated on a quarterly  
190 basis. Annual licenses shall be renewed as prescribed by rule.

191 (6)~~(5)~~ FINES; SUSPENSION OR REVOCATION OF LICENSES;  
192 PROCEDURE.-

193 (a) The department may impose fines against the  
194 establishment or operator regulated under this section for  
195 violations of sanitary standards, in accordance with s.  
196 381.0061. All amounts collected shall be deposited to the credit  
197 of the County Health Department Trust Fund administered by the  
198 department.

199 (b) The department may suspend or revoke the license of any  
200 food service establishment licensed under this section that has  
201 operated or is operating in violation of any of the provisions  
202 of this section or the rules adopted under this section. Such  
203 food service establishment shall remain closed when its license  
204 is suspended or revoked.

205 (c) The department may suspend or revoke the license of any  
206 food service establishment licensed under this section when such

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207 establishment has been deemed by the department to be an  
208 imminent danger to the public's health for failure to meet  
209 sanitation standards or other applicable regulatory standards.

210 (d) No license shall be suspended under this section for a  
211 period of more than 12 months. At the end of such period of  
212 suspension, the establishment may apply for reinstatement or  
213 renewal of the license. A food service establishment which has  
214 had its license revoked may not apply for another license for  
215 that location prior to the date on which the revoked license  
216 would have expired.

217 (7)~~(6)~~ IMMINENT DANGERS; STOP-SALE ORDERS.-

218 (a) In the course of epidemiological investigations or for  
219 those establishments regulated by the department under this  
220 chapter, the department, to protect the public from food that is  
221 unwholesome or otherwise unfit for human consumption, may  
222 examine, sample, seize, and stop the sale or use of food to  
223 determine its condition. The department may stop the sale and  
224 supervise the proper destruction of food when the State Health  
225 Officer or his or her designee determines that such food  
226 represents a threat to the public health.

227 (b) The department may determine that a food service  
228 establishment regulated under this section is an imminent danger  
229 to the public health and require its immediate closure when such  
230 establishment fails to comply with applicable sanitary and  
231 safety standards and, because of such failure, presents an  
232 imminent threat to the public's health, safety, and welfare. The  
233 department may accept inspection results from state and local  
234 building and firesafety officials and other regulatory agencies  
235 as justification for such actions. Any facility so deemed and

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236 closed shall remain closed until allowed by the department or by  
237 judicial order to reopen.

238 ~~(8)(7)~~ MISREPRESENTING FOOD OR FOOD PRODUCTS.—No operator  
239 of any food service establishment regulated under this section  
240 shall knowingly and willfully misrepresent the identity of any  
241 food or food product to any of the patrons of such  
242 establishment. Food used by food establishments shall be  
243 identified, labeled, and advertised in accordance with the  
244 provisions of chapter 500.

245 Section 2. Paragraph (a) of subsection (5) of section  
246 509.013, Florida Statutes, is amended to read:

247 509.013 Definitions.—As used in this chapter, the term:

248 (5) (a) "Public food service establishment" means any  
249 building, vehicle, place, or structure, or any room or division  
250 in a building, vehicle, place, or structure where food is  
251 prepared, served, or sold for immediate consumption on or in the  
252 vicinity of the premises; called for or taken out by customers;  
253 or prepared prior to being delivered to another location for  
254 consumption. The term includes a culinary education program, as  
255 defined in s. 381.0072(2), which offers, prepares, serves, or  
256 sells food to the general public, regardless of whether it is  
257 inspected by another state agency for compliance with sanitation  
258 standards.

259 Section 3. Paragraph (a) of subsection (2) of section  
260 561.20, Florida Statutes, is amended to read:

261 561.20 Limitation upon number of licenses issued.—

262 (2) (a) No such limitation of the number of licenses as  
263 herein provided shall henceforth prohibit the issuance of a  
264 special license to:

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265 1. Any bona fide hotel, motel, or motor court of not fewer  
266 than 80 guest rooms in any county having a population of less  
267 than 50,000 residents, and of not fewer than 100 guest rooms in  
268 any county having a population of 50,000 residents or greater;  
269 or any bona fide hotel or motel located in a historic structure,  
270 as defined in s. 561.01(21), with fewer than 100 guest rooms  
271 which derives at least 51 percent of its gross revenue from the  
272 rental of hotel or motel rooms, which is licensed as a public  
273 lodging establishment by the Division of Hotels and Restaurants;  
274 provided, however, that a bona fide hotel or motel with no fewer  
275 than 10 and no more than 25 guest rooms which is a historic  
276 structure, as defined in s. 561.01(21), in a municipality that  
277 on the effective date of this act has a population, according to  
278 the University of Florida's Bureau of Economic and Business  
279 Research Estimates of Population for 1998, of no fewer than  
280 25,000 and no more than 35,000 residents and that is within a  
281 constitutionally chartered county may be issued a special  
282 license. This special license shall allow the sale and  
283 consumption of alcoholic beverages only on the licensed premises  
284 of the hotel or motel. In addition, the hotel or motel must  
285 derive at least 60 percent of its gross revenue from the rental  
286 of hotel or motel rooms and the sale of food and nonalcoholic  
287 beverages; provided that the provisions of this subparagraph  
288 shall supersede local laws requiring a greater number of hotel  
289 rooms;

290 2. Any condominium accommodation of which no fewer than 100  
291 condominium units are wholly rentable to transients and which is  
292 licensed under the provisions of chapter 509, except that the  
293 license shall be issued only to the person or corporation which

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294 operates the hotel or motel operation and not to the association  
295 of condominium owners;

296 3. Any condominium accommodation of which no fewer than 50  
297 condominium units are wholly rentable to transients, which is  
298 licensed under the provisions of chapter 509, and which is  
299 located in any county having home rule under s. 10 or s. 11,  
300 Art. VIII of the State Constitution of 1885, as amended, and  
301 incorporated by reference in s. 6(e), Art. VIII of the State  
302 Constitution, except that the license shall be issued only to  
303 the person or corporation which operates the hotel or motel  
304 operation and not to the association of condominium owners;

305 4. Any restaurant having 2,500 square feet of service area  
306 and equipped to serve 150 persons full course meals at tables at  
307 one time, and deriving at least 51 percent of its gross revenue  
308 from the sale of food and nonalcoholic beverages; however, no  
309 restaurant granted a special license on or after January 1,  
310 1958, pursuant to general or special law shall operate as a  
311 package store, nor shall intoxicating beverages be sold under  
312 such license after the hours of serving food have elapsed; or

313 5. Any caterer, deriving at least 51 percent of its gross  
314 revenue from the sale of food and nonalcoholic beverages,  
315 licensed by the Division of Hotels and Restaurants under chapter  
316 509. This subparagraph does not apply to a culinary education  
317 program, as defined in s. 381.0072(2), which is licensed as a  
318 public food service establishment by the Division of Hotels and  
319 Restaurants and provides catering services. Notwithstanding any  
320 other provision of law to the contrary, a licensee under this  
321 subparagraph shall sell or serve alcoholic beverages only for  
322 consumption on the premises of a catered event at which the

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323 licensee is also providing prepared food, and shall prominently  
324 display its license at any catered event at which the caterer is  
325 selling or serving alcoholic beverages. A licensee under this  
326 subparagraph shall purchase all alcoholic beverages it sells or  
327 serves at a catered event from a vendor licensed under s.  
328 563.02(1), s. 564.02(1), or licensed under s. 565.02(1) subject  
329 to the limitation imposed in subsection (1), as appropriate. A  
330 licensee under this subparagraph may not store any alcoholic  
331 beverages to be sold or served at a catered event. Any alcoholic  
332 beverages purchased by a licensee under this subparagraph for a  
333 catered event that are not used at that event must remain with  
334 the customer; provided that if the vendor accepts unopened  
335 alcoholic beverages, the licensee may return such alcoholic  
336 beverages to the vendor for a credit or reimbursement.  
337 Regardless of the county or counties in which the licensee  
338 operates, a licensee under this subparagraph shall pay the  
339 annual state license tax set forth in s. 565.02(1)(b). A  
340 licensee under this subparagraph must maintain for a period of 3  
341 years all records required by the department by rule to  
342 demonstrate compliance with the requirements of this  
343 subparagraph, including licensed vendor receipts for the  
344 purchase of alcoholic beverages and records identifying each  
345 customer and the location and date of each catered event.  
346 Notwithstanding any provision of law to the contrary, any vendor  
347 licensed under s. 565.02(1) subject to the limitation imposed in  
348 subsection (1), may, without any additional licensure under this  
349 subparagraph, serve or sell alcoholic beverages for consumption  
350 on the premises of a catered event at which prepared food is  
351 provided by a caterer licensed under chapter 509. If a licensee

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352 under this subparagraph also possesses any other license under  
 353 the Beverage Law, the license issued under this subparagraph  
 354 shall not authorize the holder to conduct activities on the  
 355 premises to which the other license or licenses apply that would  
 356 otherwise be prohibited by the terms of that license or the  
 357 Beverage Law. Nothing in this section shall permit the licensee  
 358 to conduct activities that are otherwise prohibited by the  
 359 Beverage Law or local law. The Division of Alcoholic Beverages  
 360 and Tobacco is hereby authorized to adopt rules to administer  
 361 the license created in this subparagraph, to include rules  
 362 governing licensure, recordkeeping, and enforcement. The first  
 363 \$300,000 in fees collected by the division each fiscal year  
 364 pursuant to this subparagraph shall be deposited in the  
 365 Department of Children and Families' Operations and Maintenance  
 366 Trust Fund to be used only for alcohol and drug abuse education,  
 367 treatment, and prevention programs. The remainder of the fees  
 368 collected shall be deposited into the Hotel and Restaurant Trust  
 369 Fund created pursuant to s. 509.072.

370 6. A culinary education program, as defined in s.  
 371 381.0072(2), which is licensed as a public food service  
 372 establishment by the Division of Hotels and Restaurants.

373 a. This special license shall allow the sale and  
 374 consumption of alcoholic beverages on the licensed premises of  
 375 the culinary education program. The culinary education program  
 376 shall specify designated areas in the facility where the  
 377 alcoholic beverages may be consumed at the time of application.  
 378 Alcoholic beverages sold for consumption on the premises may be  
 379 consumed only in areas designated pursuant to s. 561.01(11) and  
 380 may not be removed from the designated area. Such license shall

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381 be applicable only in and for designated areas used by the  
 382 culinary education program.

383 b. If the culinary education program provides catering  
 384 services, this special license shall also allow the sale and  
 385 consumption of alcoholic beverages on the premises of a catered  
 386 event at which the licensee is also providing prepared food. A  
 387 culinary education program that provides catering services is  
 388 not required to derive at least 51 percent of its gross revenue  
 389 from the sale of food and nonalcoholic beverages.  
 390 Notwithstanding any other provision of law to the contrary, a  
 391 licensee that provides catering services under this sub-  
 392 paragraph shall prominently display its beverage license at  
 393 any catered event at which the caterer is selling or serving  
 394 alcoholic beverages. Regardless of the county or counties in  
 395 which the licensee operates, a licensee under this sub-  
 396 paragraph shall pay the annual state license tax set forth in  
 397 s. 565.02(1)(b). A licensee under this sub-subparagraph must  
 398 maintain for a period of 3 years all records required by the  
 399 department by rule to demonstrate compliance with the  
 400 requirements of this sub-subparagraph.

401 c. If a licensee under this subparagraph also possesses any  
 402 other license under the Beverage Law, the license issued under  
 403 this subparagraph does not authorize the holder to conduct  
 404 activities on the premises to which the other license or  
 405 licenses apply that would otherwise be prohibited by the terms  
 406 of that license or the Beverage Law. This subparagraph does not  
 407 permit the licensee to conduct activities that are otherwise  
 408 prohibited by the Beverage Law or local law. Any culinary  
 409 education program that holds a license to sell alcoholic

580-03280-16

2016706c1

410 beverages shall comply with the age requirements set forth in  
 411 ss. 562.11(4), 562.111(2), and 562.13.

412 d. The Division of Alcoholic Beverages and Tobacco may  
 413 adopt rules to administer the license created in this  
 414 subparagraph, to include rules governing licensure,  
 415 recordkeeping, and enforcement.

416 e. A license issued pursuant to this subparagraph does not  
 417 permit the licensee to sell alcoholic beverages by the package  
 418 for off-premises consumption.

419  
 420 However, any license heretofore issued to any such hotel, motel,  
 421 motor court, or restaurant or hereafter issued to any such  
 422 hotel, motel, or motor court, including a condominium  
 423 accommodation, under the general law shall not be moved to a new  
 424 location, such license being valid only on the premises of such  
 425 hotel, motel, motor court, or restaurant. Licenses issued to  
 426 hotels, motels, motor courts, or restaurants under the general  
 427 law and held by such hotels, motels, motor courts, or  
 428 restaurants on May 24, 1947, shall be counted in the quota  
 429 limitation contained in subsection (1). Any license issued for  
 430 any hotel, motel, or motor court under the provisions of this  
 431 law shall be issued only to the owner of the hotel, motel, or  
 432 motor court or, in the event the hotel, motel, or motor court is  
 433 leased, to the lessee of the hotel, motel, or motor court; and  
 434 the license shall remain in the name of the owner or lessee so  
 435 long as the license is in existence. Any special license now in  
 436 existence heretofore issued under the provisions of this law  
 437 cannot be renewed except in the name of the owner of the hotel,  
 438 motel, motor court, or restaurant or, in the event the hotel,

Page 15 of 16

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

580-03280-16

2016706c1

439 motel, motor court, or restaurant is leased, in the name of the  
 440 lessee of the hotel, motel, motor court, or restaurant in which  
 441 the license is located and must remain in the name of the owner  
 442 or lessee so long as the license is in existence. Any license  
 443 issued under this section shall be marked "Special," and nothing  
 444 herein provided shall limit, restrict, or prevent the issuance  
 445 of a special license for any restaurant or motel which shall  
 446 hereafter meet the requirements of the law existing immediately  
 447 prior to the effective date of this act, if construction of such  
 448 restaurant has commenced prior to the effective date of this act  
 449 and is completed within 30 days thereafter, or if an application  
 450 is on file for such special license at the time this act takes  
 451 effect; and any such licenses issued under this proviso may be  
 452 annually renewed as now provided by law. Nothing herein prevents  
 453 an application for transfer of a license to a bona fide  
 454 purchaser of any hotel, motel, motor court, or restaurant by the  
 455 purchaser of such facility or the transfer of such license  
 456 pursuant to law.

457 Section 4. This act shall take effect July 1, 2016.  
 458

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# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

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

**SENATOR THAD ALTMAN**  
16th District

February 16, 2016

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

Dear Chairman Flores:

I respectfully request that SB 706, related to *Culinary Education Programs*, be placed on the committee agenda at your earliest convenience.

Thank you for your consideration, and please do not hesitate to contact me should you have any questions.

Sincerely,

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

Thad Altman

CC: Jennifer Hrdlicka, Staff Director, 225 Knott Building  
Tamra Lyon, Committee Administrative Assistant

TA/dw

REPLY TO:

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

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

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date

706

Bill Number (if applicable)

Topic Culinary School Amendment

967092

Amendment Barcode (if applicable)

Name Susana Goldstein

Job Title

Address 31581 memos

Phone

Street

Weston 33332

Email

City

State

Zip

Speaking:  For  Against  Information

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

Representing ARC Braward

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)

706

Meeting Date

Bill Number (if applicable)

Topic Culinary School

Amendment Barcode (if applicable)

Name Susan Goldstein

Job Title Consultant / Advocate / Parent

Address 3158 Inverness

Phone 954 830-6300

Street

Weston

FL

33332

Email sgoldstein@hotmail.com

City

State

Zip

Speaking:  For  Against  Information

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

Representing ARC Broward

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

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

**SENATOR THAD ALTMAN**  
16th District

February 23, 2016

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

Dear Chairman Ring:

Senate Bill 706, related to *Culinary Education Programs*, is on the Fiscal Policy committee agenda on February 24, 2016.

Please recognize my Legislative Aide Ms. Devon West to present SB 706 on my behalf. Please feel free to contact me if you have any questions.

Sincerely,

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

Thad Altman

CC: Jennifer Hrdlicka, Staff Director, 225 Knott Building  
Tamra Lyon, Committee Administrative Assistant

TA/dv

#### REPLY TO:

- 8910 Astronaut Blvd, Cape Canaveral, FL 32920 (321) 868-2132
- 314 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5016

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

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore



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

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

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

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BILL: SB 764

INTRODUCER: Senator Hays

SUBJECT: Public Food Service Establishments

DATE: February 16, 2016

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Looke</u>	<u>Stovall</u>	<u>HP</u>	<b>Favorable</b>
2.	<u>Oxamendi</u>	<u>Caldwell</u>	<u>RI</u>	<b>Favorable</b>
3.	<u>Hrdlicka</u>	<u>Hrdlicka</u>	<u>FP</u>	<b>Favorable</b>

---

## I. Summary:

SB 764 creates new exclusions from the definition of “public food service establishment”:

- Any place maintained and operated by a public or private school, college, or university temporarily to serve food contests and cook-offs.
- Any eating place maintained and operated by a church or a religious, nonprofit fraternal, or nonprofit civic organization temporarily to serve food contests or cook-offs.
- Any eating place maintained and operated by an individual or entity at a food contest, cook-off, or a temporary event lasting 1 to 3 days that is hosted by a church or a religious, nonprofit fraternal, or nonprofit civic organization.

The bill requires an organization claiming an exclusion to provide proof of its status as a church, religious organization, nonprofit fraternal organization, or nonprofit civic organization when requested by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation.

Establishments excluded from the definition of “public food service establishment” are not required to obtain and pay the license fee for temporary food service events. The bill is estimated to have a negative fiscal impact of \$199,654 on the Hotels and Restaurants Trust Fund. In addition, as a result of the reduction in license fees, there will be an estimated \$15,972 annual reduction in the service charge paid to the General Revenue Fund.

## II. Present Situation:

### Public Food Service Establishments

The Division of Hotels and Restaurants (division) within the Department of Business and Professional Regulation (department) is the state agency charged with enforcing the provisions of part I of ch. 509, F.S., and all other applicable laws relating to the inspection and regulation of

public food service establishments for the purpose of protecting the public health, safety, and welfare.

A “public food service establishment” is any building, vehicle, place, or structure, or any room or division therein where food is prepared, served, or sold for immediate consumption on or near the premises; called for or taken out by customers; or prepared prior to being delivered to another location for consumption.<sup>1</sup>

At the end of Fiscal Year 2014-2015, there were 49,966 licensed public food service establishments, including seating, permanent non-seating, hotdog carts, and mobile food dispensing vehicles.<sup>2</sup>

**Exclusions from the Definition of Public Food Service Establishments**

There are several exclusions from the definition of public food service establishment, including:<sup>3</sup>

- Any place maintained and operated by a public or private school, college, or university for the use of students and faculty or temporarily to serve events such as fairs, carnivals, and athletic contests.
- Any eating place maintained and operated by a church or a religious, nonprofit fraternal, or nonprofit civic organization for the use of members and associates or temporarily to serve events such as fairs, carnivals, or athletic contests.
- Any eating place located on an airplane, train, bus, or watercraft which is a common carrier.
- Any place of business issued a permit or inspected by the Department of Agriculture and Consumer Services (DACs) under s. 500.12, F.S.
- Any place of business serving only ice, beverages, popcorn, and prepackaged items.
- Any vending machine dispensing food or beverages other than potentially hazardous foods.

**Temporary Food Service Events**

A “temporary food service event” is any event of 30 days or less where food is prepared, served, or sold to the general public.<sup>4</sup> The division issues licenses for 1-3 day events, 4-30 day events, and an annual license. The following license fees apply to temporary and annual licenses:<sup>5</sup>

License Type	Licenses Issued FY 2014-2015	License Fee	Total Revenue
1-3 day event	2,194	\$91	\$199,654
4-30 day event	2,738	\$105	\$287,490
Annual	328	\$456	\$149,568
<b>Totals:</b>	<b>5,260</b>	<b>-</b>	<b>\$636,712</b>

<sup>1</sup> Section 509.013(5)(a), F.S.

<sup>2</sup> Department of Business and Professional Regulation, Division of Hotels and Restaurants, *Annual Report Fiscal Year 2014-2015*, available at [http://www.myfloridalicense.com/dbpr/hr/reports/annualreports/documents/ar2014\\_15.pdf](http://www.myfloridalicense.com/dbpr/hr/reports/annualreports/documents/ar2014_15.pdf) (last visited 2/13/2016).

<sup>3</sup> Section 509.013(5)(b), F.S.

<sup>4</sup> Section 509.13(8), F.S.

<sup>5</sup> Rule 61C-1.008, F.A.C. *Supra* note 2. There were also 2,590 licenses for temporary food service events that were already licensed either annually, permanently, or by the DACs.

The division does not license temporary food service events located on the premises of a church, school, or nonprofit fraternal or civic organization or events located elsewhere and operated by such organizations because these types of organizations are excluded from the division's regulation.<sup>6</sup>

### III. Effect of Proposed Changes:

The bill excludes from the definition of "public food service establishment" any:

- Place maintained and operated by a public or private school, college, or university temporarily to serve food contests and cook-offs.
- Eating place maintained and operated by a church or a religious, nonprofit fraternal, or nonprofit civic organization temporarily to serve food contests or cook-offs.
- Eating place maintained and operated by an individual or entity at a food contest, cook-off, or a temporary event lasting 1 to 3 days that is hosted by a church or a religious, nonprofit fraternal, or nonprofit civic organization.

The bill requires churches, religious organizations, and nonprofit fraternal or civic organizations that claim to be excluded from the definition of public food service establishment to provide the division with documentation of such status when requested by the division.

For individuals or entities at food contests, cook-offs, or temporary events, the event host must provide the division with documentation of its status as a church or a religious, nonprofit fraternal, or nonprofit civic organization when requested by the division.

The bill clarifies that establishments excluded from the definition of "public food service establishment" are not required to obtain and pay the license fee for temporary food service events.

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>6</sup> Department of Business and Professional Regulation, *Do churches, schools, or nonprofit organizations need a temporary food service event license?* (updated 06/01/2012), available at [http://myfloridalicense.custhelp.com/app/answers/detail/a\\_id/104](http://myfloridalicense.custhelp.com/app/answers/detail/a_id/104) (last visited 2/13/2016).

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

None.

**B. Private Sector Impact:**

Currently, the division does not license temporary food service events located when the food is prepared and served by an excluded entity. Temporary food service vendors who operate at a 1-3 day event hosted by a church, religious organization, or nonprofit fraternal or civic organization will not be required to pay the applicable license fees.

**C. Government Sector Impact:**

The bill has an annual negative fiscal impact of \$199,654 on the Hotels and Restaurants Trust Fund of the department due to eliminating necessity of licenses for temporary food service events for certain events operated related to churches, religious organizations, and nonprofit fraternal or civic organizations.<sup>7</sup> In addition, as a result of the estimated reduction in license and delinquent fees, there will be a \$15,972 annual reduction in the service charge paid to the General Revenue Fund.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends sections 509.013 and 509.032 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>7</sup> The department estimates a 31 percent loss of new temporary event license fee revenues. Department of Business and Professional Regulation, *2016 Legislative Bill Analysis: SB 764*, November 23, 2015.

By Senator Hays

11-00079-16

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1 A bill to be entitled  
 2 An act relating to public food service establishments;  
 3 amending s. 509.013, F.S.; revising the definition of  
 4 the term "public food service establishment" to  
 5 exclude certain events; amending s. 509.032, F.S.;  
 6 clarifying that a food service license is not required  
 7 to be obtained if an event is excluded under the  
 8 definition of the term "public food service  
 9 establishment"; providing an effective date.

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

11 Section 1. Subsection (5) of section 509.013, Florida  
 12 Statutes, is amended to read:

13 509.013 Definitions.—As used in this chapter, the term:

14 (5) (a) "Public food service establishment" means any  
 15 building, vehicle, place, or structure, or any room or division  
 16 in a building, vehicle, place, or structure where food is  
 17 prepared, served, or sold for immediate consumption on or in the  
 18 vicinity of the premises; called for or taken out by customers;  
 19 or prepared prior to being delivered to another location for  
 20 consumption.

21 (b) The following are excluded from the definition in  
 22 paragraph (a):

23 1. Any place maintained and operated by a public or private  
 24 school, college, or university:

25 a. For the use of students and faculty; or  
 26 b. Temporarily to serve such events as fairs, carnivals,  
 27 food contests, cook-offs, and athletic contests.  
 28  
 29

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30 2. Any eating place maintained and operated by a church or  
 31 a religious, nonprofit fraternal, or nonprofit civic  
 32 organization:

33 a. For the use of members and associates; or  
 34 b. Temporarily to serve such events as fairs, carnivals,  
 35 food contests, cook-offs, or athletic contests.  
 36

37 Upon request by the division, a church or a religious, nonprofit  
 38 fraternal, or nonprofit civic organization claiming an exclusion  
 39 under this subparagraph must provide the division documentation  
 40 of its status as a church or a religious, nonprofit fraternal,  
 41 or nonprofit civic organization.

42 3. Any eating place maintained and operated by an  
 43 individual or entity at a food contest, cook-off, or a temporary  
 44 event lasting from 1 to 3 days which is hosted by a church or a  
 45 religious, nonprofit fraternal, or nonprofit civic organization.  
 46 Upon request by the division, the event host must provide the  
 47 division documentation of its status as a church or a religious,  
 48 nonprofit fraternal, or nonprofit civic organization.

49 ~~4.3-~~ Any eating place located on an airplane, train, bus,  
 50 or watercraft which is a common carrier.

51 ~~5.4-~~ Any eating place maintained by a facility certified or  
 52 licensed and regulated by the Agency for Health Care  
 53 Administration or the Department of Children and Families or  
 54 other similar place that is regulated under s. 381.0072.

55 ~~6.5-~~ Any place of business issued a permit or inspected by  
 56 the Department of Agriculture and Consumer Services under s.  
 57 500.12.

58 ~~7.6-~~ Any place of business where the food available for

Page 2 of 4

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59 consumption is limited to ice, beverages with or without  
60 garnishment, popcorn, or prepackaged items sold without  
61 additions or preparation.

62 ~~8.7-~~ Any theater, if the primary use is as a theater and if  
63 patron service is limited to food items customarily served to  
64 the admittees of theaters.

65 ~~9.8-~~ Any vending machine that dispenses any food or  
66 beverages other than potentially hazardous foods, as defined by  
67 division rule.

68 ~~10.9-~~ Any vending machine that dispenses potentially  
69 hazardous food and which is located in a facility regulated  
70 under s. 381.0072.

71 ~~11.10-~~ Any research and development test kitchen limited to  
72 the use of employees and which is not open to the general  
73 public.

74 Section 2. Paragraph (c) of subsection (3) of section  
75 509.032, Florida Statutes, is amended to read:

76 509.032 Duties.—

77 (3) SANITARY STANDARDS; EMERGENCIES; TEMPORARY FOOD SERVICE  
78 EVENTS.—The division shall:

79 (c) Administer a public notification process for temporary  
80 food service events and distribute educational materials that  
81 address safe food storage, preparation, and service procedures.

82 1. Sponsors of temporary food service events shall notify  
83 the division not less than 3 days before the scheduled event of  
84 the type of food service proposed, the time and location of the  
85 event, a complete list of food service vendors participating in  
86 the event, the number of individual food service facilities each  
87 vendor will operate at the event, and the identification number

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88 of each food service vendor's current license as a public food  
89 service establishment or temporary food service event licensee.  
90 Notification may be completed orally, by telephone, in person,  
91 or in writing. A public food service establishment or food  
92 service vendor may not use this notification process to  
93 circumvent the license requirements of this chapter.

94 2. The division shall keep a record of all notifications  
95 received for proposed temporary food service events and shall  
96 provide appropriate educational materials to the event sponsors  
97 and notify the event sponsors of the availability of the food-  
98 recovery brochure developed under s. 595.420.

99 3.a. Unless excluded under s. 509.013(5)(b), a public food  
100 service establishment or other food service vendor must obtain  
101 one of the following classes of license from the division: an  
102 individual license, for a fee of no more than \$105, for each  
103 temporary food service event in which it participates; or an  
104 annual license, for a fee of no more than \$1,000, that entitles  
105 the licensee to participate in an unlimited number of food  
106 service events during the license period. The division shall  
107 establish license fees, by rule, and may limit the number of  
108 food service facilities a licensee may operate at a particular  
109 temporary food service event under a single license.

110 b. Public food service establishments holding current  
111 licenses from the division may operate under the regulations of  
112 such a license at temporary food service events.

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

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

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

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

---

BILL: CS/CS/CS/SB 768

INTRODUCER: Fiscal Policy Committee; Community Affairs Committee; Regulated Industries Committee; and Senator Flores

SUBJECT: Alarm Systems

DATE: February 25, 2016

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kraemer</u>	<u>Caldwell</u>	<u>RI</u>	<u>Fav/CS</u>
2.	<u>Present</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/CS</u>
3.	<u>Pace</u>	<u>Hrdlicka</u>	<u>FP</u>	<u>Fav/CS</u>

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/CS/SB 768 creates a uniform process and application form for registration of home and business alarm systems. The new uniform process and registration is only required where alarm system registration is required by a local ordinance, regulation, or rule.

The bill establishes a maximum fee of \$25 that may be charged by a local governmental entity for registration of an alarm system.

Registrations are valid for as long as the registrant occupies the property. However, upon transfer of possession of the property, a registration application must be filed by the new occupant. The bill creates an obligation for licensed electrical and alarm system contractors to advise consumers that there may be an obligation to register the system with the local governmental entity when an alarm system is installed.

The bill provides that fines or penalties for failure to register an alarm system or for excessive false alarms are the responsibility of the owner, lessee, or occupant of the property. Further, a local ordinance, regulation, or rule may not impose such fines or penalties against an alarm contractor or alarm monitoring company.

The bill provides an exemption for a person who performs only sales or installations of wireless alarm systems, other than fire alarm systems, in a single-family residence from the initial training requirements for burglar alarm system agents.

The bill has no fiscal impact on state funds. See Section V. for additional impacts.

## II. Present Situation:

Part II of ch. 489, F.S., regulates electrical and alarm system contracting. An alarm system is an electrical device, signaling device, or combination of electrical devices used to signal or detect a burglary, fire, robbery, or medical emergency.<sup>1</sup> A low-voltage alarm system is hardwired and operates at low voltage (with or without home-automation equipment, thermostats, and video cameras).<sup>2</sup> Wireless alarm systems are burglar alarm systems or smoke detectors that are not hardwired.<sup>3</sup>

### Licensed Alarm System Contractors

Florida law requires alarm systems contractors to be licensed, have sufficient technical experience in the trade prior to licensure, and be tested on technical and business matters.<sup>4</sup> An alarm system contractor is a person whose business includes the execution of contracts requiring the ability, experience, science, knowledge, and skill to conduct all alarm services for compensation, for all types of alarm systems for all purposes. An alarm system contractor is also any person, firm, or corporation that engages in the business of alarm contracting or that undertakes, offers to undertake, or submits a bid to engage in the business of alarm contracting.<sup>5</sup>

Alarm system contractors may also hold a certificate of competency issued by the Department of Business and Professional Regulation (department).<sup>6</sup> The scope of the certification is limited to specific alarm circuits and equipment and the certificate is geographically unlimited.<sup>7</sup> There is no mandatory licensure requirement created by the availability of a certificate of competency.<sup>8</sup>

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<sup>1</sup> Section 489.505(1), F.S.

<sup>2</sup> See s. 553.793(1)(b), F.S.

<sup>3</sup> Section 553.793(1)(c), F.S.

<sup>4</sup> See s. 489.501, F.S.

<sup>5</sup> Section 489.505(2), F.S. An alarm system contractor whose business includes all types of alarm systems for all purposes is designated as an alarm system contractor I; the business of an alarm system contractor II is identical except that it does not include fire alarm systems.

<sup>6</sup> See ss. 489.505(4), 489.505(5), 489.505(6), and 489.505(7), F.S.

<sup>7</sup> Section 489.505(7), F.S., Specifically, the scope of the certification is limited to those circuits originating in certain alarm control panels and equipment governed by the National Electrical Code, Current Edition, and National Fire Protection Association Standard 72, Current Edition, and includes the installation, repair, fabrication, erection, alteration, addition, or design of electrical wiring, fixtures, appliances, thermostats, apparatus, raceways, and conduit, or any part thereof not to exceed 98 volts (RMS), when those items are for the purpose of transmitting data or proprietary video (satellite systems that are not part of a community antenna television or radio distribution system) or providing central vacuum capability or electric locks.

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



## Alarm System Standards

Section 553.88, F.S., adopts specific standards and codes for the purpose of establishing minimum electrical and alarm standards in the Florida Building Code.<sup>9</sup> Local enforcement agencies with jurisdiction, inspect buildings and enforce the minimum electrical and alarm standards.<sup>10</sup>

## Local Alarm System Registration

Local enforcement agencies may require a permit or registration of a burglar alarm system to address the volume of false alarms reported to law enforcement.<sup>11</sup> For example, Palm Beach County requires an application to be submitted to the Palm Beach County Sheriff's Office with a \$25 application fee for a burglar alarm permit.<sup>12</sup> The permit must be renewed annually. Failure to submit an application for a permit results in a "no response" to the alarm system and a fine of \$250.00 per incident.<sup>13</sup> The purpose of the Palm Beach County alarm permitting process is to prevent false alarm activations that require the sheriff's office to respond. The ordinance states that "[d]eputies responding to false alarms are more wisely utilized preventing crime and solving neighborhood crime problems."<sup>14</sup>

After July 1, 2015, the maximum amount that may be imposed by any local enforcement agency for a permit to install or replace a new or existing alarm system is \$40.<sup>15</sup>

## Burglar Alarm System Agents

A licensed electrical or alarm system contractor may hire a burglar alarm system agent to perform elements of alarm system contracting. A burglar alarm system agent is defined as a person:

- Who is employed by a licensed alarm system contractor or licensed electrical contractor;
- Who is performing duties which are an element of an activity which constitutes alarm system contracting requiring licensure under this part; and

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<sup>9</sup> Section 553.88, F.S.

<sup>10</sup> Section 553.71(5), F.S., defines "local enforcement agency" as an agency of local government, a local school board, a community college board of trustees, or a university board of trustees in the State University System with jurisdiction to make inspections of buildings and to enforce the codes which establish standards for design, construction, erection, alteration, repair, modification, or demolition of public or private buildings, structures, or facilities.

<sup>11</sup> Staff of the Senate Regulated Industries Committee conducted research in 2015 and found that 5 counties (Alachua, Lee, Martin, Palm Beach, and St. Lucie) and 25 cities (Boca Raton, Cape Coral, Clearwater, Cutler Bay, Deerfield Beach, Doral, Gainesville, Hollywood, Largo, Miami, Miami Beach, Miami Gardens, Miramar, North Lauderdale, North Miami Beach, Palatka, Palm Bay, Pembroke Pines, Plantation, Pompano Beach, Riviera Beach, St. Petersburg, Sarasota, Sunny Isles, and West Palm Beach) require permits for burglar alarm systems.

<sup>12</sup> See Palm Beach County Sheriff's Office, *Burglar Alarm Permit*, available at: [http://www.pbso.org/documents/Burglar\\_Alarm\\_Permit\\_Form.pdf](http://www.pbso.org/documents/Burglar_Alarm_Permit_Form.pdf) (last visited Feb. 11, 2016) and Palm Beach County, Code of Ordinances, Ord. No. 08-038, s. 16-54, available at: [https://www.municode.com/library/fl/palm\\_beach\\_county/codes/code\\_of\\_ordinances?nodeId=PABECOCO\\_CH16LAEN\\_ARTIIIIL](https://www.municode.com/library/fl/palm_beach_county/codes/code_of_ordinances?nodeId=PABECOCO_CH16LAEN_ARTIIIIL) (last visited Feb. 11, 2016).

<sup>13</sup> *Id.*

<sup>14</sup> Palm Beach County, Code of Ordinances, Ord. No. 08-038, s. 16-52.

<sup>15</sup> Section 553.793(4), F.S., and ch. 2015-50, L.O.F.

- Whose specific duties include any of the following: altering, installing, maintaining, moving, repairing, replacing, servicing, selling, or monitoring an intrusion or burglar alarm system for compensation.<sup>16</sup>

A licensed electrical or alarm system contractor may not employ a person as a burglar alarm system agent unless that person:

- Is at least 18 years old;
- *Has completed a minimum of 14 hours of specific training from a board-approved provider;*
- Has not been convicted within the previous 3 years of a crime directly related to the employment; and
- Has not been committed for controlled substance abuse or been found guilty of a crime under ch. 893, F.S., within the previous 3 years.<sup>17</sup>

Each burglar alarm system agent must receive 6 hours of continuing education on burglar alarm system installation and repair and false alarm prevention every 2 years from a board-approved sponsor of training and through a board-approved training course.<sup>18</sup>

Persons who perform only monitoring are not required to complete the training required for burglar alarm system agents.<sup>19</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 489.518, F.S., to provide an exemption for a person who performs only sales or installations of wireless alarm systems, other than fire alarm systems, in a single-family residence from the initial training requirements for burglar alarm system agents.

**Section 2** creates s. 553.7931, F.S., to provide a uniform process and application form for registration of home and business alarm systems for any applicable local governmental entity that is responsible for handling alarm system registrations to use if registration of alarm systems is required by a local ordinance, regulation, or rule. The bill defines “applicable local governmental entity” as a local enforcement agency or a local law enforcement agency responsible for the administration of alarm system registration in a jurisdiction.

The bill requires that the uniform registration application contain substantially the following information:

- Name, address, telephone number, and e-mail address of the owner, lessee, or occupant;
- Date of occupancy of the property;
- Name, telephone number, and Florida license number of the alarm contractor;
- Name, telephone number, and Florida license number of the alarm monitoring company;
- Emergency contact information (name, address, and telephone number); and
- Signature of the owner, lessee, occupant, or an authorized representative, certifying that the information in the application is true and accurate.

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<sup>16</sup> Section 489.505(25), F.S.

<sup>17</sup> Section 489.518(1), F.S.

<sup>18</sup> Section 489.518(5), F.S.

<sup>19</sup> Section 489.518(2)(a), F.S.

The bill establishes a maximum fee of \$25 that may be charged by the applicable local government entity for registration of an alarm system. The application must be filed within 20 days after the installation or activation of an alarm system or occupancy of a property with an activated alarm system.

Registrations are valid for as long as the registrant occupies the property. However, upon transfer of possession of the property, a registration application must be filed by the new occupant. The applicable local government entity must be notified within 30 days by the owner, lessee, occupant, or an authorized representative of any change to the information previously submitted on a registration application.

The bill creates an obligation for licensed electrical and alarm system contractors to advise consumers that there may be an obligation to register the system with the applicable local government entity when an alarm system is installed.

The bill provides that fines or penalties for failure to register an alarm system or for excessive false alarms are the responsibility of the owner, lessee, or occupant of the property. Further, a local ordinance, regulation, or rule may not impose fines or penalties for excessive false alarms against an alarm contractor or alarm monitoring company.

**Section 3** provides that the bill is effective on October 1, 2016.

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

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

Article VII, subsection 18(b) of the Florida Constitution prohibits the legislature from enacting a general law that reduces the authority that municipalities or counties have to raise revenues in the aggregate, unless each chamber of the Legislature enacts such law by two-thirds vote or unless an exemption applies. Subsection 18(d) provides an exemption for laws determined to have an “insignificant fiscal impact.” The fiscal impact of this bill is indeterminate, but it is likely to have an insignificant impact. If the insignificant threshold is exceeded, the bill will require a two-thirds vote of the membership of each house.

##### **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:**

A person may pay a reduced cost for registration of a home or business alarm system because the bill sets a maximum fee for registration of a home or business alarm system of \$25. However, property owners are responsible for any fines or penalties for failure to register an alarm system or excessive false alarms.

Alarm contractors and alarm monitoring companies will no longer be liable for fines or penalties for excessive false alarms.

A person seeking to be employed by a licensed electrical or alarm system contractor will benefit from the provision of the bill that allows a person who performs only sales or installations of wireless alarm systems, other than fire alarm systems, in a single-family residence to be exempt from the 14-hour initial training requirements for burglar alarm system agents.

**C. Government Sector Impact:**

Depending on the current fees charged by a local government entity that requires the registration of alarm systems, the revenues of the local governmental entity may be impacted by imposition of the maximum fee of \$25 for registration.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill amends section 489.518 of the Florida Statutes.

This bill creates section 553.7931 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/CS by Fiscal Policy on February 24, 2016:**

The committee substitute deletes a provision in the bill allowing a customer to give written authorization to a central monitoring alarm system company to contact law enforcement immediately upon receiving an alarm signal.

**CS/CS by Community Affairs on February 9, 2016:**

Exempts a person who performs only sales or installations of wireless alarm systems, other than fire alarm systems, in a single-family residence from the initial training requirements for burglar alarm system agents.

**CS by Regulated Industries on January 27, 2016:**

- Information to be provided in the uniform application for registration of alarm systems must also include the Florida license numbers for the alarm contractor and the alarm monitoring company.
- The bill amends s. 489.529, F.S., to provide that a customer of an alarm monitoring company may authorize the company to immediately contact a law enforcement agency when an alarm signal is received. The customer is liable for any penalties for false alarms signals.

- B. **Amendments:**

None.



397592

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/24/2016	.	
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	.	
	.	

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

**Senate Amendment (with title amendment)**

Delete lines 40 - 59.

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

And the title is amended as follows:

Delete lines 4 - 7

and insert:

for burglar alarm system agents; creating s. 553.7931,  
F.S.; defining the term

By the Committees on Community Affairs; and Regulated Industries; and Senator Flores

578-03236A-16

2016768c2

A bill to be entitled

An act relating to alarm systems; amending s. 489.518, F.S.; exempting certain persons from initial training for burglar alarm system agents; amending s. 489.529, F.S.; providing for written consent to an alarm system monitoring company to contact a law enforcement agency; creating s. 553.7931, F.S.; defining the term "applicable local governmental entity"; providing a uniform process for the registration of home and business alarm systems under certain circumstances; requiring the owner, lessee, or occupant, or an authorized representative thereof, of a property to register an alarm system within 20 days after occupancy or after installation of the alarm system; authorizing the applicable local governmental entity to charge a registration fee; specifying the requirements of the application form; requiring the owner, lessee, or occupant, or an authorized representative thereof, to notify the applicable local governmental agency of a change in the information provided in the application form within 30 days; authorizing the applicable local governmental entity to assess or impose fines or penalties for a failure to register an alarm system or for excessive false alarms; providing that fines and penalties are the responsibility of the owner, lessee, or occupant of the property; providing an effective date.

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

Section 1. Present paragraphs (a) through (e) of subsection

Page 1 of 5

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

578-03236A-16

2016768c2

(2) of section 489.518, Florida Statutes, are redesignated as paragraphs (b) through (f), respectively, and a new paragraph (a) is added to that subsection, to read:

489.518 Alarm system agents.—

(2) (a) A person who performs only sales or installations of wireless alarm systems, other than fire alarm systems, in a single-family residence is not required to complete the initial training required for burglar alarm system agents.

Section 2. Section 489.529, Florida Statutes, is amended to read

489.529 (1) Alarm verification calls required.—All residential or commercial intrusion/burglary alarms that have central monitoring must have a central monitoring verification call made to the premises generating the alarm signal, prior to alarm monitor personnel contacting a law enforcement agency for alarm dispatch. The central monitoring station must employ call-verification methods for the premises generating the alarm signal if the first call is not answered. However, if the intrusion/burglary alarms have properly operating visual or auditory sensors that enable the monitoring personnel to verify the alarm signal, or upon authorization as provided in subsection (2), verification calling is not required.

(2) A residential or commercial intrusion/burglary alarm customer may give written authorization to the central monitoring alarm system company to contact a law enforcement agency immediately upon receiving an alarm signal. The customer giving the authorization is responsible for any penalties resulting from any false alarm signals.

Section 3. Section 553.7931, Florida Statutes, is created

Page 2 of 5

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

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61 to read:

62 553.7931 Uniform alarm registration process.-

63 (1) As used in this section, the term "applicable local  
64 governmental entity" means the local enforcement agency or local  
65 law enforcement agency responsible for the administration of  
66 alarm system registration in a jurisdiction.

67 (2) This section creates a uniform process for the  
68 registration of a home or business alarm system and applies only  
69 if such registration is required by a local ordinance,  
70 regulation, or rule.

71 (a) The owner, lessee, or occupant, or an authorized  
72 representative thereof, of a property must file a uniform alarm  
73 registration application with the applicable local governmental  
74 entity that requires registration within 20 days after the  
75 installation or activation of an alarm system or occupancy of a  
76 property with an activated alarm system. During the intervening  
77 period, local first responders shall respond to a dispatch  
78 request. The application may be submitted electronically, or by  
79 facsimile, if signed by the owner, lessee, or occupant, or an  
80 authorized representative thereof.

81 (b) The applicable local governmental entity may charge the  
82 owner, lessee, or occupant an alarm registration fee of up to  
83 \$25. The registration is valid for as long as the registrant  
84 occupies the property. If possession of the property is  
85 transferred, the new occupant must file an application pursuant  
86 to paragraph (a).

87 (c) The uniform alarm registration application must contain  
88 substantially the following information:

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90 UNIFORM ALARM REGISTRATION APPLICATION

91  
92 Owner, Lessee, or Occupant Name.....

93 Owner, Lessee, or Occupant Address.....

94 City.....

95 State... Zip....

96 Phone Number.....

97 E-mail Address.....

98 Date of Occupancy.....

99 Name of Alarm Contractor.....

100 Phone Number of Alarm Contractor.....

101 Florida License Number of Alarm Contractor.....

102 Name of Alarm Monitoring Company.....

103 Phone Number of Alarm Monitoring Company.....

104 Florida License Number of Alarm Monitoring Company.....

105  
106 Emergency Contact Information:

107 Name.....

108 Address.....

109 City.....

110 State... Zip....

111 Phone Number.....

112  
113 I certify that the foregoing information is true and accurate.

114 ...(Date)...

115 ...(Signature of Owner, Lessee, or Occupant, or Authorized  
116 Representative)...

117  
118 (d) The owner, lessee, or occupant, or an authorized



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2016768c2

119 representative thereof, shall notify the applicable local  
120 governmental entity within 30 days after any change in the  
121 information submitted pursuant to paragraph (c). A contractor,  
122 as defined in s. 553.793, must advise an owner, a lessee, an  
123 occupant, or an authorized representative thereof, at the time  
124 of an alarm system installation that an obligation to register  
125 the system may exist.

126 (3) Civil penalties and fines assessed or imposed by the  
127 applicable local governmental entity for a failure to register  
128 an alarm system as required under subsection (1) or for  
129 excessive false alarms shall be the responsibility of the owner,  
130 lessee, or occupant of the property. A local ordinance,  
131 regulation, or rule may not impose a civil penalty or fine  
132 against an alarm contractor or alarm monitoring company for  
133 excessive false alarms.

134 Section 4. This act shall take effect October 1, 2016.

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/24/2016  
Meeting Date

768  
Bill Number (if applicable)

397592  
Amendment Barcode (if applicable)

Topic Alarm Systems

Name Bernadette Howard

Job Title Government Affairs Coordinator

Address 2636 Mitcham Dr  
Street

Phone 850-219-3631

Tallahassee FL 32308  
City State Zip

Email bhoward@fpca.com

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**  
**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 938

**INTRODUCER:** Commerce and Tourism Committee; Health Policy Committee; and Senator Benacquisto

**SUBJECT:** Retail Sale of Dextromethorphan

**DATE:** February 23, 2016      **REVISED:** \_\_\_\_\_

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	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Lloyd</u>	<u>Stovall</u>	<u>HP</u>	<b>Fav/CS</b>
2.	<u>Little</u>	<u>McKay</u>	<u>CM</u>	<b>Fav/CS</b>
3.	<u>Jones</u>	<u>Hrdlicka</u>	<u>FP</u>	<b>Favorable</b>

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 938 regulates dextromethorphan (DXM), a synthetically produced product that is the most commonly used cough suppressant in the United States. The bill prohibits any manufacturer, distributor, or retailer, and their employees and representatives, from knowingly or willfully selling a finished drug product that contains DXM to an individual under the age of 18 without a valid prescription. The bill requires individuals presumed to be less than 25 years of age to provide proof of age prior to purchasing a finished drug product that contains any quantity of DXM.

The bill also sets forth procedures for local law enforcement officers to enforce the law. An individual who possesses or receives a finished product containing any quantity of DXM in violation of the bill with the intent to distribute is subject to a civil citation of up to \$100 for each violation. An employee or representative who sells a finished drug product containing DXM in violation of the act is subject to a written warning. A manufacturer, distributor, or retailer found to be in violation of the act may be subject to a civil citation of up to \$100 per violation. However, a citation issued to a manufacturer, distributor, or retailer may be avoided upon the showing of a "good faith effort" to comply with the bill's requirements.

The bill preempts local regulation of DXM.

The bill has an indeterminate fiscal impact. See Section V. Fiscal Impact Statement.

The bill is effective January 1, 2017.

## II. Present Situation:

Dextromethorphan (DXM) is a synthetically produced product that is the most commonly used cough suppressant in the United States.<sup>1</sup> DXM was first approved by the Food and Drug Administration (FDA) in 1958 as a safe and effective ingredient found in many over-the-counter (OTC) cough and cold remedies.<sup>2</sup> Today, DXM is in almost half of all OTC drugs sold in the United States.<sup>3</sup>

More than 120 OTC products contain DXM either alone or in combination with other drugs such as analgesics (for example: acetaminophen), antihistamines, decongestants, and/or expectorants. A total of 10.7 million DXM medications were dispensed in 2013.<sup>4</sup> DXM can be found in the form of cough syrup, tablets, capsules or powder and is available without a prescription, sold under popular brand names such as Robitussin, Coricidin, and Vicks 44.<sup>5</sup> When taken as directed, side-effects from DXM are rarely observed.<sup>6</sup> However, when taken in large doses in combination with alcohol or other drugs, it may cause serious adverse health effects, including death.<sup>7</sup>

In response to growing reports of teenagers dying from the illicit use of DXM, the FDA issued a warning about its dangers in 2005.<sup>8</sup> The federal Drug Enforcement Agency (DEA) reports that the most commonly abused products containing DXM are Robitussin and Coricidin HBP. Illicit use of these drugs is also known as “Robo-tripping” or “skittling.”<sup>9</sup> Cough medicine abuse seems to be most popular among teens and younger children as cough medicine is often cheap, easy to get, and legal.<sup>10</sup>

Side effects of DXM intoxication include:

- Over-excitability;
- Lethargy;
- Loss of coordination;
- Slurred speech;
- Sweating;
- Hypertension; and

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<sup>1</sup> U.S. Food and Drug Administration, Background information for the DSaRM Advisory Committee, (Aug. 23, 2010), p. 5, available at <http://www.fda.gov/downloads/advisorycommittees/drugs/ucm224446.pdf> (last visited Feb. 20, 2016).

<sup>2</sup> *Id.* at p. 60.

<sup>3</sup> WebMD, *Teen Abuse of Cough and Cold Medicine; Teens and DXM Drug Abuse (June 2012)*, available at <http://www.webmd.com/parenting/teen-abuse-cough-medicine-9/teens-and-dxm-drug-abuse> (last visited Feb. 20, 2016).

<sup>4</sup> Drug Enforcement Administration, Office of Diversion Control, Drug & Chemical Evaluation Section, *Dextromethorphan (Street Names: DXM, CCC, Triple C, Skittles, Robo, Poor Man’s PCP)*, (March 2014), available at [http://www.deadiversion.usdoj.gov/drug\\_chem\\_info/dextro\\_m.pdf](http://www.deadiversion.usdoj.gov/drug_chem_info/dextro_m.pdf) (last visited Feb. 20, 2016).

<sup>5</sup> *Supra* note 3.

<sup>6</sup> Drug Enforcement Administration, *Drug Fact Sheet Dextromethorphan (DXM)*, available at [http://www.dea.gov/druginfo/drug\\_data\\_sheets/Detromethorphan.pdf](http://www.dea.gov/druginfo/drug_data_sheets/Detromethorphan.pdf) (last visited Feb. 20, 2016).

<sup>7</sup> *Supra* note 4.

<sup>8</sup> *Supra* note 1.

<sup>9</sup> *Supra* note 6.

<sup>10</sup> *Supra* note 3.

- Involuntary spasmodic movement of the eyeballs.<sup>11</sup>

The side effects of DXM can be worsened if combined with alcohol or other drugs. The American Association of Poison Control Centers reported 45,748 case mentions, 33,811 single exposures, and 6 deaths related to DXM as of the March 2014 DEA update.<sup>12</sup>

DXM is not a controlled substance regulated by Federal government or the state of Florida.<sup>13</sup> Legislation has been introduced but never heard in committee.<sup>14</sup> The federal legislation would:

- Restrict sale of DXM to individuals at least 18 years of age, except those with a valid prescription or on active military duty;
- Require a retailer to verify the age of purchasers and to implement an electronic, point of sale verification system;
- Provide affirmative defenses for retailers who check identifications and reasonably conclude the identification is valid and the individual is 18 years of age;
- Create penalties for violations ranging from a warning for a first violation to up to a fine of up to \$5,000 for a fourth or subsequent violation;
- Prohibit possession or receipt of unfinished DXM by any person not registered, licensed, or approved under federal or state law to practice pharmacy, engage in pharmaceutical production, or manufacture or distribute drug ingredients;
- Prohibit the distribution of unfinished DXM to unregistered or unlicensed persons; and
- Establish a civil penalty of up to \$100,000 for the unfinished DXM possession, receipt, and distribution violations.<sup>15</sup>

### III. Effect of Proposed Changes:

The bill creates an undesignated section of law to prohibit any manufacturer, distributor, or retailer, or its employees and representatives, from knowingly or willfully selling a finished drug product containing any quantity of DXM to a person younger than 18 years of age.

The bill defines:

- “Finished drug product,” to mean a drug legally marketed under the federal Food, Drug, and Cosmetic Act that is in finished dosage form. The term “drug” has the same meaning s. 499.003(18), F.S.; and
- “Proof of Age,” to mean any document issued by a governmental agency that contains the date of birth and a description or photograph of the person purchasing the finished drug product. The term includes a passport, driver license, or a government identification card issued by this state, another state, or any branch of the United States Armed Forces.

An employee or representative of a retailer is required to obtain proof of age from any purchaser prior to sale of a finished drug product containing any quantity of DXM, unless it would be

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<sup>11</sup> *Supra* note 6.

<sup>12</sup> *Supra* note 4.

<sup>13</sup> *See* 21 U.S.C. s. 812 and s. 893.03, F.S.

<sup>14</sup> DXM Abuse Prevention Act of 2015, HB 3250, 114th Cong. (2016) available at <https://www.congress.gov/bill/114th-congress/house-bill/3250> (last visited Feb. 22, 2016).

<sup>15</sup> *Id.*

reasonable to presume the purchaser is 25 years of age or older. A person younger than 18 years of age may not purchase a finished drug product containing any quantity of DXM.

The bill does not:

- Impose any restrictions on the placement of products in retail stores, direct access of customers to finished drug products, or the maintenance of transaction records;
- Apply to medication containing DXM sold by a retail entity pursuant to a valid prescription; and
- Create a criminal violation; any violation is a noncriminal violation.<sup>16</sup>

Local law enforcement, and other officials charged with enforcement of state laws are required to enforce the bill uniformly throughout the state. The bill preempts any local ordinances regulating the sale, distribution, receipt, or possession of DXM, and DXM is not subject to any further regulation by county, municipality, or other political subdivisions of the state.

### **Civil Citations: Manufacturers, Distributors, Retailers**

Each sales location of a manufacturer, distributor, or retailer may be subject to a civil citation if an employee or representative sells finished drug products containing any quantity of DXM to a person younger than 18 during the course of the his or her employment or association with the manufacturer, distributor, or retailer. The sales location is subject to a written warning for the initial violation and a civil citation of not more than \$100 for each subsequent violation. Civil citations may accrue and be recovered in a civil action by the local jurisdiction. However, a manufacturer, distributor, or retailer who demonstrates a good faith effort to comply with the bill is not subject to a citation.

A civil citation issued to a manufacturer, distributor, or retailer must be provided to the manager on duty when the citation is issued. If a manager is not available, the local law enforcement must attempt to contact the manager to issue the citation. If the law enforcement officer is unsuccessful in contacting the manager, he or she may leave a copy with an employee who is 18 years of age or older and mail a copy of the citation by certified mail to the business owner's address, as listed on the Department of State's records. The law enforcement officer may also return at a later time to issue the citation.

The civil citation issued to a manufacturer, distributor, or retailer must include:

- The date and approximate time of the sale;
- The location of the sale, including the address;
- The name of the employee or representative that completed the sale;
- Information on how to dispute the citation;
- Notice that the citation is a noncriminal violation.

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<sup>16</sup> Section 775.08(3), F.S., defines "noncriminal violation" as an offense that is punishable by only a fine, forfeiture, or other civil penalty. A noncriminal violation does not constitute a crime, and a conviction for one these offenses would not give rise to any legal disability based on a criminal offense. Examples of noncriminal offenses include some traffic-related offenses, parking violations, or citations for loud noises.

**Civil Citations: Employees or Representatives of a Manufacturer, Distributor or Retailer**

An employee or representative of a manufacturer, distributor, or retailer who during the course of his or her employment or association with the manufacturer, distributor, or retailer sells a finished drug product containing any quantity of DXM to a person younger than 18 is subject to a written warning.

**Civil Citations: Others**

A person who possesses or receives a finished drug product containing any quantity of DXM in violation of the bill with the intent to distribute is subject to a civil citation of up to \$100 for each violation. Civil citations may accrue and be recovered in a civil action brought by the local jurisdiction. The civil citation must include information on how to dispute the citation and state that the violation is a noncriminal violation.

The bill does not impose consequences on a person who purchases a finished drug product containing any quantity of DXM in violation of the act if no intention to distribute exists.

**Disputing a Civil Citation**

The bill requires the recipient of a citation to provide notice of any dispute of the citation to the clerk of the county court in the jurisdiction where the violation occurred within 15 days of receiving the citation. The local jurisdiction must hold a hearing regarding the citation when:

- A citation for the violation of the bill is issued;
- The violation is disputed; and
- The recipient is issued the citation by a local law enforcement officer employed by or acting on behalf of the jurisdiction.

The bill is effective January 1, 2017.

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

Article VII, section 18(b) of the Florida Constitution states that “[e]xcept upon approval of each house of the legislature by two-thirds of the membership, the legislature may not enact, amend or repeal any general law if the anticipated effect of doing so would be to reduce the authority that the municipalities or counties have to raise revenues in the aggregate, as such authority exists on February 1, 1989.” Article VII, section 18(d) of the Florida Constitution provides an exemption from the mandates provision for laws having an insignificant fiscal impact, which for Fiscal Year 2016-2017, is \$2 million or less.<sup>17, 18</sup>

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<sup>17</sup> An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, Interim Report 2012-115: Insignificant Impact, (September 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Feb. 22, 2016).

<sup>18</sup> Based on the Demographic Estimating Conference’s population adopted on December 1, 2015. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Feb. 22, 2016).

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:

Retailers, manufacturers, and distributors would be required to train employees and associates to check the identification of any individuals purchasing finished drug products containing any quantity of DXM who appear to be less than 25 years of age.

Unlawful sales under the act subject retailers, manufacturers, and distributors to a civil citation and fine of up to \$100 for any violation of the act that occurs after an initial violation. However, if a manufacturer, distributor, or retailer makes a “good faith effort” to comply with this law, it will not incur a citation for the unlawful sale by an employee or associate.

Persons who possess or receive finished drug products containing any quantity of DXM with the intention to distribute the finished drug product, are subject to civil citation and a fine up to \$100.

C. Government Sector Impact:

The Department of Health regulates pharmacies and is assumed to have the responsibility of monitoring the manufacturers, retailers, and distributors in their compliance efforts as well as the good faith efforts of their employees and associates. However, there is no fiscal impact to the department to implement the bill.

Local law enforcement agencies will be required to monitor the activities of retailers, manufacturers, and distributors for unlawful sales of finished drug products containing DXM. County courts may incur costs related to holding hearings and disposing these civil citations. The local jurisdiction where the civil citation is issued will have to bring a civil action to recover the civil fines associated with the civil citation. The bill also preempts all local regulation of DXM.

**VI. Technical Deficiencies:**

None.



## VII. Related Issues:

The bill does not address situations in which an individual younger than 18 years of age may be considered an adult for other purposes. Under the bill emancipated minors and individuals under 18 years of age in active military duty cannot purchase finished drug products containing DXM without a valid prescription.

The bill requires an employee or representative to “obtain proof of age” of the purchaser. This may unintentionally require the employee or representative to take the “proof of age” document.

The bill does not define the terms manufacturer, retailer, or distributor. Because the bill creates an undesignated a section of law, the definition of these terms may be defined by the section of law under the bill which is eventually designated.

The bill requires that enforcement of its provisions must be applied uniformly throughout the state by local law enforcement and officials. In order for the laws to be applied uniformly throughout the state, an entity with statewide jurisdiction would need to be given the authority to enforce the bill’s requirements.

Lines 58-60 of the bill provide that manufacturers, retailers, or distributors may avoid a citation upon the showing of good faith effort to comply with the bill’s requirements. It is unclear by the language of the bill whether the “good faith effort” to comply should be shown at the time the citation is issued, or at a hearing regarding a disputed citation. “Good faith effort” is not defined.

The bill does not address how or if an employee or representative of a manufacturer, distributor, or retailer can dispute a written warning. The bill also do not specify what needs to be included in the written warning.

The bill makes a person who possesses or receives a finished drug product containing any quantity of DXM with the intent to distribute subject to a civil citation of up to \$100 for each violation. This language does not contemplate a parent purchasing a finished drug product containing any quantity of DXM to give to a sick child under the age of 18. As drafted this could subject a parent to a civil citation of up to \$100.

The bill specifies what must be included on a civil citation for a manufacturer, distributor, or retailer but does not specify such for a civil citation given to a person who possesses or receives a finished drug product containing any quantity of DXM.

The bill requires a local jurisdiction to hold a hearing in the court of competent jurisdiction, “when a citation for a violation of this section is issued, when the violation is disputed, and when the recipient is issued the citation by a local law enforcement officer employed by or acting on behalf of the jurisdiction.” This language could be simplified by providing that a hearing in the court of competent jurisdiction should be held “when a citation is issued by a local law enforcement officer employed by or acting on behalf of the jurisdiction and the recipient of the citation has provided notice of dispute of the citation.”

The bill allows for a copy of a civil citation to be mailed to the owner's business address as filed with the Department of State. This does not account for franchises or if an owner's name is not on the filings with the Department of State.

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

This bill creates an undesignated section of Florida law.

#### **IX. Additional Information:**

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

##### **CS/CS by Commerce and Tourism on February 16, 2016:**

The committee substitute makes technical changes to clarify the bill prohibits the sale of a finished drug product containing any quantity of DXM to an individual younger than the age of 18 years old, without a valid prescription.

##### **CS by Health Policy on January 19, 2016:**

The committee substitute:

- Modifies the definitions for “finished drug product” and “proof of age”;
- Subjects each sales location of a manufacturer, distributor, and retailer whose employee or representative sells dextromethorphan (DXM) to someone under age 18 to a violation of this act and provides for a written first warning followed by a civil citation with no more than a \$100 fine for each subsequent violation;
- Provides that fines assessed under this act may accrue and may be recovered in a civil action brought by the local jurisdiction;
- Subjects an employee or representative of a manufacturer, distributor, or retailer who sells DXM in violation of this act to a written warning;
- Subjects a person who possesses or receives DXM with the intent to distribute to a civil citation and fine for each violation which may be recovered in a civil action;
- Describes the contents of a civil citation;
- Provides a process for notification of a written warning or civil citation to the manager on duty;
- Requires uniformity in application across the state, but enforcement remains with local law enforcement departments and officials charged with enforcement of state laws; and
- Clarifies that the bill does not create a criminal violation.

- B. **Amendments:**

None.

By the Committees on Commerce and Tourism; and Health Policy;  
and Senator Benacquisto

577-03606-16

2016938c2

1 A bill to be entitled  
2 An act relating to the retail sale of  
3 dextromethorphan; providing definitions; prohibiting a  
4 manufacturer, distributor, or retailer, or its  
5 employees and representatives, from knowingly or  
6 willfully selling a finished drug product containing  
7 dextromethorphan to a person younger than 18 years of  
8 age; prohibiting a person younger than 18 years of age  
9 from purchasing a finished drug product containing  
10 dextromethorphan; requiring an employee or  
11 representative of a retailer making a retail sale of a  
12 finished drug product containing any quantity of  
13 dextromethorphan to obtain certain proof of age from  
14 the purchaser; providing an exception; providing  
15 penalties; providing requirements for imposing or  
16 disputing civil citations; specifying information to  
17 be provided in such citations; providing  
18 applicability; preempting local government regulation  
19 of dextromethorphan; providing an effective date.

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

22  
23 Section 1. Restrictions on sale of dextromethorphan.-

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

25 (a) "Finished drug product" means a drug legally marketed  
26 under the Federal Food, Drug, and Cosmetic Act that is in  
27 finished dosage form. For purposes of this paragraph, the term  
28 "drug" has the same meaning as provided in s. 499.003(18).

29 (b) "Proof of age" means any document issued by a  
30 governmental agency that contains the date of birth and a  
31 description or photograph of the person purchasing the finished

Page 1 of 5

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

577-03606-16

2016938c2

32 drug product. The term includes, but is not limited to, a  
33 passport, a driver license, or an identification card issued by  
34 this state, another state, or any branch of the United States  
35 Armed Forces.

36 (2) (a) A manufacturer, distributor, or retailer, or its  
37 employees and representatives, may not knowingly or willfully  
38 sell a finished drug product containing any quantity of  
39 dextromethorphan to a person younger than 18 years of age.

40 (b) A person younger than 18 years of age may not purchase  
41 a finished drug product containing any quantity of  
42 dextromethorphan.

43 (3) An employee or representative of a retailer making a  
44 retail sale of a finished drug product containing any quantity  
45 of dextromethorphan must require and obtain proof of age from  
46 the purchaser before completing the sale, unless from the  
47 purchaser's outward appearance the person making the sale would  
48 reasonably presume the purchaser to be 25 years of age or older.

49 (4) (a) Each sales location of a manufacturer, distributor,  
50 or retailer whose employee or representative, during the course  
51 of the employee's or representative's employment or association  
52 with the manufacturer, distributor, or retailer, sells a  
53 finished drug product containing any quantity of  
54 dextromethorphan in violation of this section is subject to a  
55 written warning for an initial violation and, for each  
56 subsequent violation, a civil citation imposing a fine of not  
57 more than \$100, which shall accrue and may be recovered in a  
58 civil action brought by the local jurisdiction. A manufacturer,  
59 distributor, or retailer who demonstrates a good faith effort to  
60 comply with this section is not subject to citation.

Page 2 of 5

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

577-03606-16

2016938c2

61 (b) An employee or representative of a manufacturer,  
 62 distributor, or retailer who, during the course of the  
 63 employee's or representative's employment or association with  
 64 the manufacturer, distributor, or retailer, sells a finished  
 65 drug product containing any quantity of dextromethorphan in  
 66 violation of this section is subject to a written warning.

67 (c) A person who possesses or receives a finished drug  
 68 product containing any quantity of dextromethorphan in violation  
 69 of this section with the intent to distribute is subject to a  
 70 civil citation imposing a fine of not more than \$100 for each  
 71 violation, which shall accrue and may be recovered in a civil  
 72 action brought by the local jurisdiction. A civil citation  
 73 issued to a person pursuant to this paragraph shall include  
 74 information regarding how to dispute the citation and shall  
 75 clearly state that the violation is a noncriminal violation.

76 (5) A civil citation issued to a manufacturer, distributor,  
 77 or retailer pursuant to this section shall be provided to the  
 78 manager on duty at the time the citation is issued. If a manager  
 79 is not available, a local law enforcement officer shall attempt  
 80 to contact the manager to issue the citation. If the local law  
 81 enforcement officer is unsuccessful in contacting the manager,  
 82 he or she may leave a copy of the citation with an employee 18  
 83 years of age or older and mail a copy of the citation by  
 84 certified mail to the owner's business address, as filed with  
 85 the Department of State, or he or she may return to issue the  
 86 citation at a later time. The civil citation shall provide:

87 (a) The date and approximate time of the sale in violation  
 88 of this section.

89 (b) The location of the sale, including the address.

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2016938c2

90 (c) The name of the employee or representative that  
 91 completed the sale.

92 (d) Information regarding how to dispute the citation.

93 (e) Notice that the violation is a noncriminal violation.

94 (6) To dispute the citation, the recipient of the citation  
 95 must provide notice of the dispute to the clerk of the county  
 96 court in the jurisdiction in which the violation occurred within  
 97 15 days after receipt of the citation. The local jurisdiction,  
 98 through its duly authorized officers, shall hold a hearing in  
 99 the court of competent jurisdiction when a citation for a  
 100 violation of this section is issued, when the violation is  
 101 disputed, and when the recipient is issued the citation by a  
 102 local law enforcement officer employed by or acting on behalf of  
 103 the jurisdiction. If the court finds in favor of the  
 104 jurisdiction, the court shall require payment of the fine as  
 105 provided in this section.

106 (7) This section shall be applied uniformly throughout the  
 107 state. Enforcement of this section shall remain with local law  
 108 enforcement departments and officials charged with the  
 109 enforcement of the laws of the state.

110 (8) This section does not:

111 (a) Impose any restriction on the placement of products in  
 112 a retail store, direct access of customers to finished drug  
 113 products, or the maintenance of transaction records.

114 (b) Apply to a medication containing dextromethorphan that  
 115 is sold by a retailer pursuant to a valid prescription.

116 (c) Create a criminal violation. A person who violates this  
 117 section commits a noncriminal violation as defined in s.  
 118 775.08(3).

577-03606-16

2016938c2

119       (9) This section preempts any ordinance regulating the  
120 sale, distribution, receipt, or possession of dextromethorphan  
121 enacted by a county, municipality, or other political  
122 subdivision of the state, and dextromethorphan is not subject to  
123 further regulation by such political subdivisions.

124       Section 2. This act shall take effect January 1, 2017.



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**COMMITTEES:**  
Banking and Insurance, *Chair*  
Appropriations, *Vice Chair*  
Appropriations Subcommittee on Health  
and Human Services  
Education Pre-K-12  
Higher Education  
Judiciary  
Rules

**SENATOR LIZBETH BENACQUISTO**  
30th District

**JOINT COMMITTEE:**  
Joint Legislative Auditing Committee  
Joint Select Committee on Collective Bargaining

February 16, 2016

The Honorable Anitere Flores  
Senate Fiscal Policy, Chair  
413 Senate Office Building  
404 South Monroe Street  
Tallahassee, FL 32399

**RE: SB 938- Retail Sale of Dextromethorphan**

Dear Madam Chair:

Please allow this letter to serve as my respectful request to agenda SB 938, Relating to Retail Sale of Dextromethorphan, for a public hearing at your earliest convenience.

Your kind consideration of this request is greatly appreciated. Please feel free to contact my office for any additional information.

Sincerely,

A handwritten signature in cursive script that reads "Lizbeth Benacquisto".

Lizbeth Benacquisto  
Senate District 30

Cc: Jennifer Hrdlicka

**REPLY TO:**

- 2310 First Street, Suite 305, Fort Myers, Florida 33901 (239) 338-2570
- 326 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5030

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

2/24

Meeting Date

938

Bill Number (if applicable)

Topic Support SB 938- DXM

Amendment Barcode (if applicable)

Name Chris Hansen

Job Title Ballard Partners

Address 403 E. Park Ave

Phone 577-0444

Street

Tallahassee FL 32301

Email chansen@ballardfl.com

City

State

Zip

Speaking:  For  Against  Information

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

Representing Consumer Healthcare Products Assoc (CHPA)

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

Tallahassee, Florida 32399-1100

**COMMITTEES:**  
Banking and Insurance, *Chair*  
Appropriations, *Vice Chair*  
Appropriations Subcommittee on Health  
and Human Services  
Education Pre-K-12  
Higher Education  
Judiciary  
Rules

**SENATOR LIZBETH BENACQUISTO**  
30th District

**JOINT COMMITTEE:**  
Joint Legislative Auditing Committee  
Joint Select Committee on Collective Bargaining

February 23, 2016

The Honorable Anitere Flores  
Senate Fiscal Policy, Chair  
413 Senate Office Building  
404 South Monroe Street  
Tallahassee, FL 32399

**RE: SB 938- Retail Sale of Dextromethorphan**

Dear Madam Chair:

Please allow this letter to serve as my respectful request for my legislative assistant, Mia Simon, to present SB 938 on my behalf as I have another commitment.

Your kind consideration of this request is greatly appreciated. Please feel free to contact my office for any additional information.

Sincerely,

A handwritten signature in cursive script that reads "Lizbeth Benacquisto".

Lizbeth Benacquisto  
Senate District 30

Cc: Jennifer Hrdlicka

**REPLY TO:**

- 2310 First Street, Suite 305, Fort Myers, Florida 33901 (239) 338-2570
- 326 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5030

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

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore



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

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

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

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BILL: CS/SB 1126

INTRODUCER: Education Pre-K - 12 Committee and Senator Detert and others

SUBJECT: Auditory-oral Education Programs

DATE: February 23, 2016

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bailey	Klebacha	ED	<b>Fav/CS</b>
2.	Sikes	Elwell	AED	<b>Recommend: Favorable</b>
3.	Pace	Hrdlicka	FP	<b>Favorable</b>

---

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

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 1126 requires a school district to annually add additional points to the calculation of a matrix of services for a child who is deaf and enrolled in an auditory-oral education program.

This bill has no fiscal impact in the 2016-2017 fiscal year because the requirements of the bill are not effective until the 2017-2018 fiscal year. Currently, there are approximately 75 full-time equivalent (FTE) students who are deaf and enrolled in an auditory-oral education program. These students will generate approximately \$4,000 per FTE in additional funding through the Florida Education Finance Program (FEFP). The total impact on the FEFP in the 2017-2018 fiscal year is estimated at \$300,000.

**II. Present Situation:**

**Auditory-Oral Education Program**

An auditory-oral education program is a program that develops and relies solely on listening skills and uses an implant or assistive hearing device for the purpose of relying on speech and spoken language skills as the method of communication.<sup>1</sup> A student who is deaf or hard of hearing is a student who has a hearing loss aided or unaided that affects the processing of linguistic information and adversely affects performance in the educational environment.<sup>2</sup> The

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<sup>1</sup> Section 1002.391(1)(a), F.S.

<sup>2</sup> Section 1002.391(1)(b), F.S.

State Board of Education has established criteria to designate the degree of hearing loss which may range from mild to profound.<sup>3</sup>

Auditory-oral education programs are located in public or private schools for children who have obtained an implant or assistive hearing device.<sup>4</sup> The faculty of the school are certified as listening and spoken language specialists.<sup>5</sup>

### **Matrix of Services**

The Florida Department of Education (DOE) developed the Matrix of Services Handbook to provide districts, schools, and teachers with information about the matrix of services required for selected students with exceptionalities.<sup>6</sup> The matrix is the document used to determine the cost factor for selected exceptional education students. The matrix is designed with five levels in each of the following five domain areas:<sup>7</sup>

- Curriculum and Learning Environment addresses services provided to the student in the areas of curriculum, instructional strategies, and learning environment;
- Social or Emotional Behavior includes services provided to meet identified social and emotional needs of students with exceptionalities, such as positive behavioral supports, behavioral interventions, social skills development, socialization, and counseling as a related service;
- Independent Functioning includes services that are necessary for the independent functioning of students with exceptionalities, such as instruction in organizational strategies, assistance for activities of daily living and self-care, physical therapy, occupational therapy, orientation and mobility training, and supervision of students to ensure physical safety;
- Health Care addresses services provided to students with exceptionalities who have health care needs, such as services related to monitoring and assessment of health conditions, provision of related health care services, and interagency collaboration; and
- Communication includes services provided to support the communication needs of students with exceptionalities, such as personal assistance, instructional interventions, speech or language therapy, and the use of alternative and augmentative communication systems.

A student is evaluated within each of these five domains to determine the appropriate level of service required. Level 1 represents the lowest level of service and Level 5 represents the highest level of service.<sup>8</sup> The frequency and intensity of the service and the qualifications of personnel required to provide the service are critical factors that impact the determination of the appropriate level of service for the student.<sup>9</sup>

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<sup>3</sup> Rule 6A-6.03013, F.A.C.

<sup>4</sup> Section 1002.391(1)(c), F.S.

<sup>5</sup> A Listening and Spoken Language Specialist is a person who has been awarded professional certification through the Alexander Graham Bell Association. DOE, *Matrix of Services Handbook* (2015 edition) available at <http://www.fldoe.org/core/fileparse.php/7690/urlt/2015MatrixServices.pdf> (last visited Feb. 20, 2016).

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

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

<sup>8</sup> *Id.* The total number of points, determined by adding together the scores for each domain and applicable special considerations points, results in a rating of Support Level 1 through Support Level 5.

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

Special consideration points are additional points for selected populations of students. The applicable special consideration points are added together with the scores from each domain of the matrix to determine the level of support services.<sup>10</sup> For example, three special consideration points are added to the matrix for students identified as visually impaired or dual-sensory impaired. The additional special consideration points can result in a student being classified for a higher level of service.

### **Funding for Exceptional Student Education**

Exceptional student education (ESE) services for students whose level of service is Levels 1 through 3 are funded through the ESE Guaranteed Allocation, which was established to provide funding through the FEFP in addition to the basic program funding.<sup>11</sup> These students generate full-time equivalent (FTE) funding using the appropriate basic program cost factor for their grade levels.<sup>12</sup> Students whose level of service is Level 4 or 5 do not receive FEFP funds from the ESE Guaranteed Allocation, but instead generate weighted funding using a higher program cost factor which provides for both their education program and their exceptional services.<sup>13</sup>

In the 2015-2016 fiscal year, Level 1 through 3 students were funded through the FEFP at an average of \$11,054 per FTE.<sup>14</sup> Level 4 and 5 students were funded at an average of \$15,010 and \$21,844 per FTE respectively.

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

The bill revises the matrix of services calculation for students who are deaf and enrolled in an eligible auditory-oral education program.

The bill requires the school district to annually add four special consideration points to the total score of all domains on the matrix, beginning in the 2017-2018 school year. The revised matrix calculation will result in students who are deaf and enrolled in an auditory-oral education program generating additional FEFP funds. Most eligible students will move from Level 3 to Level 4 and, therefore, generate \$4,000 in additional funding through the FEFP.

The bill takes effect on July 1, 2016.

---

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

<sup>11</sup> Florida Department of Education, *2015-16 Funding for Florida School Districts* available at <http://www.fldoe.org/core/fileparse.php/7507/urlt/Fefpdist.pdf> (last visited Feb. 20, 2016).

<sup>12</sup> The basic program cost factors are as follows: Grades K-3, the cost factor is 1.115; Grades 4-8, the cost factor is 1.000; Grades 9-12, the cost factor is 1.005.

<sup>13</sup> The 2015-2016 Level 4 cost factor is 3.613 and the Level 5 cost factor is 5.258.

<sup>14</sup> For the 2015-2016 fiscal year, the average ESE Guaranteed Allocation funding per FTE is \$2,007 and the Base Student Allocation is \$4,154.45. Florida Legislature, Conference Report on SB 2500-A, *Public School Funding: The Florida Education Finance Program (FEFP)* (June 16, 2015) available at [http://flsenate.gov/PublishedContent/Session/2015A/Appropriations/Documents/FEFP\\_Conference\\_Report.pdf](http://flsenate.gov/PublishedContent/Session/2015A/Appropriations/Documents/FEFP_Conference_Report.pdf) (last visited Feb. 20, 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:

This bill has no fiscal impact in the 2016-2017 fiscal year because the requirements of the bill are not effective until the 2017-2018 fiscal year. Currently, there are approximately 75 full-time equivalent (FTE) students who are deaf and enrolled in an auditory-oral education program. These students will generate approximately \$4,000 per FTE in additional funding through the Florida Education Finance Program (FEFP). The total impact on the FEFP in the 2017-2018 fiscal year is estimated at \$300,000.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 1002.391 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 Education Pre-K – 12 on February 2, 2016:**

The committee substitute modifies the bill as follows:

- Decreased the number of special consideration points a school district must add to the calculation of a matrix of services for a student from seven to four points; and
- Removed provisions related to auditory-oral education grants.

- B. **Amendments:**

None.

By the Committee on Education Pre-K - 12; and Senators Detert  
and Richter

581-02942-16

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A bill to be entitled

An act relating to auditory-oral education programs;  
amending s. 1002.391, F.S.; requiring a school  
district to add a specified number of points to the  
calculation of a matrix of services for a student who  
is deaf and enrolled in an auditory-oral education  
program; providing an effective date.

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

Section 1. Subsection (4) is added to section 1002.391,  
Florida Statutes, to read:

1002.391 Auditory-oral education programs.—

(4) Beginning with the 2017-2018 school year, a school  
district shall add four special consideration points to the  
calculation of a matrix of services for a student who is deaf  
and enrolled in an auditory-oral education program.

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



The Florida Senate

## Committee Agenda Request

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

**Subject:** Committee Agenda Request

**Date:** February 18, 2016

---

I respectfully request that SB **1126**, relating to Auditory-Oral Education Programs, 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

①

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/24/2016  
Meeting Date

1126  
Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name Lauren Sheen

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

Address 4583 Silverthorn Dr.  
Street  
Jacksonville FL 32258  
City State Zip

Phone 904 382 8974

Email sheenfamilly@comcast.net

Speaking:  For  Against  Information

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

Representing Self

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.**



2

# THE FLORIDA SENATE APPEARANCE RECORD

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

2/24/2016

Meeting Date

1126

Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name Lillian Sheen

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

Address 4583 Silverthorn Dr

Phone 904 382 8974

Street

Jacksonville FL 32258

Email sheenfamilly@comcast.net

City

State

Zip

Speaking:  For  Against  Information

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

Representing Self

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)

3

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-24-2016

Meeting Date

1126

Bill Number (if applicable)

Topic Auditory Oral Ed

Amendment Barcode (if applicable)

Name Gracelyn P. Sheen

Job Title Student

Address 4583 Silverthorn Drive

Phone (904) 582-8754

Jacksonville  
City

FL  
State

32258  
Zip

Email Sheenfamly@comcast.net

Speaking:  For  Against  Information

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

Representing Self

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.

4

# THE FLORIDA SENATE APPEARANCE RECORD

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

2-24-2016

Meeting Date

1126

Bill Number (if applicable)

Topic Auditory Oral

Amendment Barcode (if applicable)

Name William J Sheen

Job Title Portfolio Manager

Address 4583 Silverthorn Drive  
Street

Phone 904 382 8954

Jacksonville FL 32258  
City State Zip

Email wsheen9@gmail.com

Speaking:  For  Against  Information

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

Representing Fathers of children who are deaf

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.

5

THE FLORIDA SENATE

APPEARANCE RECORD

2/24/16  
Meeting Date

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

1126  
Bill Number (if applicable)

Topic Auditory Oral Education

Amendment Barcode (if applicable)

Name Theresa Bulger

Job Title Lobbyist

Address 253 Hayden  
Street  
Tallahassee  
City State Zip

Phone (904) 880 9063

Email tlb@privatepublicsolutions.org

Speaking:  For  Against  Information

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

Representing Fl. Coalition/families for spoken language, Fl. Academy of Audiologists, Septoma

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.

6

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2-24-16  
Meeting Date

1126  
Bill Number (if applicable)

Topic Judiciary - Oral Education

Amendment Barcode (if applicable)

Name Kathleen Vogara

Job Title Director, University of Miami Debbie Institute

Address 5335 Oak Lane  
Street:

Phone 305.665.9109

Coral Gables Florida 33156  
City State Zip

Email KVogara@med.miami.edu

Speaking:  For  Against  Information

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

Representing Debbie Institute

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

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

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

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

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BILL: CS/SB 1160

INTRODUCER: Education Pre-K - 12 Committee and Senator Detert

SUBJECT: Art in the Capitol Competition

DATE: February 23, 2016

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bailey</u>	<u>Klebacha</u>	<u>ED</u>	<b>Fav/CS</b>
2.	<u>Davis</u>	<u>DeLoach</u>	<u>AGG</u>	<b>Recommend: Favorable</b>
3.	<u>Hrdlicka</u>	<u>Hrdlicka</u>	<u>FP</u>	<b>Favorable</b>

---

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

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 1160 creates the Art in the Capitol Competition, a statewide visual arts competition for all public, private, and home education students in grades 6 through 8.

Specifically, the bill requires:

- Each school district to annually hold an Art in the Capitol Competition with a selection committee consisting of art teachers whose students have not submitted work;
- Winning submissions to be provided to the legislator of the legislative district in which the student resides; and
- The legislator to submit the artwork to the Department of Management Services to be displayed in the Capitol Building during the regular legislative session.

The bill has an indeterminate, insignificant fiscal impact on state funds.

The bill takes effect on July 1, 2016.

**II. Present Situation:**

**Artwork in the Florida Capitol**

The Capitol has both permanent and temporary art displays. The lower floors of the Capitol and legislative office buildings display photographs from Florida's history. Temporary display areas

within the Capitol Grounds include the 22<sup>nd</sup> Floor Capitol Gallery, Cabinet Meeting Room, and the Gallery at the Historic Capitol.<sup>1</sup>

The Capitol Complex Exhibition Program showcases Florida artists through a series of visual art exhibitions throughout the Capitol Complex. Exhibitions are selected by Department of State, Division of Cultural Affairs staff members based on quality, diversity of medium, and regional representation, with preference given to Florida themes.<sup>2</sup>

### **Congressional Art Competition**

The Congressional Institute<sup>3</sup> sponsors the Congressional Art Competition each spring, a nationwide high school visual art competition “to recognize and encourage artistic talent in the nation and in each congressional district.”<sup>4</sup> Students submit entries to the offices of their Congressional representatives and winning entries are selected by panels of artists in each Congressional district. Winners are recognized both in their district and at an annual awards ceremony in Washington, DC, and winning artwork is displayed at the U.S. Capitol for one year.

All entries for the competition must:<sup>5</sup>

- Be two dimensional;
- Be no larger than 28 inches wide by 28 inches tall by 4 inches thick when framed;
- Not weigh more than 15 pounds, including the frame; and
- Be original in concept, design, and execution. An entry may not violate any U.S. copyright laws.

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

CS/SB 1160 creates the Art in the Capitol Competition, a statewide visual arts competition for all public, private, and home education students in grades 6 through 8 to recognize and encourage artistic talent in Florida. The bill directs the Department of Management Services (DMS) and the Department of Education to administer the Art in the Capitol Competition.

Specifically, the bill requires each school district to annually hold an Art in the Capitol Competition with the submissions to be judged by a selection committee consisting of art teachers whose students have not submitted artwork. In effect, the art competition offers an opportunity for students to not only be challenged locally, but to also be acknowledged for their talent and creativity at the state level.

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<sup>1</sup> Visit Florida Capitol, *Artwork in the Capitol*, <http://www.visitfloridacapitol.com/capitol/art.php> (last visited Feb. 19, 2016).

<sup>2</sup> Department of State, Division of Cultural Affairs, *Exhibitions*, <http://dos.myflorida.com/cultural/programs/exhibitions/> (last visited Feb 19, 2016).

<sup>3</sup> “The Congressional Institute was established in 1987 for the intellectual and social benefit of Members of Congress and to provide education information about Congress to the general public.” Congressional Institute, *About Us*, <http://conginst.org/about/> (last visited February 19, 2016).

<sup>4</sup> United States House of Representatives, *Congressional Art Competition*, [http://www.house.gov/content/educate/art\\_competition/](http://www.house.gov/content/educate/art_competition/) (last visited January 29, 2016).

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

The artwork submission requirements for the Florida statewide visual arts competition are similar to the nationwide high school Congressional Art Competition. A submission must:

- Be two dimensional;
- Be no larger than 28 inches wide by 28 inches long by 4 inches thick;
- Weigh less than 15 pounds; and
- Be original in concept, design, and execution. A submission may not violate copyright laws.

The bill requires the winning artwork to be submitted to the office of the legislator of the district in which the student resides no later than 60 days prior to the start of the regular legislative session. The bill allows for an unspecified number of winning submissions to be provided to each legislator.

The legislator will provide the submissions to the DMS to be displayed in the Capitol Building during the regular legislative session. Submissions will be returned to the students.

The bill takes effect on 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 bill has an indeterminate fiscal impact on state funds for the DMS to display artwork in the Capitol and school districts to annually conduct the Art in the Capitol Competition. These costs are most likely insignificant and can be absorbed within existing resources.

There is no fiscal impact on the Department of Education.



**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates an undesignated section of the Florida Statutes.

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

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

**CS by Education Pre-K – 12 on February 2, 2016:**

The committee substitute modifies the bill as follows:

- Requires each school district to annually hold an Art in the Capitol Competition for all public, private, and home education students in grades 6 through 8;
- Revises the selection committee to consist of art teachers whose students have not submitted artwork for consideration;
- Requires the artwork to go to the legislator of the legislative district in which the student resides;
- Revises applicable deadlines; and
- Removes the authorization for the Department of Management Services to adopt rules to administer the Art in the Capitol Competition.

**B. Amendments:**

None.

By the Committee on Education Pre-K - 12; and Senator Detert

581-02945-16

20161160c1

1                           A bill to be entitled  
 2       An act relating to the Art in the Capitol Competition;  
 3       creating the Art in the Capitol Competition for  
 4       students in specified grades; specifying procedures  
 5       for student participation, notification, and the  
 6       selection and display of winning submissions;  
 7       providing an effective date.  
 8  
 9   Be It Enacted by the Legislature of the State of Florida:  
 10  
 11       Section 1. (1) There is created the Art in the Capitol  
 12 Competition, a statewide visual arts competition for students in  
 13 grades 6 through 8, to be administered by the Department of  
 14 Management Services and the Department of Education.  
 15       (2) Each school district shall annually hold an Art in the  
 16 Capitol Competition for all public, private, and home education  
 17 students in grades 6 through 8. Submissions shall be judged by a  
 18 selection committee consisting of art teachers whose students  
 19 have not submitted artwork for consideration.  
 20       (3) (a) A submission may not violate copyright laws and  
 21 must:  
 22           1. Be two dimensional.  
 23           2. Be no larger than 28 inches wide by 28 inches long by 4  
 24 inches thick.  
 25           3. Weigh less than 15 pounds.  
 26           4. Be original in concept, design, and execution.  
 27       (b) Each submission must include the student's name, grade,  
 28 and school of enrollment and the city in which the school is  
 29 located.  
 30       (4) Each winning submission shall be provided to the  
 31 legislator of the legislative district in which the student  
 32 resides no later than sixty days prior to the start of each

Page 1 of 2

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

581-02945-16

20161160c1

33       regular legislative session. The legislator shall provide the  
 34 winning submission to the Department of Management Services.  
 35       (5) The Department of Management Services shall collect the  
 36 winning submissions and arrange to have them displayed in the  
 37 Capitol Building during the regular legislative session. Upon  
 38 adjournment of the legislative session, the legislator shall  
 39 return the winning submission to the student.  
 40       Section 2. This act shall take effect July 1, 2016.

Page 2 of 2

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



The Florida Senate

## Committee Agenda Request

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

**Subject:** Committee Agenda Request

**Date:** February 18, 2016

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I respectfully request that SB **1160**, relating to Art in the Capitol Competition, be placed on the:

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

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

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Senator Nancy C. Detert  
Florida Senate, District 28

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/24/17

Meeting Date

1160

Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name Frank Meiners

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

Address PO Box 1633

Phone 591-0137

Street

Tall

City

FL

State

3302

Zip

Email frank@chamsail.com

Speaking:  For  Against  Information

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

Representing FL Cultural Alliance

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

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

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

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

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BILL: CS/SB 1190

INTRODUCER: Community Affairs Committee and Senator Diaz de la Portilla

SUBJECT: Growth Management

DATE: February 23, 2016

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cochran	Yeatman	CA	<b>Fav/CS</b>
2.	Gusky	Miller	ATD	<b>Recommend: Favorable</b>
3.	Jones	Hrdlicka	FP	<b>Favorable</b>
4.			RC	

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1190 makes several changes to the state's growth management programs. Specifically, the bill:

- Allows the governing body of a county to employ tax increment financing to fund economic development activities and projects which directly benefit the tax increment area;
- Revises the types of comprehensive plan amendments that must follow the state coordinated review process, and also establishes a procedure for issuing a final order if the state land planning agency fails to take action;
- Amends the minimum acreage for application of a sector plan from 15,000 to 5,000 acres;
- Changes the acreage for annexation of enclaves under certain circumstances from 10 to 110 acres;
- Authorizes a developer, the Department of Economic Opportunity (DEO), and a local government to amend a development of regional impact (DRI) agreement when a project has been determined to be essentially built out without following the notice of proposed change process;
- Authorizes the exchange of one approved land use for another so long as there is no increase in impacts to public facilities;
- Specifies that persons do not lose the right to complete DRIs upon certain changes to those developments;

- Provides that a substantial deviation to a previously approved DRI or development order condition is subject to further DRI review through the notice of proposed change process;
- Clarifies that certain proposed developments which are currently consistent with the local government comprehensive plan are not required to be reviewed pursuant to the State Coordinated Review Process for comprehensive plan amendments;
- Revises conditions under which the DRI aggregation requirements do not apply; and
- Establishes procedures relating to rights, duties, and obligations related to certain development orders or agreements if a development elects to rescind a development order.

According to the DEO, the bill is likely to have a minimal, but indeterminate, fiscal impact due to a reduction in the number and types of situations that result in DRI amendments or extensive review of amendments.

The bill is effective July 1, 2016.

## II. Present Situation:

### Growth Management

The Local Government Comprehensive Planning and Land Development Regulation Act,<sup>1</sup> also known as Florida's Growth Management Act, was adopted in 1985. The act requires all counties and municipalities to adopt local government comprehensive plans that guide future growth and development.<sup>2</sup> Comprehensive plans contain elements that address topics including future land use, housing, transportation, conservation, and capital improvements, among others.<sup>3</sup> Development that does not conform to the comprehensive plan may not be approved by a local government unless the local government amends its comprehensive plan first. The state land planning agency that administers these provisions is the Department of Economic Opportunity (DEO).<sup>4</sup>

State law requires a proposed comprehensive plan amendment to receive 3 public hearings, the first held by the local planning board.<sup>5</sup> The local commission (city or county) must then hold an initial public hearing regarding the proposed amendment and subsequently transmit it to several statutorily identified reviewing agencies, including DEO, the relevant Regional Planning Council (RPC), and adjacent local governments that request to participate in the review process.<sup>6</sup>

The state and regional agencies review the proposed amendment for impacts related to their statutory purview. The RPC reviews the amendment specifically for "extrajurisdictional impacts that would be inconsistent with the comprehensive plan of any affected local government within the region" as well as adverse effects on regional resources or facilities.<sup>7</sup> Upon receipt of the reports from the various agencies, the local government holds a second public hearing at which

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<sup>1</sup> See ch. 163, part II, F.S.

<sup>2</sup> Section 163.3167, F.S.

<sup>3</sup> Section 163.3177, F.S.

<sup>4</sup> Section 163.3221(14), F.S.

<sup>5</sup> Sections 163.3174(4)(a), and 163.3184, F.S.

<sup>6</sup> Section 163.3184, F.S.

<sup>7</sup> Section 163.3184(3)(b)3.a., F.S.

the governing body votes to approve the amendment or not. If the amendment receives a favorable vote it is transmitted to the DEO for final review.<sup>8</sup> The DEO then has either 31 days or 45 days (depending on the review process to which the amendment is subject) to determine whether the proposed comprehensive plan amendment is in compliance with all relevant laws and agency rules.<sup>9</sup>

### **Development of Regional Impact Background**

A development of regional impact (DRI) is defined as any development which, because of its character, magnitude, or location, would have a substantial effect upon the health, safety, or welfare of citizens of more than one county.<sup>10</sup> The DRI program was initially created in 1972 as an interim program intended to be replaced by comprehensive planning and permitting programs. The DRI program provided a lengthy and complicated review process for proposed projects that was largely duplicated by the successor comprehensive planning review process.

Comprehensive planning was first required by law in 1975. However, the Growth Management Act of 1985 is considered the watershed law that brought truly modern planning requirements into force. In recognition of this fact, the Environmental Land Management Study Committee in 1992 recommended that the DRI program be eliminated and relegated to an enhanced version of the Intergovernmental Coordination Element (ICE) that is required to be included in local comprehensive plans.<sup>11</sup> After much controversy, this recommendation was not implemented, and the DRI program continued in its previous form.

However, over the years, the program was amended to include a number of exemptions. The following list of exemptions is not exhaustive, but illustrates the number and variety of exemptions from the DRI program that have been enacted:<sup>12</sup>

- Certain projects that created at least 100 jobs that met certain qualifications – 1997.
- Certain expansions to port harbors, certain port transportation facilities and certain intermodal transportation facilities – 1999.
- The thresholds used to identify projects subject to the program were increased by 150 percent for development in areas designated as rural areas of critical economic concern (now known as rural areas of opportunity) – 2001.
- Certain proposed facilities for the storage of any petroleum product or certain expansions of existing petroleum product storage facilities – 2002.
- Any renovation or redevelopment within the same land parcel which does not change land use or increase density or intensity of use – 2002.
- Certain waterport or marina developments – 2002.
- The establishment, relocation, or expansion of any military installation as defined in s. 163.3175, F.S. – 2005.

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<sup>8</sup> Section 163.3184, F.S.

<sup>9</sup> Sections 163.3184(3)(c)4., and 163.3184(4)(e)4., F.S.

<sup>10</sup> Section 380.06, F.S.

<sup>11</sup> See Richard G. Rubino and Earl M. Starnes, *Lessons Learned? The History of Planning in Florida*. Tallahassee, FL: Sentry Press, 2008. ISBN 978-1-889574-31-8.

<sup>12</sup> Section 360.06(24), F.S.

In 2009, the Legislature enacted the most significant exemption from the DRI program: the exemption for Dense Urban Land Areas (DULAs).<sup>13</sup> In 2015, eight counties and 243 cities qualified as DULAs. This meant that all projects within those counties and cities were exempted from the DRI program. The areas qualifying as DULAs accounted for more than half of Florida's population.<sup>14</sup>

### ***Consistency with Comprehensive Plans***

DRI development orders are required to be consistent with a local government's comprehensive plan.<sup>15</sup> In *Bay Point Club, Inc., v. Bay County* the court held that any change to a DRI development order must be consistent with the local government's comprehensive plan.<sup>16</sup> This can create concerns for a developer where the DRI development order itself is no longer consistent with the local comprehensive plan because of plan amendments adopted after the DRI development order was approved.<sup>17</sup>

### ***Approval of New DRIs***

Section. 380.06, F.S., governing DRIs, was amended in 2015 to provide that new proposed DRI-sized developments shall be approved by comprehensive plan amendment in lieu of the review process in s. 380.06, F.S. Section 163.3184(2)(c), F.S., was amended to provide that such plan amendments will be reviewed under the state coordinated review process.<sup>18</sup>

### ***Administrative Proceedings Related to Comprehensive Plan Amendments – Final Order Timeframes***

In comprehensive plan amendment cases, the DEO enters final orders finding a plan amendment "in compliance" and the Administration Commission enters final orders finding a plan amendment "not in compliance." When an Administrative Law Judge (ALJ) issues a recommended order to find a plan amendment "in compliance," it is sent to the DEO. The DEO can then enter a final order finding the plan amendment in compliance or, if it disagrees with the ALJ's recommendation, it must refer the matter to the Administration Commission with its recommendation to find the plan amendment "not in compliance." The DEO must make every effort to enter the final order or refer the matter to the Administration Commission expeditiously but at a must be within 90 days after the recommended order is submitted.<sup>19</sup>

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<sup>13</sup> Section 380.06(29), F.S.

<sup>14</sup> Department of Economic Opportunity, List of Local Governments Qualifying as DULAs, available at <http://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/list-of-local-governments-qualifying-as-dense-urban-land-areas> (last visited February 20, 2016).

<sup>15</sup> Section 163.3194(1)(a), F.S.

<sup>16</sup> *Bay Point Club, Inc., v. Bay County*, 890 So.2d 256 (Fla. 1st DCA 2004).

<sup>17</sup> For example, a DRI development order may authorize more density or greater building height than the current comprehensive plan allows, or the plan may require more stringent environmental protections potentially reducing the development footprint from what was allowed when the DRI development order was issued. Department of Economic Opportunity, *Senate Bill 1190 Agency Legislative Bill Analysis* (Jan. 12, 2016) (on file with the Senate Committee on Community Affairs).

<sup>18</sup> Chapter 2015-30, L.O.F.

<sup>19</sup> Sections 120.569 and 163.3184, F.S.



***Essentially Built Out DRIs***

Section 380.06(15)(g), F.S., prohibits a local government from issuing permits for development in a DRI after the buildout date in the development order except under certain circumstances. For an essentially built out DRI, the developer, the local government, and the DEO may enter into an agreement establishing the terms and conditions for continued development, after which the development proceeds pursuant to the local comprehensive plan and land development regulations without further DRI review.<sup>20</sup> The DEO's believes an agreement can be modified on request, with the consent of all the parties to the agreement and without a formal application process.<sup>21</sup>

***Substantial Deviations and Notice of Proposed Changes***

Any proposed change to a previously approved development which creates a reasonable likelihood of additional regional impact, or any type of regional impact created by a change not previously reviewed by the regional planning agency, constitutes a substantial deviation and will cause the proposed change to be subject to further DRI review.<sup>22</sup> Section 380.06(19), F.S., identifies changes to a DRI that, based on numerical standards, are substantial deviations, which means that further DRI review is required. Certain changes do not require further DRI review, for example:

- Changes in the name of the project,
- Changes to certain setbacks,
- Changes to minimum lot sizes,
- Changes that do not increase external peak hour trips,
- Changes that do not reduce open space or conserved areas, and
- Any other changes that DEO agrees in writing are similar to the enumerated changes that do not increase regional impacts.<sup>23</sup>

***Aggregation***

Section 380.0651(4), F.S., provides that two or more developments shall be aggregated and treated as a single DRI when they are determined to be part of a unified plan of development and are physically proximate to one another. Aggregation is not applicable when:

- DRIs that have already received development approval;
- Developments that were authorized before September 1, 1988, and could not have been aggregated under the law existing at that time; and
- Developments exempt from DRI review.<sup>24</sup>

***Vested Rights; Rescinding a DRI Development Order***

Statutory changes or changes in a developer's development program may result in a development that was a DRI when approved no longer being subject to the DRI review process. Section 380.115, F.S., preserves the vested rights of those developments and establishes a procedure

<sup>20</sup> Section 380.06(15)(g)4., F.S.

<sup>21</sup> Department of Economic Opportunity, *Senate Bill 1190 Agency Legislative Bill Analysis* (Jan. 12, 2016) (on file with the Senate Committee on Community Affairs).

<sup>22</sup> Section 380.06(19)(a), F.S.

<sup>23</sup> Section 380.06(19)(e)2., F.S.

<sup>24</sup> Section 380.0651(4)(c), F.S.

under which the developers of such projects may seek to rescind the DRI development orders. Developments subject to this provision are those that:

- Are no longer defined as DRIs under the applicable guidelines and standards;
- Have reduced their size below the DRI guidelines and standards; and
- Are exempt from DRI review.<sup>25</sup>

### **Sector Plans – Minimum Acreage**

Section 163.3245, Florida Statutes, authorizes local governments to adopt sector plans into their comprehensive plans. A sector plan is defined as:

The process authorized by s. 163.3245, in which one or more local governments engage in long-term planning for a large area and address regional issues through adoption of detailed specific area plans within the planning area as a means of fostering innovative planning and development strategies, furthering the purposes of [part II of ch. 163, F.S.,] and part I of chapter 380, reducing overlapping data and analysis requirements, protecting regionally significant resources and facilities, and addressing extrajurisdictional impacts. The term includes an optional sector plan that was adopted before June 2, 2011.<sup>26</sup>

Sector plans are intended for substantial geographic areas of at least 15,000 acres and emphasize urban form and protection of regionally significant resources and public facilities. A sector plan may not be adopted in an area of critical state concern.<sup>27</sup>

### **Annexation of Enclaves**

Florida law defines annexation as the adding of real property to the boundaries of an incorporated municipality.<sup>28</sup> The purpose of annexation varies. Historically, annexation was typically used to provide rural communities with access to municipal services—a proposition grounded in the notion that only cities could effectively deliver essential services such as police, fire, and water and sewer.<sup>29</sup> Presently, in addition to seeking out appropriate levels of essential services, annexation is often used by a developer to find the most favorable laws and regulations for a development or by a municipality to increase its tax base.<sup>30</sup>

There are three threshold requirements to annex land: the annexed land must be unincorporated, contiguous, and compact.<sup>31</sup> “Contiguous” is defined to mean a substantial part of a boundary of the territory sought to be annexed by a municipality is coterminous with a part of the boundary

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<sup>25</sup> Section 380.115, F.S.

<sup>26</sup> Section 163.3164(42), F.S.

<sup>27</sup> Florida Department of Economic Opportunity, Sector Planning Program, available at <http://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/sector-planning-program> (last visited February 20, 2016).

<sup>28</sup> Section 171.031(1), F.S.

<sup>29</sup> Alison Yurko, *A Practical Perspective About Annexation in Florida*, 25 Stetson L. Rev. 699 (1996).

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

<sup>31</sup> Section 171.043, F.S. Section 171.042, F.S., lays out many “prerequisites to annexation.”

of the municipality.<sup>32</sup> “Compactness” means a concentration of a piece of property in a single area and precludes any action which would create enclaves (discussed below), pockets, or finger areas in serpentine patterns.<sup>33</sup>

Assuming the land to be annexed is contiguous and compact, there are two primary methods of annexation procedures—involuntary and voluntary—and one exceptional method—expedited annexation of certain enclaves.<sup>34</sup> An enclave is any unincorporated improved or developed area lying within a single municipality, or surrounded by a single municipality and a manmade or natural obstacle that permits traffic to enter the unincorporated area only through the municipality.<sup>35</sup>

Enclaves can create significant problems in planning, growth management, and service delivery, and s. 171.046, F.S., provides that it is the policy of the state to eliminate enclaves. In order to expedite the annexation of enclaves of 10 acres or less into the most appropriate incorporated jurisdiction, based upon existing or proposed service provision arrangements, a municipality may annex an enclave:

- By interlocal agreement with the county; or
- With fewer than 25 registered voters by municipal ordinance when the annexation is approved in a referendum by at least 60 percent of the registered voters who reside in the enclave.<sup>36</sup>

### **Tax Increment Financing**

Community redevelopment agencies (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>37</sup> The TIF mechanism requires taxing authorities to annually appropriate an amount to the redevelopment trust fund by January 1 each year. This revenue is used to pay debt service on bonds issued to finance redevelopment projects in accordance with a redevelopment plan.<sup>38</sup> The incremental revenue amount is calculated annually as 95 percent of the difference between:

- The amount of ad valorem taxes levied each year by each taxing authority, exclusive of any amount from any debt service millage, on taxable real property contained within the geographic boundaries of a community redevelopment area; and
- The amount of ad valorem taxes which would have been produced by the rate upon which the tax is levied each year by or for each taxing authority, exclusive of any debt service millage, upon the total of the assessed value of the taxable real property in the community redevelopment area as shown upon the most recent assessment roll used in connection with the taxation of such property by each taxing authority prior to the effective date of the ordinance providing for the funding of the trust fund.

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<sup>32</sup> Section 171.031(11), F.S.

<sup>33</sup> Section 171.031(12), F.S.

<sup>34</sup> Section 171.046, F.S.

<sup>35</sup> Section 171.031(13), F.S.

<sup>36</sup> Section 171.046, F.S.

<sup>37</sup> Through tax increment financing, a baseline tax amount is chosen, and then in future years, any taxes generated above that baseline amount are transferred into the trust fund. Section 163.387, F.S.

<sup>38</sup> Section 163.387(1)(a), F.S.

The idea is that as the time period of the CRA increases, the property values within the CRA increase, and in turn the tax increment revenue increases, which is then available to repay public infrastructure and redevelopment costs of the CRA. Tax increment revenues can be used when they are related to development in the designated redevelopment area.<sup>39</sup>

### *TIF Limitations and Exemptions*

CRA's created before July 1, 2002, appropriate tax increment revenues to the redevelopment trust fund for a period not exceeding 30 years, unless the community redevelopment plan is amended. For CRA's created after July 1, 2002, the taxing authorities make the annual appropriation for a period not to exceed 40 years after the fiscal year in which the plan is approved or adopted.<sup>40</sup> The following taxing authorities are exempt from paying the incremental revenues:

- A special district that levies ad valorem taxes on taxable real property in more than one county;
- A special district for which ad valorem taxes are the sole available source of revenue the district has the authority to levy 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;
- A water management district created under s. 373.069, F.S.; and
- A special district specifically made exempt 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.<sup>41</sup>

In addition to CRA's, TIF is allowed for conservation lands and transportation projects.<sup>42</sup>

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

**Section 1** creates s. 125.045(6), F.S., to allow the governing body of a county to employ tax increment financing (TIF) for the purpose of funding economic development activities and projects which directly benefit the tax increment area. The governing body must administer a separate reserve account for the deposit of tax increment revenues. The tax increment authorized must be determined annually and be the amount equal to a maximum of 95 percent of the difference between:

- The amount of ad valorem taxes levied each year by the county, exclusive of any amount from any debt service millage, on taxable real property contained within the geographic boundaries of the tax increment area; and
- The amount of ad valorem taxes which would have been produced by the rate upon which the tax is levied each year by or for the county, exclusive of any debt service millage, upon the total of the assessed value of the taxable real property in the tax increment area, as shown

<sup>39</sup> Harry M. Hipler, *Tax Increment Financing in Florida: A Tool for Local Government Revitalization, Renewal, and Redevelopment*, Fla. Bar J., Volume 81, No. 7 (July/August 2007).

<sup>40</sup> Section 163.387(2)(a), F.S.

<sup>41</sup> Section 163.387(2)(c), F.S.

<sup>42</sup> Sections 259.042, F.S. and 163.3182, F.S.

upon the most recent assessment roll used in connection with the taxation of such property by the county, before establishment of the tax increment area.

**Section 2** amends s. 163.3184, F.S., to:

- Clarify that a development subject to the review process under s. 380.06(30), F.S., must follow the state coordinated review process in s. 163.3184(4), F.S.;
- Provide that recommended orders submitted under s. 163.3184(5)(e), F.S., become final orders 90 days after issuance unless all parties agree to a time extension in writing or the state land planning agency acts pursuant to s. 163.3184(5)(e)1. or 2., F.S.;
- Provide that absent written consent of the parties, if the administrative law judge recommends that the amendment be found not in compliance, the Administration Commission must issue a final order within 45 days after the issuance of the recommended order; and
- Provide that if the administrative law judge recommends that the amendment be found in compliance, the state land planning agency shall issue a final order within 45 days after the issuance of the recommended order. If the agency fails to do so, the recommended order will become final.

**Section 3** amends s. 163.3245, F.S., to decrease the minimum acreage threshold for a sector plan from 15,000 to 5,000 acres.

**Section 4** amends s. 171.046, F.S., to change the acreage threshold for the expedited annexation of enclaves from 10 acres to 110 acres.

**Section 5** amends s. 380.06, F.S., to:

- Provide that a person does not lose his or her right to proceed with a development authorized as a DRI if a change is made to the development that only has the effect of reducing height, density, or intensity of the development from that originally approved.
- Allow parties to amend an essentially built out agreement between the developer, state land planning agency, and the local government without the submission, review, or approval of a notification of proposed change pursuant to s. 380.06(19), F.S. Additionally, one approved land use may be exchanged for another approved land use in developing the unbuilt land uses specified in the agreement. Before the issuance of a building permit pursuant to this exchange, the developer must demonstrate to the local government that the exchange ratio will not result in an increased impact to public facilities and will meet all applicable requirements of the comprehensive plan and land development code.
- Provide that when any proposed change to a previously approved DRI or development order condition exceeds criteria in s. 380.06(19)(b), F.S., it will constitute a substantial deviation and will be subject to further DRI review through the notice of proposed change process.
- Provide that a phase date extension is not a substantial deviation if the state land planning agency, in consultation with the regional planning council and with the written concurrence of the Department of Transportation, agrees that the traffic impact is not significant and adverse under applicable state agency rules.
- Clarify that a proposed development that is consistent with the existing comprehensive plan is not required to undergo review pursuant to the state coordinated review process for

comprehensive plan amendments. This does not apply to amendments to a development order governing an existing DRI.

**Section 6** amends s. 380.0651, F.S., to provide that aggregation review is not triggered when newly acquired lands comprise an area that is less than or equal to 10 percent of the total acreage that is subject to the existing DRI development order, if these lands were acquired subsequent to the development of an existing DRI.

**Section 7** amends s. 380.115, F.S., to clarify the right of rescission of existing DRI orders. A development that elects to rescind a development order will be governed by the provisions of s. 380.115, F.S.

**Section 8** provides that 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:

According to the Department of Economic Opportunity, the bill is likely to have a minimal, but indeterminate, fiscal impact due to a reduction in the number and types of situations that result in DRI amendments or extensive review of amendments.<sup>43</sup>

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<sup>43</sup> Department of Economic Opportunity, *Senate Bill 1190 Agency Legislative Bill Analysis* (Jan. 12, 2016) (on file with the Senate Committee on Community Affairs).

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 125.045, 163.3184, 163.3245, 171.046, 380.06, 380.0651, and 380.115.

**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 January 26, 2016:**

- Removes the 30 day requirement on the state land planning agency for final action on recommended orders;
- States that a recommended order becomes a final order 90 days after issuance unless the state has acted under subparagraph 1 or 2, or all parties consent to an extension;
- Adds that after an ALJ recommends an amendment be found not in compliance, the Administration Commission shall issue a final order within 45 days;
- Adds that after an ALJ recommends an amendment be found in compliance, the state land planning agency shall issue a final order within 45 days, and if it fails to do so, the recommended order shall become final;
- Changes the acreage threshold for the expedited annexation of enclaves from 10 acres to 110 acres;
- Provides that developers can exchange one approved land use for another for an essentially built out project if a resolution is adopted and the developer demonstrates the exchange will not result in an increase in any impacts to public facilities;
- Removes the rebuttable presumption for substantial deviations; and
- Adds a provision allowing a governing body of a county to employ tax increment financing to be used to fund economic development activities within the tax increment area. The increment may not exceed 95 percent of the difference in ad valorem taxes as provided in s. 163.387(1)(a), F.S.

**B. Amendments:**

None.

By the Committee on Community Affairs; and Senator Diaz de la Portilla

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1 A bill to be entitled  
 2 An act relating to growth management; amending s.  
 3 125.045, F.S.; authorizing the governing body of a  
 4 county to employ tax increment financing; requiring  
 5 the governing body of a county to administer a  
 6 separate reserve account for tax increment areas for  
 7 the deposit of tax increment revenues; requiring that  
 8 tax increment revenues be used to fund certain  
 9 activities and projects which directly benefit the tax  
 10 increment area; specifying requirements for a tax  
 11 increment; amending s. 163.3184, F.S.; specifying that  
 12 certain developments must follow the state coordinated  
 13 review process; providing timeframes within which the  
 14 Division of Administrative Hearings must transmit  
 15 certain recommended orders to the Administration  
 16 Commission; establishing deadlines for the state land  
 17 planning agency to take action on recommended orders  
 18 relating to certain plan amendments; providing a  
 19 procedure for issuing a final order if the state land  
 20 planning agency fails to take action; amending s.  
 21 163.3245, F.S.; revising the acreage thresholds for  
 22 sector plans; amending s. 171.046, F.S.; revising the  
 23 size of an enclave that a municipality may annex on an  
 24 expedited basis; amending s. 380.06, F.S.; authorizing  
 25 certain changes to approved developments of regional  
 26 impact; authorizing parties to amend certain  
 27 development agreements without submittal, review, or  
 28 approval of a notification of proposed change;  
 29 providing criteria under which one approved land use  
 30 may be submitted for another approved land use in  
 31 certain land development agreements under certain

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32 circumstances; specifying that certain proposed  
 33 changes to certain developments are a substantial  
 34 deviation; specifying that such developments must  
 35 undergo further development-of-regional-impact review;  
 36 providing that certain phase date extensions to amend  
 37 a development order are not substantial deviations  
 38 under certain circumstances; specifying conditions  
 39 under which certain proposed developments are not  
 40 required to undergo the state-coordinated review  
 41 process; amending s. 380.0651, F.S.; providing that  
 42 lands acquired for development are not subject to  
 43 aggregation under certain circumstances; amending s.  
 44 380.115, F.S.; providing the procedures to be used by  
 45 a development that elects to rescind a development  
 46 order; providing an effective date.

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

50 Section 1. Subsection (6) is added to section 125.045,  
 51 Florida Statutes, to read:

52 125.045 County economic development powers.—

53 (6) The governing body of a county may employ tax increment  
 54 financing for the purposes of this section. For any tax  
 55 increment area created pursuant to this section, the governing  
 56 body of a county shall administer a separate reserve account for  
 57 the deposit of tax increment revenues. Tax increment revenues,  
 58 including the proceeds of any revenue bonds secured by, and  
 59 repaid with, such tax increment revenues, shall be used to fund  
 60 economic development activities and projects which directly



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61 benefit the tax increment area. The tax increment authorized  
 62 under this section shall be determined annually and shall be the  
 63 amount equal to a maximum of 95 percent of the difference  
 64 between:

65 (a) The amount of ad valorem taxes levied each year by the  
 66 county, exclusive of any amount from any debt service millage,  
 67 on taxable real property contained within the geographic  
 68 boundaries of the tax increment area; and

69 (b) The amount of ad valorem taxes which would have been  
 70 produced by the rate upon which the tax is levied each year by  
 71 or for the county, exclusive of any debt service millage, upon  
 72 the total of the assessed value of the taxable real property in  
 73 the tax increment area, as shown upon the most recent assessment  
 74 roll used in connection with the taxation of such property by  
 75 the county, before establishment of the tax increment area.

76 Section 2. Paragraph (c) of subsection (2), paragraph (e)  
 77 of subsection (5), and paragraph (d) of subsection (7) of  
 78 section 163.3184, Florida Statutes, are amended to read:

79 163.3184 Process for adoption of comprehensive plan or plan  
 80 amendment.—

81 (2) COMPREHENSIVE PLANS AND PLAN AMENDMENTS.—

82 (c) Plan amendments that are in an area of critical state  
 83 concern designated pursuant to s. 380.05; propose a rural land  
 84 stewardship area pursuant to s. 163.3248; propose a sector plan  
 85 pursuant to s. 163.3245 or an amendment to an adopted sector  
 86 plan; update a comprehensive plan based on an evaluation and  
 87 appraisal pursuant to s. 163.3191; propose a development that is  
 88 subject to the state coordinated review process ~~qualifies as a~~  
 89 ~~development of regional impact~~ pursuant to s. 380.06; or are new

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90 plans for newly incorporated municipalities adopted pursuant to  
 91 s. 163.3167 ~~must shall~~ follow the state coordinated review  
 92 process in subsection (4).

93 (5) ADMINISTRATIVE CHALLENGES TO PLANS AND PLAN  
 94 AMENDMENTS.—

95 (e) If the administrative law judge recommends that the  
 96 amendment be found in compliance, the judge shall submit the  
 97 recommended order to the state land planning agency.

98 1. If the state land planning agency determines that the  
 99 plan amendment should be found not in compliance, the agency  
 100 shall make every effort to refer the recommended order and its  
 101 determination expeditiously to the Administration Commission for  
 102 final agency action, but at a minimum within the time period  
 103 provided by s. 120.569.

104 2. If the state land planning agency determines that the  
 105 plan amendment should be found in compliance, the agency shall  
 106 make every effort to enter its final order expeditiously, but at  
 107 a minimum within the time period provided by s. 120.569.

108 3. The recommended order submitted under this paragraph  
 109 becomes a final order 90 days after issuance unless the state  
 110 land planning agency acts as provided in subparagraph 1. or  
 111 subparagraph 2., or all parties consent in writing to an  
 112 extension of the 90-day period.

113 (7) MEDIATION AND EXPEDITIOUS RESOLUTION.—

114 (d) For a case following the procedures under this  
 115 subsection, absent a showing of extraordinary circumstances or  
 116 written consent of the parties, if the administrative law judge  
 117 recommends that the amendment be found not in compliance, the  
 118 Administration Commission shall issue a final order, ~~in a case~~

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119 ~~proceeding under subsection (5), within 45 days after the~~  
 120 ~~issuance of the recommended order, unless the parties agree in~~  
 121 ~~writing to a longer time. If the administrative law judge~~  
 122 recommends that the amendment be found in compliance, the state  
 123 land planning agency shall issue a final order within 45 days  
 124 after the issuance of the recommended order. If the state land  
 125 planning agency fails to timely issue a final order, the  
 126 recommended order finding the amendment to be in compliance  
 127 immediately becomes final.

128 Section 3. Subsection (1) of section 163.3245, Florida  
 129 Statutes, is amended to read:

130 163.3245 Sector plans.—

131 (1) In recognition of the benefits of long-range planning  
 132 for specific areas, local governments or combinations of local  
 133 governments may adopt into their comprehensive plans a sector  
 134 plan in accordance with this section. This section is intended  
 135 to promote and encourage long-term planning for conservation,  
 136 development, and agriculture on a landscape scale; to further  
 137 support innovative and flexible planning and development  
 138 strategies, and the purposes of this part and part I of chapter  
 139 380; to facilitate protection of regionally significant  
 140 resources, including, but not limited to, regionally significant  
 141 water courses and wildlife corridors; and to avoid duplication  
 142 of effort in terms of the level of data and analysis required  
 143 for a development of regional impact, while ensuring the  
 144 adequate mitigation of impacts to applicable regional resources  
 145 and facilities, including those within the jurisdiction of other  
 146 local governments, as would otherwise be provided. Sector plans  
 147 are intended for substantial geographic areas that include at

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148 least 5,000 ~~15,000~~ acres of one or more local governmental  
 149 jurisdictions and are to emphasize urban form and protection of  
 150 regionally significant resources and public facilities. A sector  
 151 plan may not be adopted in an area of critical state concern.

152 Section 4. Subsection (2) of section 171.046, Florida  
 153 Statutes, is amended to read:

154 171.046 Annexation of enclaves.—

155 (2) In order to expedite the annexation of enclaves of 110  
 156 ~~40~~ acres or less into the most appropriate incorporated  
 157 jurisdiction, based upon existing or proposed service provision  
 158 arrangements, a municipality may:

159 (a) Annex an enclave by interlocal agreement with the  
 160 county having jurisdiction of the enclave; or

161 (b) Annex an enclave with fewer than 25 registered voters  
 162 by municipal ordinance when the annexation is approved in a  
 163 referendum by at least 60 percent of the registered voters who  
 164 reside in the enclave.

165 Section 5. Subsection (14), paragraph (g) of subsection  
 166 (15), paragraphs (b) and (e) of subsection (19), and subsection  
 167 (30) of section 380.06, Florida Statutes, are amended to read:

168 380.06 Developments of regional impact.—

169 (14) CRITERIA OUTSIDE AREAS OF CRITICAL STATE CONCERN.—If  
 170 the development is not located in an area of critical state  
 171 concern, in considering whether the development ~~is shall be~~  
 172 approved, denied, or approved subject to conditions,  
 173 restrictions, or limitations, the local government shall  
 174 consider whether, and the extent to which:

175 (a) The development is consistent with the local  
 176 comprehensive plan and local land development regulations.;

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177 (b) The development is consistent with the report and  
 178 recommendations of the regional planning agency submitted  
 179 pursuant to subsection (12), ~~and~~  
 180 (c) The development is consistent with the State  
 181 Comprehensive Plan. In consistency determinations, the plan  
 182 shall be construed and applied in accordance with s. 187.101(3).  
 183  
 184 However, a local government may approve a change to a  
 185 development authorized as a development of regional impact if  
 186 the change has the effect of reducing the originally approved  
 187 height, density, or intensity of the development, and if the  
 188 revised development would have been consistent with the  
 189 comprehensive plan in effect when the development was originally  
 190 approved. If the revised development is approved, the developer  
 191 may proceed as provided in s. 163.3167(5).  
 192 (15) LOCAL GOVERNMENT DEVELOPMENT ORDER.-  
 193 (g) A local government may ~~shall~~ not issue a permit ~~permits~~  
 194 for a development subsequent to the buildout date contained in  
 195 the development order unless:  
 196 1. The proposed development has been evaluated cumulatively  
 197 with existing development under the substantial deviation  
 198 provisions of subsection (19) after ~~subsequent to~~ the  
 199 termination or expiration date;  
 200 2. The proposed development is consistent with an  
 201 abandonment of development order that has been issued in  
 202 accordance with ~~the provisions of~~ subsection (26);  
 203 3. The development of regional impact is essentially built  
 204 out, in that all the mitigation requirements in the development  
 205 order have been satisfied, all developers are in compliance with

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206 all applicable terms and conditions of the development order  
 207 except the buildout date, and the amount of proposed development  
 208 that remains to be built is less than 40 percent of any  
 209 applicable development-of-regional-impact threshold; or  
 210 4. The project has been determined to be an essentially  
 211 built out ~~built-out~~ development of regional impact through an  
 212 agreement executed by the developer, the state land planning  
 213 agency, and the local government, in accordance with s. 380.032,  
 214 which will establish the terms and conditions under which the  
 215 development may be continued. If the project is determined to be  
 216 essentially built out, development may proceed pursuant to the  
 217 s. 380.032 agreement after the termination or expiration date  
 218 contained in the development order without further development-  
 219 of-regional-impact review subject to the local government  
 220 comprehensive plan and land development regulations ~~or subject~~  
 221 ~~to a modified development-of-regional-impact analysis. The~~  
 222 parties may amend the agreement without submission, review, or  
 223 approval of a notification of proposed change pursuant to  
 224 subsection (19). For the purposes of ~~As used in~~ this paragraph,  
 225 a ~~an~~ "essentially built-out" development of regional impact is  
 226 essentially built out, if means:  
 227 a. The developers are in compliance with all applicable  
 228 terms and conditions of the development order except the  
 229 buildout date; and  
 230 b.(I) The amount of development that remains to be built is  
 231 less than the substantial deviation threshold specified in  
 232 paragraph (19)(b) for each individual land use category, or, for  
 233 a multiuse development, the sum total of all unbuilt land uses  
 234 as a percentage of the applicable substantial deviation

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235 threshold is equal to or less than 100 percent; or  
 236 (II) The state land planning agency and the local  
 237 government have agreed in writing that the amount of development  
 238 to be built does not create the likelihood of any additional  
 239 regional impact not previously reviewed.

240  
 241 The single-family residential portions of a development may be  
 242 considered "essentially built out" if all of the workforce  
 243 housing obligations and all of the infrastructure and horizontal  
 244 development have been completed, at least 50 percent of the  
 245 dwelling units have been completed, and more than 80 percent of  
 246 the lots have been conveyed to third-party individual lot owners  
 247 or to individual builders who own no more than 40 lots at the  
 248 time of the determination. The mobile home park portions of a  
 249 development may be considered "essentially built out" if all the  
 250 infrastructure and horizontal development has been completed,  
 251 and at least 50 percent of the lots are leased to individual  
 252 mobile home owners. In order to accommodate changing market  
 253 demands and achieve maximum land use efficiency in an  
 254 essentially built out project, when a developer is building out  
 255 a project, a local government, without the concurrence of the  
 256 state land planning agency, may adopt a resolution authorizing  
 257 the developer to exchange one approved land use for another  
 258 approved land use specified in the agreement. Before issuance of  
 259 a building permit pursuant to an exchange, the developer must  
 260 demonstrate to the local government that the exchange ratio will  
 261 not result in a net increase in impacts to public facilities and  
 262 will meet all applicable requirements of the comprehensive plan  
 263 and land development code.

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264 (19) SUBSTANTIAL DEVIATIONS.-  
 265 (b) Any proposed change to a previously approved  
 266 development of regional impact or development order condition  
 267 which, either individually or cumulatively with other changes,  
 268 exceeds any of the ~~following~~ criteria in subparagraphs 1.-11.  
 269 constitutes ~~shall constitute~~ a substantial deviation and shall  
 270 cause the development to be subject to further development-of-  
 271 regional-impact review through the notice of proposed change  
 272 process under this subsection. ~~without the necessity for a~~  
 273 ~~finding of same by the local government:~~  
 274 1. An increase in the number of parking spaces at an  
 275 attraction or recreational facility by 15 percent or 500 spaces,  
 276 whichever is greater, or an increase in the number of spectators  
 277 that may be accommodated at such a facility by 15 percent or  
 278 1,500 spectators, whichever is greater.  
 279 2. A new runway, a new terminal facility, a 25 percent  
 280 lengthening of an existing runway, or a 25 percent increase in  
 281 the number of gates of an existing terminal, but only if the  
 282 increase adds at least three additional gates.  
 283 3. An increase in land area for office development by 15  
 284 percent or an increase of gross floor area of office development  
 285 by 15 percent or 100,000 gross square feet, whichever is  
 286 greater.  
 287 4. An increase in the number of dwelling units by 10  
 288 percent or 55 dwelling units, whichever is greater.  
 289 5. An increase in the number of dwelling units by 50  
 290 percent or 200 units, whichever is greater, provided that 15  
 291 percent of the proposed additional dwelling units are dedicated  
 292 to affordable workforce housing, subject to a recorded land use

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293 restriction that shall be for a period of not less than 20 years  
 294 and that includes resale provisions to ensure long-term  
 295 affordability for income-eligible homeowners and renters and  
 296 provisions for the workforce housing to be commenced before  
 297 ~~prior to~~ the completion of 50 percent of the market rate  
 298 dwelling. For purposes of this subparagraph, the term  
 299 "affordable workforce housing" means housing that is affordable  
 300 to a person who earns less than 120 percent of the area median  
 301 income, or less than 140 percent of the area median income if  
 302 located in a county in which the median purchase price for a  
 303 single-family existing home exceeds the statewide median  
 304 purchase price of a single-family existing home. For purposes of  
 305 this subparagraph, the term "statewide median purchase price of  
 306 a single-family existing home" means the statewide purchase  
 307 price as determined in the Florida Sales Report, Single-Family  
 308 Existing Homes, released each January by the Florida Association  
 309 of Realtors and the University of Florida Real Estate Research  
 310 Center.

311 6. An increase in commercial development by 60,000 square  
 312 feet of gross floor area or of parking spaces provided for  
 313 customers for 425 cars or a 10 percent increase, whichever is  
 314 greater.

315 7. An increase in a recreational vehicle park area by 10  
 316 percent or 110 vehicle spaces, whichever is less.

317 8. A decrease in the area set aside for open space of 5  
 318 percent or 20 acres, whichever is less.

319 9. A proposed increase to an approved multiuse development  
 320 of regional impact where the sum of the increases of each land  
 321 use as a percentage of the applicable substantial deviation

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322 criteria is equal to or exceeds 110 percent. The percentage of  
 323 any decrease in the amount of open space shall be treated as an  
 324 increase for purposes of determining when 110 percent has been  
 325 reached or exceeded.

326 10. A 15 percent increase in the number of external vehicle  
 327 trips generated by the development above that which was  
 328 projected during the original development-of-regional-impact  
 329 review.

330 11. Any change that would result in development of any area  
 331 which was specifically set aside in the application for  
 332 development approval or in the development order for  
 333 preservation or special protection of endangered or threatened  
 334 plants or animals designated as endangered, threatened, or  
 335 species of special concern and their habitat, any species  
 336 protected by 16 U.S.C. ss. 668a-668d, primary dunes, or  
 337 archaeological and historical sites designated as significant by  
 338 the Division of Historical Resources of the Department of State.  
 339 The refinement of the boundaries and configuration of such areas  
 340 shall be considered under sub-subparagraph (e)2.j.

341

342 The substantial deviation numerical standards in subparagraphs  
 343 3., 6., and 9., excluding residential uses, and in subparagraph  
 344 10., are increased by 100 percent for a project certified under  
 345 s. 403.973 which creates jobs and meets criteria established by  
 346 the Department of Economic Opportunity as to its impact on an  
 347 area's economy, employment, and prevailing wage and skill  
 348 levels. The substantial deviation numerical standards in  
 349 subparagraphs 3., 4., 5., 6., 9., and 10. are increased by 50  
 350 percent for a project located wholly within an urban infill and

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351 redevelopment area designated on the applicable adopted local  
 352 comprehensive plan future land use map and not located within  
 353 the coastal high hazard area.

354 (e)1. Except for a development order rendered pursuant to  
 355 subsection (22) or subsection (25), a proposed change to a  
 356 development order which individually or cumulatively with any  
 357 previous change is less than any numerical criterion contained  
 358 in subparagraphs (b)1.-10. and does not exceed any other  
 359 criterion, or which involves an extension of the buildout date  
 360 of a development, or any phase thereof, of less than 5 years is  
 361 not subject to the public hearing requirements of subparagraph  
 362 (f)3., and is not subject to a determination pursuant to  
 363 subparagraph (f)5. Notice of the proposed change shall be made  
 364 to the regional planning council and the state land planning  
 365 agency. Such notice must include a description of previous  
 366 individual changes made to the development, including changes  
 367 previously approved by the local government, and must include  
 368 appropriate amendments to the development order.

369 2. The following changes, individually or cumulatively with  
 370 any previous changes, are not substantial deviations:

371 a. Changes in the name of the project, developer, owner, or  
 372 monitoring official.

373 b. Changes to a setback which do not affect noise buffers,  
 374 environmental protection or mitigation areas, or archaeological  
 375 or historical resources.

376 c. Changes to minimum lot sizes.

377 d. Changes in the configuration of internal roads which do  
 378 not affect external access points.

379 e. Changes to the building design or orientation which stay

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380 approximately within the approved area designated for such  
 381 building and parking lot, and which do not affect historical  
 382 buildings designated as significant by the Division of  
 383 Historical Resources of the Department of State.

384 f. Changes to increase the acreage in the development, if  
 385 no development is proposed on the acreage to be added.

386 g. Changes to eliminate an approved land use, if there are  
 387 no additional regional impacts.

388 h. Changes required to conform to permits approved by any  
 389 federal, state, or regional permitting agency, if these changes  
 390 do not create additional regional impacts.

391 i. Any renovation or redevelopment of development within a  
 392 previously approved development of regional impact which does  
 393 not change land use or increase density or intensity of use.

394 j. Changes that modify boundaries and configuration of  
 395 areas described in subparagraph (b)11. due to science-based  
 396 refinement of such areas by survey, by habitat evaluation, by  
 397 other recognized assessment methodology, or by an environmental  
 398 assessment. In order for changes to qualify under this sub-  
 399 subparagraph, the survey, habitat evaluation, or assessment must  
 400 occur before the time that a conservation easement protecting  
 401 such lands is recorded and must not result in any net decrease  
 402 in the total acreage of the lands specifically set aside for  
 403 permanent preservation in the final development order.

404 k. Changes that do not increase the number of external peak  
 405 hour trips and do not reduce open space and conserved areas  
 406 within the project except as otherwise permitted by sub-  
 407 subparagraph j.

408 l. A phase date extension, if the state land planning

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409 agency, in consultation with the regional planning council and  
 410 subject to the written concurrence of the Department of  
 411 Transportation, agrees that the traffic impact is not  
 412 significant and adverse under applicable state agency rules.

413 ~~m.~~ Any other change that the state land planning agency,  
 414 in consultation with the regional planning council, agrees in  
 415 writing is similar in nature, impact, or character to the  
 416 changes enumerated in sub-subparagraphs a.-l. ~~a.-k.~~ and that  
 417 does not create the likelihood of any additional regional  
 418 impact.

419  
 420 This subsection does not require the filing of a notice of  
 421 proposed change but requires an application to the local  
 422 government to amend the development order in accordance with the  
 423 local government's procedures for amendment of a development  
 424 order. In accordance with the local government's procedures,  
 425 including requirements for notice to the applicant and the  
 426 public, the local government shall either deny the application  
 427 for amendment or adopt an amendment to the development order  
 428 which approves the application with or without conditions.  
 429 Following adoption, the local government shall render to the  
 430 state land planning agency the amendment to the development  
 431 order. The state land planning agency may appeal, pursuant to s.  
 432 380.07(3), the amendment to the development order if the  
 433 amendment involves sub-subparagraph g., sub-subparagraph h.,  
 434 sub-subparagraph j., sub-subparagraph k., or sub-subparagraph m.  
 435 ~~l.~~ and if the agency believes that the change creates a  
 436 reasonable likelihood of new or additional regional impacts.

437 3. Except for the change authorized by sub-subparagraph

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438 2.f., any addition of land not previously reviewed or any change  
 439 not specified in paragraph (b) or paragraph (c) shall be  
 440 presumed to create a substantial deviation. This presumption may  
 441 be rebutted by clear and convincing evidence.

442 4. Any submittal of a proposed change to a previously  
 443 approved development must include a description of individual  
 444 changes previously made to the development, including changes  
 445 previously approved by the local government. The local  
 446 government shall consider the previous and current proposed  
 447 changes in deciding whether such changes cumulatively constitute  
 448 a substantial deviation requiring further development-of-  
 449 regional-impact review.

450 5. The following changes to an approved development of  
 451 regional impact shall be presumed to create a substantial  
 452 deviation. Such presumption may be rebutted by clear and  
 453 convincing evidence:-

454 a. A change proposed for 15 percent or more of the acreage  
 455 to a land use not previously approved in the development order.  
 456 Changes of less than 15 percent shall be presumed not to create  
 457 a substantial deviation.

458 b. Notwithstanding any provision of paragraph (b) to the  
 459 contrary, a proposed change consisting of simultaneous increases  
 460 and decreases of at least two of the uses within an authorized  
 461 multiuse development of regional impact which was originally  
 462 approved with three or more uses specified in s. 380.0651(3)(c)  
 463 and (d) and residential use.

464 6. If a local government agrees to a proposed change, a  
 465 change in the transportation proportionate share calculation and  
 466 mitigation plan in an adopted development order as a result of

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467 recalculation of the proportionate share contribution meeting  
 468 the requirements of s. 163.3180(5)(h) in effect as of the date  
 469 of such change shall be presumed not to create a substantial  
 470 deviation. For purposes of this subsection, the proposed change  
 471 in the proportionate share calculation or mitigation plan may  
 472 not be considered an additional regional transportation impact.

473 (30) ~~NEW~~ PROPOSED DEVELOPMENTS.—A ~~new~~ proposed development  
 474 otherwise subject to the review requirements of this section  
 475 shall be approved by a local government pursuant to s.  
 476 163.3184(4) in lieu of proceeding in accordance with this  
 477 section. However, if the proposed development is consistent with  
 478 the comprehensive plan as provided in s. 163.3194(3)(b), the  
 479 development is not required to undergo review pursuant to s.  
 480 163.3184(4) or this section. This subsection does not apply to  
 481 amendments to a development order governing an existing  
 482 development of regional impact.

483 Section 6. Paragraph (c) of subsection (4) of section  
 484 380.0651, Florida Statutes, is amended to read:

485 380.0651 Statewide guidelines and standards.—

486 (4) Two or more developments, represented by their owners  
 487 or developers to be separate developments, shall be aggregated  
 488 and treated as a single development under this chapter when they  
 489 are determined to be part of a unified plan of development and  
 490 are physically proximate to one other.

491 (c) Aggregation is not applicable when the following  
 492 circumstances and provisions of this chapter apply are  
 493 applicable:

494 1. Developments that which are otherwise subject to  
 495 aggregation with a development of regional impact which has

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496 received approval through the issuance of a final development  
 497 order may shall not be aggregated with the approved development  
 498 of regional impact. However, ~~nothing contained in this~~  
 499 subparagraph does not shall preclude the state land planning  
 500 agency from evaluating an allegedly separate development as a  
 501 substantial deviation pursuant to s. 380.06(19) or as an  
 502 independent development of regional impact.

503 2. Two or more developments, each of which is independently  
 504 a development of regional impact that has or will obtain a  
 505 development order pursuant to s. 380.06.

506 3. Completion of any development that has been vested  
 507 pursuant to s. 380.05 or s. 380.06, including vested rights  
 508 arising out of agreements entered into with the state land  
 509 planning agency for purposes of resolving vested rights issues.  
 510 Development-of-regional-impact review of additions to vested  
 511 developments of regional impact shall not include review of the  
 512 impacts resulting from the vested portions of the development.

513 4. The developments sought to be aggregated were authorized  
 514 to commence development before prior to September 1, 1988, and  
 515 could not have been required to be aggregated under the law  
 516 existing before prior to that date.

517 5. Any development that qualifies for an exemption under s.  
 518 380.06(29).

519 6. Newly acquired lands intended for development in  
 520 coordination with developed and existing development of regional  
 521 impact are not subject to aggregation if such newly acquired  
 522 lands comprise an area equal to, or less than, 10 percent of the  
 523 total acreage subject to an existing development-of-regional-  
 524 impact development order.



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525 Section 7. Subsection (1) of section 380.115, Florida  
 526 Statutes, is amended to read:  
 527 380.115 Vested rights and duties; effect of size reduction,  
 528 changes in guidelines and standards.—

529 (1) A change in a development-of-regional-impact guideline  
 530 and standard does not abridge or modify any vested or other  
 531 right or any duty or obligation pursuant to any development  
 532 order or agreement that is applicable to a development of  
 533 regional impact. A development that has received a development-  
 534 of-regional-impact development order pursuant to s. 380.06~~7~~ but  
 535 is no longer required to undergo development-of-regional-impact  
 536 review by operation of a change in the guidelines and standards,  
 537 a development that ~~or~~ has reduced its size below the thresholds  
 538 specified in s. 380.0651, ~~or~~ a development that is exempt  
 539 pursuant to s. 380.06(24) or (29), or a development that elects  
 540 to rescind the development order are ~~shall be~~ governed by the  
 541 following procedures:

542 (a) The development shall continue to be governed by the  
 543 development-of-regional-impact development order and may be  
 544 completed in reliance upon and pursuant to the development order  
 545 unless the developer or landowner has followed the procedures  
 546 for rescission in paragraph (b). Any proposed changes to those  
 547 developments which continue to be governed by a development  
 548 order must ~~shall~~ be approved pursuant to s. 380.06(19) as it  
 549 existed before a change in the development-of-regional-impact  
 550 guidelines and standards, except that all percentage criteria  
 551 are ~~shall be~~ doubled and all other criteria are ~~shall be~~  
 552 increased by 10 percent. The development-of-regional-impact  
 553 development order may be enforced by the local government as

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554 provided in ~~by~~ ss. 380.06(17) and 380.11.

555 (b) If requested by the developer or landowner, the  
 556 development-of-regional-impact development order shall be  
 557 rescinded by the local government having jurisdiction upon a  
 558 showing that all required mitigation related to the amount of  
 559 development that existed on the date of rescission has been  
 560 completed or will be completed under an existing permit or  
 561 equivalent authorization issued by a governmental agency as  
 562 defined in s. 380.031(6), if ~~provided~~ such permit or  
 563 authorization is subject to enforcement through administrative  
 564 or judicial remedies.

565 Section 8. This act shall take effect July 1, 2016.  
 566

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# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**COMMITTEES:**  
Judiciary, *Chair*  
Appropriations Subcommittee on Transportation,  
Tourism, and Economic Development  
Community Affairs  
Finance and Tax  
Regulated Industries  
Rules

**SENATOR MIGUEL DIAZ de la PORTILLA**  
40th District

February 17, 2016

The Honorable Anitere Flores  
Chair  
Fiscal Policy Committee

Via Email

Dear Chair Flores:

I would appreciate it if you would agenda the following bill at your next committee meeting:

CS/SB 1190: Growth Management

Thank you for your consideration.

Sincerely,

Miguel Diaz de la Portilla  
Senator, District 40

Cc: Ms Jennifer Hrdlicka, Staff Director; Ms. Tamra Lyon, Committee Administrative Assistant

**REPLY TO:**

- 2100 Coral Way, Suite 505, Miami, Florida 33145 (305) 643-7200
- 406 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5040

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

2/24/16  
Meeting Date

CS/SB 1190  
Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name Gary Hunter

Job Title Attorney - Hopping Green & Sams

Address 119 S. Monroe St Suite 300  
Street  
Tallahassee FL 32301  
City State Zip

Phone 850-222-7500

Email garyh@hgs law.com

Speaking:  For  Against  Information

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

Representing Association of Florida Community Developers

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)

FEB 24

Meeting Date

1190

Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name CHRISTOPHER EMMANUEL

Job Title POLICY DIRECTOR

Address 136 S BRONOUGH ST

Phone 8509331223

Street

TLH FL 32301

Email CEMMANUEL@FLCHAMBER

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

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/25/16  
Meeting Date

1190  
Bill Number (if applicable)

Topic Growth Management

Amendment Barcode (if applicable)

Name Nancy Linnan

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

Address 215 S. MARINE ST #500

Phone 850 212-7631

Street  
Tall City FL State 32301 Zip

Email nlinnan@calhounfields.com

Speaking:  For  Against  Information

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

Representing The Villages The Howard Group

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

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

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

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

---

BILL: SB 1226

INTRODUCER: Senator Ring

SUBJECT: Administrative Procedures

DATE: February 16, 2016

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kim</u>	<u>McVaney</u>	<u>GO</u>	<b>Favorable</b>
2.	<u>Davis</u>	<u>DeLoach</u>	<u>AGG</u>	<b>Recommend: Favorable</b>
3.	<u>Pace</u>	<u>Hrdlicka</u>	<u>FP</u>	<b>Favorable</b>

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## I. Summary:

SB 1226 requires a statement of estimated regulatory costs (SERC) to include the adverse impacts and regulatory costs estimated to occur five years after the effective date of a rule. If a portion of the rule is not fully implemented on the effective date of the rule, the SERC must be adjusted to include the adverse impacts and regulatory costs expected to occur within the first five years after full implementation of that portion of the rule.

With these changes to the SERC, more administrative rules may exceed the cost thresholds (\$1 million within 5 years), requiring more rules to be ratified by the legislature prior to taking effect.

This bill has an indeterminate fiscal impact on state agencies.

## II. Present Situation:

### Rulemaking Authority and Legislative Ratification

A rule is an agency statement of general applicability that interprets, implements, or prescribes law or policy.<sup>1</sup> Rulemaking authority is delegated by the Legislature in law to an agency, and authorizes an agency to adopt, develop, establish, or otherwise create a rule.<sup>2</sup> An agency may not engage in rulemaking unless it has a legislative grant of authority to do so.<sup>3</sup> The statutory authority for rulemaking must be specific enough to guide an agency's rulemaking and an agency rule must not exceed the bounds of authority granted by the Legislature.<sup>4</sup>

---

<sup>1</sup> Section 120.52(16), F.S.

<sup>2</sup> Section 120.52(17), F.S.

<sup>3</sup> See ss. 120.52(8) and 120.536(1), F.S.

<sup>4</sup> See *Sloban v. Florida Board of Pharmacy*, 982 So. 2d 26 (Fla. 1st DCA 2008) and *Southwest Florida Water Management District v. Save the Manatee Club, Inc.*, 773 So. 2d 594 (Fla 1st DCA 2000).

Prior to the adoption, amendment, or repeal of any rule an agency must file a notice of the proposed rule in the Florida Administrative Register.<sup>5</sup> The notice of the proposed rule must include:

- An explanation of the purpose and effect;
- The specific legal authority for the rule;
- The full text of the rule; and
- A summary of the agency's SERC, if one is prepared.<sup>6</sup>

Within 21 days of the notice, the public may provide an agency with information regarding the SERC or provide proposals for a lower cost alternative to the rule.<sup>7</sup>

### ***SERC Requirements***

Agencies must prepare a SERC for a rule that has an adverse impact on small businesses or that increases regulatory costs more than \$200,000 within 1 year after implementation of the rule.<sup>8</sup>

A SERC must include estimates of:

- The number of people and entities effected by the proposed rule;
- The cost to the agency and other governmental entities to implement the proposed rule;
- Transactional costs likely to be incurred by people, entities, and governmental agencies for compliance; and
- An analysis of the proposed rule's impact on small businesses, counties, and cities.<sup>9</sup>

The SERC must also include an economic analysis on the likelihood that the proposed rule will have an adverse impact in excess of \$1 million within the first 5 years of implementation on:

- Economic growth, private-sector job creation or employment, or private-sector investment;
- Business competitiveness,<sup>10</sup> productivity, or innovation; or
- Regulatory costs, including any transactional costs.<sup>11</sup>

If the economic analysis results in an adverse impact or regulatory costs in excess of \$1 million within 5 years after implementation of the rule, then the rule must be ratified by the Legislature in order to take effect.<sup>12</sup>

---

<sup>5</sup> See ss. 120.54(2)(a) and 120.55(1)(b), F.S.

<sup>6</sup> Section 120.54(3)(a)1., F.S.

<sup>7</sup> See ss. 120.54(3)(a)1. and 120.541(1)(a), F.S.

<sup>8</sup> Section 120.541(1)(a), F.S.

<sup>9</sup> Section 120.541(2)(b)-(e), F.S. A small city has an unincarcerated population of 10,000 or less. A small county has an unincarcerated population of 75,000 or less. A small business employs less than 200 people, and has a net worth of \$5 million or less.

<sup>10</sup> Business competitiveness includes the ability of those doing business in Florida to compete with those doing business in other states or domestic markets.

<sup>11</sup> Section 120.541(2)(a), F.S.

<sup>12</sup> Section 120.541(3), F.S. Legislative ratification is not required for adoption of federal standards, amendments to the Florida Building Code, or amendments to the Florida Fire Prevention Code. See s. 120.541(4), F.S.

**III. Effect of Proposed Changes:**

The bill requires a SERC to include the adverse impacts and regulatory costs estimated to occur within 5 years after the effective date of a rule. If a portion of the rule is not fully implemented on the effective date of the rule, the SERC must be adjusted to include the adverse impacts and regulatory costs expected to occur within the first 5 years after full implementation of that portion of the rule.

The bill may result in more rules that require legislative ratification due to an increased number of rules that have adverse impacts and regulatory costs that exceed \$1 million within 5-years of full implementation.

The bill is effective on July 1, 2016.

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

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

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

None.

**C. Trust Funds Restrictions:**

None.

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

None.

**B. Private Sector Impact:**

If the provisions of the bill result in agencies publishing more SERCs, then there may be additional opportunities for public input on proposed rules through the additional SERCs.

**C. Government Sector Impact:**

The bill has an indeterminate fiscal impact on state agencies. To meet the additional SERC requirements created in the bill, agencies may have to complete more SERCs. The workload increase maybe require agencies to devote more resources to rulemaking. The bill may also result in more rules being subject to legislative ratification before they may become effective.



**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Agencies may experience some difficulty making estimates for projected costs associated with unimplemented portions of a rule.

Additional administrative rules may be subject to ratification by the Legislature prior to taking effect because the recognition of additional costs may result in rules exceeding the adverse impacts and regulatory cost thresholds. To the extent the ratification process delays the full implementation of a legislatively mandated policy or program, the intent of the Legislature regarding that particular policy or program may be frustrated. The delay may be upwards of 14 months (in the case of a rule that is identified in May of one year and not being ratified until the next legislative session). On the other hand, a better estimate of the full costs and impacts of the policy or program on the private sector will be available for review by the Legislature.

**VIII. Statutes Affected:**

This bill substantially amends section 120.541 of the Florida Statutes.

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

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

None.

**B. Amendments:**

None.

By Senator Ring

29-01538-16

20161226\_\_

1 A bill to be entitled  
2 An act relating to administrative procedures; amending  
3 s. 120.541, F.S.; providing additional requirements  
4 for the calculation of estimated adverse impacts and  
5 regulatory costs; providing an effective date.

6  
7 Be It Enacted by the Legislature of the State of Florida:

8  
9 Section 1. Subsection (5) is added to section 120.541,  
10 Florida Statutes, to read:

11 120.541 Statement of estimated regulatory costs.—  
12 (5) For purposes of subsections (2) and (3), adverse  
13 impacts and regulatory costs likely to occur within 5 years  
14 after implementation of the rule include adverse impacts and  
15 regulatory costs estimated to occur within 5 years after the  
16 effective date of the rule. However, if any provision of the  
17 rule is not fully implemented upon the effective date of the  
18 rule, the adverse impacts and regulatory costs associated with  
19 such provision must be adjusted to include any additional  
20 adverse impacts and regulatory costs estimated to occur within 5  
21 years after implementation of such provision.

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

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

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

---

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

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BILL: SB 1402

INTRODUCER: Senator Simmons

SUBJECT: Ratification of Department of Financial Services Rules

DATE: February 23, 2016

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Knudson</u>	<u>Knudson</u>	<u>BI</u>	<b>Favorable</b>
2.	<u>Jones</u>	<u>Hrdlicka</u>	<u>FP</u>	<b>Favorable</b>

---

**I. Summary:**

SB 1402 ratifies Rule 69L-7.020, F.A.C.

Florida's Workers' Compensation law requires that the provider reimbursement manuals setting the maximum reimbursement rates for medical services be updated every 3 years.

The *Florida Workers' Compensation Health Care Provider Reimbursement Manual* (manual), *2015 Edition*, sets out the policies, guidelines, codes, and maximum reimbursement allowances for services and supplies furnished by health care providers under the Workers' Compensation statutes. The manual provides the reimbursement policies and payment methodologies for pharmacists and medical suppliers pertaining to Workers' Compensation. The current manual adopted by Rule 67-7.020, F.A.C., dates from 2008. The Legislature has not ratified any rules providing updates since 2008.

The Statement of Estimated Regulatory Costs shows Rule 69L-7.020, F.A.C., *Florida Workers' Compensation Health Care Provider Reimbursement Manual, 2015 Edition*, would have a specific, adverse economic effect, or would increase regulatory costs, exceeding \$1 million over the first 5 years the rule is in effect. Accordingly, the rule must be ratified by the Legislature before it may go into effect.

The rule was adopted on July 16, 2015, and submitted for ratification on November 3, 2015. The bill authorizes the rule to go into effect. The scope of the bill is limited to this rulemaking condition and does not adopt the substance of any rule into the statutes.

State government and local governments that are self-insured may see an increase in workers' compensation costs. See Section V. Fiscal Impact Statement.

The bill is effective upon becoming law.

## II. Present Situation:

The Department of Financial Services (DFS), Division of Workers' Compensation, provides regulatory oversight of Florida's workers' compensation system. Florida's workers' compensation law<sup>1</sup> provides medically necessary treatment and care for injured employees, including medications. The law provides reimbursement formulas and methodologies to compensate providers of health services, subject to maximum reimbursement allowances (MRAs).<sup>2</sup> A three-member panel (panel) consisting of the CFO or CFO designee and two Governor appointees sets the MRAs.<sup>3</sup> The DFS incorporates the statewide schedules of the MRAs by rule in reimbursement manuals.<sup>4</sup>

Currently, the reimbursement schedules for individual licensed providers are contained in the Florida Workers' Compensation Health Care Provider Reimbursement Manual (manual), 2008 Edition. On January 22, 2015, the panel approved a revised uniform schedule of MRAs for physicians and other recognized practitioners. On July 16, 2015, the DFS adopted the amended version of Rule 69L-7.020, F.A.C., incorporating by reference the 2015 Edition of the manual and updating incorporating references to other materials used for provider reimbursement together with the manual. According to the Statement of Estimated Regulatory Costs (SERC), the revisions to MRAs in the updated manual will result in increased costs to the overall compensation system of \$272 million over the next 5 years.<sup>5</sup>

### Rulemaking Authority and Legislative Ratification

A rule is an agency statement of general applicability that interprets, implements, or prescribes law or policy.<sup>6</sup> Rulemaking authority is delegated by the Legislature in law to an agency, and authorizes an agency to adopt, develop, establish, or otherwise create a rule.<sup>7</sup> An agency may not engage in rulemaking unless it has a legislative grant of authority to do so.<sup>8</sup> The statutory authority for rulemaking must be specific enough to guide an agency's rulemaking and an agency rule must not exceed the bounds of authority granted by the Legislature.<sup>9</sup>

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<sup>1</sup> Chapter 440, F.S.

<sup>2</sup> Section 440.13(12), F.S. The MRAs are schedules for medically necessary treatment, care, and attendance provided by physicians, hospitals, ambulatory surgical centers, work-hardening programs, pain programs, and durable medical equipment. The MRAs for inpatient hospital care are based on a schedule of per diem rates approved by the three-member panel no later than March 1, 1994, and are to be used in conjunction with a precertification manual as determined by the DFS, including maximum hours in which an outpatient may remain in observation status, which cannot exceed 23 hours.

<sup>3</sup> Section 440.13(12), F.S.

<sup>4</sup> Sections 440.13(12), F.S., and ch. 69L-7, F.A.C. Currently there are three manuals, the: Florida Workers' Compensation Health Care Provider Reimbursement Manual (Rule 69L-7.020, F.A.C.), Florida Workers' Compensation Reimbursement Manual for Ambulatory Surgical Centers (Rule 69L-7.100, F.A.C.), and Florida Workers' Compensation Reimbursement Manual for Hospitals (Rule 69L-7.501, F.A.C.). Each manual is adopted by reference in the indicated rule.

<sup>5</sup> Department of Financial Services Statement of Estimated Regulatory Costs, Workers' Compensation, *Rule 69L-7.020, F.A.C., Florida's Workers' Compensation Health Care Provider Reimbursement Manual* (on file with the Senate Committee on Fiscal Policy).

<sup>6</sup> Section 120.52(16), F.S.

<sup>7</sup> Section 120.52(17), F.S.

<sup>8</sup> See ss. 120.52(8) and 120.536(1), F.S.

<sup>9</sup> See *Sloban v. Florida Board of Pharmacy*, 982 So. 2d 26 (Fla. 1st DCA 2008) and *Southwest Florida Water Management District v. Save the Manatee Club, Inc.*, 773 So. 2d 594 (Fla 1st DCA 2000).

Prior to the adoption, amendment, or repeal of any rule an agency must file a notice of the proposed rule in the Florida Administrative Register.<sup>10</sup> The notice of the proposed rule must include:

- An explanation of the purpose and effect;
- The specific legal authority for the rule;
- The full text of the rule; and
- A summary of the agency's SERC, if one is prepared.<sup>11</sup>

Within 21 days of the notice, the public may provide an agency with information regarding the SERC or provide proposals for a lower cost alternative to the rule.<sup>12</sup>

### ***SERC Requirements***

Agencies must prepare a SERC for a rule that has an adverse impact on small businesses or that increases regulatory costs more than \$200,000 within 1 year after implementation of the rule.<sup>13</sup>

A SERC must include estimates of:

- The number of people and entities effected by the proposed rule;
- The cost to the agency and other governmental entities to implement the proposed rule;
- Transactional costs likely to be incurred by people, entities, and governmental agencies for compliance; and
- An analysis of the proposed rule's impact on small businesses, counties, and cities.<sup>14</sup>

The SERC must also include an economic analysis on the likelihood that the proposed rule will have an adverse impact in excess of \$1 million within the first 5 years of implementation on:

- Economic growth, private-sector job creation or employment, or private-sector investment;
- Business competitiveness,<sup>15</sup> productivity, or innovation; or
- Regulatory costs, including any transactional costs.<sup>16</sup>

If the economic analysis results in an adverse impact or regulatory costs in excess of \$1 million within 5 years after implementation of the rule, then the rule must be ratified by the Legislature in order to take effect.<sup>17</sup>

<sup>10</sup> See ss. 120.54(2)(a) and 120.55(1)(b), F.S.

<sup>11</sup> Section 120.54(3)(a)1., F.S.

<sup>12</sup> See ss. 120.54(3)(a)1., and 120.541(1)(a), F.S.

<sup>13</sup> Section 120.541(1)(a), F.S.

<sup>14</sup> Section 120.541(2)(b)-(e), F.S. A small city has an unincarcerated population of 10,000 or less. A small county has an unincarcerated population of 75,000 or less. A small business employs less than 200 people, and has a net worth of \$5 million or less.

<sup>15</sup> Business competitiveness includes the ability of those doing business in Florida to compete with those doing business in other states or domestic markets.

<sup>16</sup> Section 120.541(2)(a), F.S.

<sup>17</sup> Section 120.541(3), F.S. Legislative ratification is not required for adoption of federal standards, amendments to the Florida Building Code, or amendments to the Florida Fire Prevention Code. See s. 120.541(4), F.S.

**Impact of Rule 69L-7.020, F.A.C.**

Rule 69L-7.020, F.A.C., incorporates by reference the *Florida Workers' Compensation Health Care Provider Reimbursement Manual, 2015 Edition*, (manual) providing for reimbursement of health care providers under the increased MRAs approved by the panel. The SERC shows Rule 69L-7.020, F.A.C., would have a specific, adverse economic effect, or would increase regulatory costs, exceeding \$1 million over the first 5 years the rule is in effect. Accordingly, the rule must be ratified by the Legislature before it may go into effect.

**III. Effect of Proposed Changes:**

The bill ratifies Rule 69L-7.020, F.A.C., allowing the rule to go into effect.

**Section 1** ratifies Rule 69L-7.020, F.A.C., solely to meet the condition for effectiveness imposed by s. 120.541(3), F.S. The bill expressly limits ratification to the effectiveness of the rules. The bill provides that it will not be codified in the Florida Statutes but only noted in the historical comments to each rule by the Department of State.

**Section 2** provides that the bill is effective upon becoming law.

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

To the extent the bill requires a local government to expend funds, provisions of art. VII, s. 18(a) of the Florida Constitution, may apply. If those provisions do apply, for the law to be binding upon the cities and counties, the Legislature must find that it fulfills an important state interest and one of the exceptions must apply:

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

Both state and local governments who are self-insured may see an increase in workers' compensation costs.

**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 itself does not directly impact the private sector. Private employers responsible for paying workers' compensation claims or obtaining workers' compensation insurance will incur increased costs due to the increase in maximum reimbursements for providers.

**C. Government Sector Impact:**

The DFS Division of Risk Management estimates that the Rule 69L-7.020, F.A.C., will increase workers' compensation non-operating expenses by:

- \$2,071,658 million for Fiscal Year 2016-2017;
- \$2,136,258 million for Fiscal Year 2017-2018; and
- \$2,202,758 million for Fiscal Year 2018-2019.<sup>18</sup>

The Revenue Estimating Conference (REC) determines the non-operating costs for the DFS Division of Risk Management. If the REC reviews the non-operating costs for the DFS Division of Risk Management related to the medical treatment of a workers' compensation injury, it may increase the division's non-operating costs.

Local governments who are self-insured may see an increase of 1.9% in workers' compensation costs.<sup>19</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

None.

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<sup>18</sup> Department of Financial Services, *Bill Analysis for SB 7073*, (January 26, 2016) (on file with the Senate Committee on Fiscal Policy). The estimates were calculated by multiplying the estimated workers' compensation expenses for Fiscal Years 2016-2017 through 2018-2019 (based on the Revenue Estimating Conference on December 21, 2015), minus the pharmacy costs paid under the Division of Risk Management's vendor, multiplied by 1.9% (the estimated increase as a result of the bill).

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

**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 Simmons

10-01208-16

20161402\_\_

1 A bill to be entitled  
 2 An act relating to ratification of Department of  
 3 Financial Services rules; ratifying a specified rule  
 4 relating to the Florida Workers' Compensation Health  
 5 Care Provider Reimbursement Manual for the sole and  
 6 exclusive purpose of satisfying any condition on  
 7 effectiveness pursuant to s. 120.541(3), F.S., which  
 8 requires ratification of any rule exceeding the  
 9 specified thresholds for likely adverse impact or  
 10 increase in regulatory costs; providing applicability;  
 11 providing an effective date.  
 12

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

15 Section 1. (1) The following rule is ratified for the sole  
 16 and exclusive purpose of satisfying any condition on  
 17 effectiveness imposed under s. 120.541(3), Florida Statutes:  
 18 Rule 69L-7.020, Florida Administrative Code, titled "Florida  
 19 Workers' Compensation Health Care Provider Reimbursement Manual"  
 20 as filed for adoption with the Department of State pursuant to  
 21 the certification package dated July 16, 2015.

22 (2) This act serves no other purpose and shall not be  
 23 codified in the Florida Statutes. After this act becomes law,  
 24 its enactment and effective dates shall be noted in the Florida  
 25 Administrative Code, the Florida Administrative Register, or  
 26 both, as appropriate. This act does not alter rulemaking  
 27 authority delegated by prior law, does not constitute  
 28 legislative preemption of or exception to any provision of law  
 29 governing adoption or enforcement of the rule cited, and is  
 30 intended to preserve the status of any cited rule as a rule  
 31 under chapter 120, Florida Statutes. This act does not cure any  
 32 rulemaking defect or preempt any challenge based on a lack of

Page 1 of 2

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

10-01208-16

20161402\_\_

33 authority or a violation of the legal requirements governing the  
 34 adoption of any rule cited.

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

Page 2 of 2

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



The Florida Senate

## Committee Agenda Request

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

**Subject:** Committee Agenda Request

**Date:** February 2, 2016

---

I respectfully request that **Senate Bill 1402**, relating to Ratification of Department of Financial Services Rules, be placed on the:

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

A handwritten signature in black ink, appearing to read "David Simmons".

---

Senator David Simmons  
Florida Senate, District 10

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/24/16

Meeting Date

1402

Bill Number (if applicable)

Topic Ratification of Dept Financial Services Rules Amendment Barcode (if applicable)

Name Dr. Cori Repp MD

Job Title Medical Director

Address 1105 53rd Ave E  
Street

Phone 941 755 2562

Bradenton FL 34203  
City State Zip

Email DR\_Corri@hotmail.com

Speaking:  For  Against  Information

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

Representing U.S. Health Works

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/24/16

Meeting Date

1402

Bill Number (if applicable)

Topic Work Comp Reimbursements

Amendment Barcode (if applicable)

Name Tammy Perdue

Job Title General Counsel

Address 516 N Adams St

Phone 850 224 7173

Street

TLH

FL

32301

City

State

Zip

Email tperdue@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.

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)

1/24  
Meeting Date

1402  
Bill Number (if applicable)

Topic Ratification

Amendment Barcode (if applicable)

Name Mary Thomas

Job Title Assistant General Counsel

Address 1430 Piedmont Dr E

Phone 850 224 6496

Street

JCH

FL

32308

City

State

Zip

Email MThomas@flmedical.org

Speaking:  For  Against  Information

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

Representing Florida Medical 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)

2-24-16

Meeting Date

SB 1402

Bill Number (if applicable)

Topic Rule Ratification/Workers' Compensation

Amendment Barcode (if applicable)

Name Elizabeth Boyd

Job Title Director of Legislative Affairs

Address 400 N Monroe St

Phone 850-413-2863

Street

Tallahassee

FL

32399

Email elizabeth.boyd@myfloridacfo.com

City

State

Zip

Speaking:  For  Against  Information

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

Representing CFO Atwater

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)

Feb 24

Meeting Date

1402

Bill Number (if applicable)

Topic Workers' Comp

Amendment Barcode (if applicable)

Name Toni Large

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

Address 519 E. Park Ave

Phone (850) 556-1461

Street

Tallahassee, FL 32308

Email toni@sulaw.net

City

State

Zip

Speaking:  For  Against  Information

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

Representing FL Orthopedic Society

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:

Rules, *Chair*  
Appropriations  
Appropriations Subcommittee on Education  
Banking and Insurance  
Environmental Preservation and Conservation  
Higher Education  
Judiciary

### JOINT COMMITTEE:

Joint Legislative Budget Commission

**SENATOR DAVID SIMMONS**

10th District

February 24, 2016

Senator Anitere Flores  
413 Senate Office Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Dear Chair Flories:

I will be unable to present my bill, SB 1402 Ratification of Department of Financial Services in Fiscal Policy today. My Rules Committee is meeting at the same time.

I would like to request that my legislative assistant, Diane Suddes, be permitted to present this bill on my behalf. Please feel free to contact me with any questions.

Sincerely yours

A handwritten signature in black ink, appearing to read "David Simmons", written over a printed name.

David Simmons

### REPLY TO:

- 251 Maitland Avenue, Suite 304, Altamonte Springs, FL 32701 (407) 262-7578
- 400 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5010

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

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore



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

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

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

---

BILL: CS/CS/SB 1454

INTRODUCER: Fiscal Policy Committee; Environmental Preservation and Conservation Committee; and Senator Hutson

SUBJECT: Vessels

DATE: February 25, 2016

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Istler</u>	<u>Rogers</u>	<u>EP</u>	<u>Fav/CS</u>
2.	<u>Harkness</u>	<u>Sadberry</u>	<u>ACJ</u>	<u>Recommend: Favorable</u>
3.	<u>Pace</u>	<u>Hrdlicka</u>	<u>FP</u>	<u>Fav/CS</u>

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 1454 revises what constitutes careless operation of a vessel and requires the issuance of safety inspection decals by law enforcement officers to operators of vessels that have been found in compliance with the safety equipment carriage and use requirements. The bill prohibits law enforcement officers from stopping a vessel solely for the purpose of inspecting safety equipment carriage requirements if the vessel has a properly displayed valid safety inspection decal, unless there is reasonable suspicion that a violation of the safety equipment carriage or use requirements is occurring or has occurred.

The bill has a negative, but indeterminate, fiscal impact due to bill's requirement that the Fish and Wildlife Conservation Commission (FWC) create and administer safety inspection decals.

**II. Present Situation:**

**Reckless or Careless Operation of a Vessel**

A person who operates a vessel in willful or wanton disregard for the safety of persons or property at a speed or in a manner that endangers, or is likely to endanger, life or limb, or damage property, or injure any person is guilty of reckless operation of a vessel.<sup>1</sup> The penalty for

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<sup>1</sup> Section 327.33(1), F.S.

committing reckless operation of a vessel is a misdemeanor of the first degree, which is punishable by maximum imprisonment of one year or a maximum fine of \$1,000.<sup>2</sup>

A person who fails to operate a vessel in a reasonable and prudent manner, having disregard for other waterborne traffic, posted speed, wake restrictions, and all other attendant circumstances so as to endanger the life, limb, or property of any person, is guilty of careless operation of a vessel. Careless operation of a vessel is a noncriminal violation, which is punishable by a civil penalty of \$50.<sup>3</sup>

### **Vessel Inspections, Enforcement, and Safety Decals**

The Florida Vessel Safety Law, as well as vessel titling, certificate, and registration requirements, are authorized to be enforced by the following entities or officers:

- The Division of Law Enforcement of the FWC and its officers;
- Sheriffs of the various counties and their deputies;
- Municipal police officers; and
- Any other law enforcement officer described in s. 943.10, F.S.<sup>4</sup>

The FWC and any other law enforcement agency are authorized to inspect and investigate vessels as necessary to carry out and enforce the Florida Vessel Safety Law.<sup>5</sup>

The following safety items are required by state and federal law and if found to be missing during a safety inspection can result in a vessel citation:

- Visible distress signals;
- Fire extinguishers;
- Navigation lights;
- Personal floatation devices; and
- Sound-producing devices.<sup>6</sup>

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<sup>2</sup> Section 327.33(1), F.S.

<sup>3</sup> See ss. 327.33(2) and 327.73(1)(h), F.S.

<sup>4</sup> Section 327.70, F.S.; Section 943.10, F.S., defines the term “law enforcement officer” as “any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state...”

<sup>5</sup> See ss. 327.56, 327.70(4) and 328.18, F.S.; ch. 327, F.S. comprises the *Florida Vessel Safety Law*. The U.S. Constitution protects people from unreasonable searches and seizures by the government through the Fourth Amendment, which provides that “the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated....” The extent to which an individual is protected by the Fourth Amendment depends on the location of the search or seizure. None of the similar safeguards that are applicable to stops of motor vehicles on less than a probable cause are necessary predicates to stop a vessel. See U.S. CONST. amend. IV and U.S. Government Publishing Office, *Amendment 4-Search and Seizure*, pg. 1423 (Oct. 5, 2014), available at <https://www.congress.gov/content/conan/pdf/GPO-CONAN-REV-2014-10-5.pdf> (last visited Feb. 20, 2016).

<sup>6</sup> See s. 327.50, F.S., and FWC, *Boating Regulations, Equipment and Lighting Requirements*, available at <http://myfwc.com/boating/regulations/#nogo> (last visited Feb. 20, 2016) and U.S. Coast Guard Auxiliary, *Vessel Safety Checks*, available at <http://cgaux.org/vsc/> (last visited Feb. 20, 2016).

An officer is prohibited from boarding a vessel to make a safety inspection if the owner or operator is not aboard.<sup>7</sup> If the owner or operator is aboard, an officer is authorized to board a vessel with the consent or when the officer has probable cause or knowledge to believe that a violation of the Florida Vessel Safety Law is occurring. An officer may board a vessel if the operator refuses or is unable to display the safety equipment required by law when requested to do so by an officer or when the safety equipment to be inspected is permanently installed and is not visible for inspection unless the officer boards the vessel.<sup>8</sup>

The United States Coast Guard offers Vessel Safety Checks (VSC) free of charge.<sup>9</sup> Boats that pass the safety check are awarded a distinctive VSC Decal that alerts the Coast Guard, Harbor Patrol, and other law enforcement agencies that the boat was in full compliance with all federal and state boating laws for that year.<sup>10</sup> The decal is to be immediately affixed to a portion of the boat where it is readily visible to law enforcement authorities.<sup>11</sup>

**2014 Uniform Boating Citation Summary<sup>12</sup>**

Citation Type	Number of Citations Issued	
	FWC	Other
<b>Negligent Operation of a Vessel</b> Reckless operation of a vessel Careless operation of a vessel Navigation rule violation resulting in an accident Navigation rule violation not resulting in an accident Failure to report an accident	802	468
<b>Registration and Numbering</b> Operation of unregistered/unnumbered vessels Application, certificate, number or decal violation Special manufacturer and dealer numbers Violation relating to vessel titling Violation relating to Hull Identification Numbers	1,052	416
<b>Safety Equipment and Regulations</b> Equipment and lighting requirements	3,416	525

**III. Effect of Proposed Changes:**

**Section 1** amends s. 327.33, F.S., to revise what constitutes careless operation of a vessel to only apply if a person is operating a vessel in an unreasonable or imprudent manner that endangers the

<sup>7</sup> Section 327.56, F.S.

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

<sup>9</sup> U.S. Coast Guard Auxiliary, *Vessel Safety Check Website*, available at <http://wow.uscgaux.info/content.php?unit=V-DEPT> (last visited Feb. 20, 2016).

<sup>10</sup> U.S. Coast Guard, *Vessel Safety Check Manual*, (Oct. 2014) available at [http://vdept.cgaux.org/pdf-files/CIM\\_16796\\_8A\\_Printable\\_Version.pdf](http://vdept.cgaux.org/pdf-files/CIM_16796_8A_Printable_Version.pdf) (last visited Feb. 20, 2016).

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

<sup>12</sup> FWC, 2014 Boating Accident Statistical Report, *Violation Summary* (2014) available at <http://myfwc.com/media/3046852/2014-BoatingStatistics-violationsummary.pdf> (last visited Feb. 20, 2016). The FWC is required to compile statistics on boating accidents and boating violations. See s. 327.804, F.S.

life, limb, or property of another person *outside of the vessel or endangers the life, limb, or property of any person due to vessel overloading or excessive speed.*

**Section 2** amends s. 327.70, F.S., to:

- Require a law enforcement officer to issue a safety inspection decal to the operator of a vessel upon demonstrated compliance with safety equipment carriage and use requirements during a safety inspection initiated by the law enforcement officer;
- Provide that a safety inspection decal signifies that the vessel was in compliance with the safety equipment carriage and use requirements at the time and location of the inspection;
- Provide that a safety inspection decal, if displayed, must:
  - Be located within six inches of the vessel's properly displayed vessel registration decal;  
or
  - For non-motorized vessels which are not required to be registered, be located on the forward half of the port side of the vessel above the waterline.
- Prohibit law enforcement officers from stopping a vessel solely for the purpose of inspecting safety equipment carriage and use requirements if the vessel has a properly displayed valid safety inspection decal, except when there is a reasonable suspicion that a violation of the safety equipment carriage or use requirements is occurring or has occurred; and
- Clarify that the intent of the subsection is not to restrict vessel stops for any other lawful purpose.

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 bill requires the Fish and Wildlife Conservation Commission to create and administer safety inspection decals. The cost of creating such decals is unknown at this time.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 327.33 and 327.70.

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 Fiscal Policy on February 24, 2016:**

The committee substitute clarifies that the intent is not to restrict a law enforcement officer from stopping a vessel for any other “lawful” purpose.

**CS by Environmental Preservation and Conservation on February 9, 2016:**

The CS removes the revision as to what constitutes the reckless operation of a vessel and reinstates the authority of law enforcement officers to inspect vessels in accordance with chs. 327 and 327, F.S., and cause any investigation necessary to secure information required to carry out and enforce the provisions of chs. 327 and 328, F.S.

The CS requires a law enforcement officer, upon demonstrated compliance with safety equipment carriage and use requirements during a safety inspection initiated by a law enforcement officer, to issue a safety inspection decal to the operator of such vessel. The CS provides display requirements for the safety inspection decal, if displayed. The CS prohibits law enforcement officers from stopping a vessel solely for the purpose of inspecting safety equipment carriage requirements if the vessel has a properly displayed valid safety inspection decal, except when there is a reasonable suspicion that a violation of the safety equipment carriage or use requirements is occurring or has occurred.

B. **Amendments:**

None.



932594

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/24/2016	.	
	.	
	.	
	.	

---

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

**Senate Amendment**

Delete lines 54 - 55  
and insert:  
occurring. This subsection does not restrict a law enforcement  
officer from stopping a vessel for any other lawful purpose.

By the Committee on Environmental Preservation and Conservation;  
and Senator Hutson

592-03277-16

20161454c1

A bill to be entitled

An act relating to vessels; amending s. 327.33, F.S.;  
revising provisions relating to careless operation of  
a vessel; amending s. 327.70, F.S.; requiring the  
issuance and use of a safety inspection decal under  
certain circumstances; prohibiting law enforcement  
officers from stopping a vessel for a specified  
purpose under certain circumstances; providing an  
exception; providing an effective date.

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

Section 1. Subsection (2) of section 327.33, Florida  
Statutes, is amended to read:

327.33 Reckless or careless operation of vessel.—

(2) A Any person who operates any ~~operating a~~ vessel upon  
the waters of this state shall operate the vessel in a  
reasonable and prudent manner, having regard for other  
waterborne traffic, posted speed and wake restrictions, and all  
other attendant circumstances so as not to endanger the life,  
limb, or property of another any person outside the vessel or  
endanger the life, limb, or property of any person due to vessel  
overloading or excessive speed. The failure to operate a vessel  
in a manner described in this subsection constitutes careless  
operation. However, vessel wake and shoreline wash resulting  
from the reasonable and prudent operation of a vessel ~~shall~~,  
absent negligence, does not constitute damage or endangerment to  
property. A Any person who violates the provisions of this  
subsection commits a noncriminal violation as defined in s.  
775.08.

Section 2. Subsections (2), (3), and (4) of section 327.70,

Page 1 of 3

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

592-03277-16

20161454c1

Florida Statutes, are amended to read:

327.70 Enforcement of this chapter and chapter 328.—

(2) (a) The operator of a vessel, upon demonstrated  
compliance with safety equipment carriage and use requirements  
as provided in this chapter during a safety inspection initiated  
by a law enforcement officer, shall be issued a safety  
inspection decal signifying such compliance. The safety  
inspection decal, if displayed, must be located within 6 inches  
of the inspected vessel's properly displayed vessel registration  
decal and shall signify that the vessel is deemed to have met  
safety equipment carriage and use requirements as provided in  
this chapter at the time and location of inspection. For non-  
motorized vessels which are not required to be registered, the  
safety inspection decal, if displayed, must be located on the  
forward half of the port side of the vessel above the waterline.

(b) Law enforcement officers may not stop a vessel solely  
for the purpose of inspecting safety equipment carriage  
requirements when the vessel properly displays a valid safety  
inspection decal, created or approved by the Division of Law  
Enforcement of the Fish and Wildlife Conservation Commission,  
except when there is reasonable suspicion that a violation of a  
safety equipment carriage or use requirement has occurred or is  
occurring. Nothing herein is intended to restrict vessel stops  
for any other unlawful purpose.

(3) (a) Noncriminal violations of the following statutes may  
be enforced by a uniform boating citation mailed to the  
registered owner of an unattended vessel anchored, aground, or  
moored on the waters of this state:

1. Section 327.33(3) (b), relating to navigation rules.

Page 2 of 3

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

592-03277-16

20161454c1

61           2. Section 327.44, relating to interference with  
62 navigation.

63           3. Section 327.50(2), relating to required lights and  
64 shapes.

65           4. Section 327.53, relating to marine sanitation.

66           5. Section 328.48(5), relating to display of decal.

67           6. Section 328.52(2), relating to display of number.

68           (b) Citations issued to livery vessels under this  
69 subsection shall be the responsibility of the lessee of the  
70 vessel if the livery has included a warning of this  
71 responsibility as a part of the rental agreement and has  
72 provided to the agency issuing the citation the name, address,  
73 and date of birth of the lessee when requested by that agency.  
74 The livery is not responsible for the payment of citations if  
75 the livery provides the required warning and lessee information.

76           (4)~~(3)~~ Such officers shall have the power and duty to issue  
77 such orders and to make such investigations, reports, and  
78 arrests in connection with any violation of the provisions of  
79 this chapter and chapter 328 as are necessary to effectuate the  
80 intent and purpose of this chapter and chapter 328.

81           (5)~~(4)~~ The Fish and Wildlife Conservation Commission or any  
82 other law enforcement agency may make any investigation  
83 necessary to secure information required to carry out and  
84 enforce the provisions of this chapter and chapter 328.

85           Section 3. This act shall take effect July 1, 2016.  
86





The Florida Senate

## Committee Agenda Request

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

**Subject:** Committee Agenda Request

**Date:** February 18, 2016

---

I respectfully request that **Senate Bill #1454**, relating to Vessels, be placed on the:

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

A handwritten signature in cursive script, appearing to read "Travis Hutson".

---

Senator Travis Hutson  
Florida Senate, District 6

**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

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BILL: CS/SB 1490

INTRODUCER: Banking and Insurance Committee and Senator Garcia and others

SUBJECT: Federal Home Loan Banks

DATE: February 23, 2016

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
2.	<u>Peacock</u>	<u>McVaney</u>	<u>GO</u>	<u>Favorable</u>
3.	<u>Hrdlicka</u>	<u>Hrdlicka</u>	<u>FP</u>	<u>Favorable</u>

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1490 clarifies that the Office of Financial Regulation (OFR), is not prevented from providing otherwise confidential information to any Federal Home Loan Bank (FHLBank) regarding its member institutions pursuant to an information-sharing agreement. An FHLBank generally provides low cost loans, known as advances, to its members to fund residential housing finance and small business and community development activities. Members include thrift institutions, commercial banks, credit unions, insurance companies, and certified community development financial institutions. The OFR is required to execute an information-sharing agreement with the FHLBanks by August 1, 2016.

The bill may have a minimal fiscal impact to the OFR, which can be absorbed within existing resources.

## II. Present Situation:

### U.S. Banking System

The U.S. dual banking system allows commercial banks to become chartered under either federal or state law. National banks are chartered under federal law,<sup>1</sup> while state-chartered banks are chartered under the laws of the state in which the bank is headquartered.

National banks' primary federal regulator is the Office of the Comptroller of the Currency (OCC), an independent agency within the U.S. Department of the Treasury. The primary federal regulator for state banks that are members of the Federal Reserve System is the Board of Governors of the Federal Reserve System (FRB). The primary federal regulator for non-FRB member banks is the Federal Deposit Insurance Corporation (FDIC). Credit unions may be either state or federally chartered, and their primary federal regulator is the National Credit Union Administration.<sup>2</sup>

### Office of Financial Regulation

In Florida, the Office of Financial Regulation (OFR) charters and regulates entities that engage in financial institution business in Florida, in accordance with the Florida Financial Institutions Codes (Codes).<sup>3</sup> The OFR does not regulate financial institutions that are nationally chartered or chartered in other states. In addition, the OFR does not regulate institutions that are chartered and regulated by foreign institutions, except to the extent those foreign institutions seek to engage in the business of banking or trust business in Florida.

The OFR ensures Florida-chartered financial institutions' compliance with state and federal requirements for safety and soundness.<sup>4</sup> Like its federal counterparts, the OFR conducts regular examinations of Florida institutions. The Codes require the OFR to examine each Florida financial institution during each 18-month period, although it may examine more frequently based on the institution's risk profile, prior exam history, or significant changes in the institution or its operations.<sup>5</sup> The examinations primarily review the institution's condition as to its capital, asset quality, management, earnings, liquidity, and sensitivity (such as interest rate risk), based on a uniform supervisory rating system (CAMELS) used by state and federal financial institution regulators to classify a financial institution's overall condition.<sup>6</sup> Upon completion of the examination, the regulator presents its findings and recommended corrective measures to the institution through a confidential examination report.

---

<sup>1</sup> The National Bank Act enumerates certain powers to nationally chartered banks and "all such incidental powers as shall be necessary to carry on the business of banking" 12 U.S.C. s. 24 Seventh. *See also NationsBank of North Carolina, N.A. v. Variable Life Annuity Ins. Co.*, 513 U.S. 251 (1995).

<sup>2</sup> 12 U.S.C. s. 1813(q). *See* U.S. Department of the Treasury, OCC, Answers and Solutions: *Who Regulates My Bank?*, available at <http://www.helpwithmybank.gov/national-banks/national-banks.html> (last visited 2/17/2016).

<sup>3</sup> Chapters 655, 657, 658, 660, 663, 665, 667, F.S.

<sup>4</sup> While the Codes do not specifically define "safety and soundness," s. 655.005(1)(y), F.S., defines "unsafe and unsound practice" for purposes of the Codes.

<sup>5</sup> Section 655.045(1), F.S.

<sup>6</sup> CAMELS is based on the Federal Financial Institutions Examination Council's Uniform Financial Institutions Rating System. Institutions are assessed on a 1 (best) to 5 (worst) rating system. *See* FDIC Financial Institution Letter FIL-105-96 (Dec. 26, 1996).

### ***Confidentiality of Records and Information***

Section 655.057, F.S., governs the confidentiality of records and information relating to investigations; informal enforcement actions; trade secrets; and reports of examination, operations, or condition, including working papers prepared by, or for the use of, the OFR or any state or federal agency responsible for the regulation or supervision of financial institutions in Florida. The statute generally provides that OFR records related to investigations and examination reports are confidential and exempt from s. 119.07(1), F.S.<sup>7</sup>

The law does not prevent or restrict the OFR from “furnishing records or information to any other state, federal, or foreign agency responsible for the regulation or supervision of financial institutions, including Federal Home Loan Banks.”<sup>8</sup>

The OFR routinely shares confidential supervisory information with other federal and state bank regulators in accordance with memoranda of understanding (MOUs) that maintain the confidential treatment that the documents or information would receive under the submitting agency’s applicable confidentiality laws.<sup>9</sup> In particular, OFR examination reports routinely contain confidential information obtained from other bank regulators, and the OFR is obligated to protect such information pursuant to federal confidentiality restrictions and these MOUs. Willful release of confidential information is a third-degree felony under s. 655.057(13), F.S. Similar federal criminal sanctions may also apply if confidential information of federal bank regulators is improperly released.

### **Federal Home Loan Banks**

The Federal Home Loan Bank (FHLBank) system is a group of government-sponsored enterprises comprised of 11 regional, federally chartered banks.<sup>10</sup> Each FHLBank is owned by its members, which include thrift institutions, commercial banks, credit unions, insurance companies, and certified community development financial institutions.<sup>11</sup> Each FHLBank generally provides low cost loans, known as advances, to its members to fund residential housing finance and small business and community development activities.<sup>12</sup> In essence, they are the “bankers’ banks.” Over 7,200 financial institutions are members of the FHLBank System.<sup>13</sup>

To become a member of a regional FHLBank, a financial institution must meet certain eligibility requirements.<sup>14</sup> Federal law requires the institution to demonstrate compliance with certain financial condition requirements by providing documentation such as regulatory financial

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<sup>7</sup> Except as otherwise provided in s. 655.057, F.S., and except for such portions of an investigation or report that are otherwise public record. Section 655.057(2) and (12)(a), F.S.

<sup>8</sup> Section 655.057(5), F.S.

<sup>9</sup> See, e.g., s. 655.057(9), F.S.; 12 C.F.R. parts 261 and 309.

<sup>10</sup> 12 U.S.C. 1421 *et seq.* See also Federal Home Loan Bank, available at <http://www.fhlbanks.com/index.html> (last visited 2/17/2016).

<sup>11</sup> Federal Housing Finance Agency, *About FHLBank System*, available at <http://www.fhfa.gov/SupervisionRegulation/FederalHomeLoanBanks/Pages/About-FHL-Banks.aspx> (last visited 2/17/2016).

<sup>12</sup> 81 F.R. 3246 (Jan. 20, 2016), *Members of Federal Home Loan Banks*.

<sup>13</sup> Federal Housing Finance Agency, *2015 FHFA Performance and Accountability Report*, p. 9, available at <http://www.fhfa.gov/AboutUs/Reports/ReportDocuments/FHFA-2015-PAR.pdf> (last visited 2/17/2016).

<sup>14</sup> 12 U.S.C. s. 1424(a)(2)(B); 12 C.F.R. ss. 1263.6(a)(4) and 1263.11.

reports, financial statements, and regulatory examination reports. Members must also agree that examination reports by local, state, or federal bank regulators may be furnished by such authorities to the FHLBank or Federal Housing Finance Agency upon request.<sup>15</sup> The Federal Housing Finance Agency is responsible for ensuring that the FHLBanks “operate in a financially safe and sound fashion,” and agency examiners assess the FHLBanks’ conditions and performance, governance, credit risks, market risks, and operational risks.<sup>16</sup>

According to the OFR, federal laws pertaining to FHLBanks do not address or protect the confidentiality of any information a FHLBank or the Federal Housing Finance Agency may obtain from a state agency.<sup>17</sup> The OFR also states that while the Federal Housing Finance Agency would be considered a “federal agency responsible for the regulation of financial institutions” that the OFR is authorized by s. 655.057, F.S., to share certain confidential information with, a FHLBank is not federal agency responsible for the regulation of financial institutions. As a result, the OFR finds that there is uncertainty regarding the OFR’s ability to share information with the FHLBanks under s. 655.057, F.S. The OFR does not currently have an MOU with the Federal Housing Finance Agency or any FHLBank.<sup>18</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 655.057(5), F.S., to clarify that OFR is not prevented from providing otherwise confidential information to an FHLBank regarding its member institutions pursuant to an information-sharing agreement. This change correctly reflects the FHLBanks’ status of not being federal agencies responsible for the regulation of financial institutions.

**Section 2** requires the OFR to execute an information-sharing agreement with the FHLBanks by August 1, 2016.

**Section 3** provides that the bill is effective July 1, 2016.

### IV. Constitutional Issues:

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

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

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<sup>15</sup> 12 C.F.R. s. 1263.31(b).

<sup>16</sup> Federal Housing Finance Agency, *Federal Home Loan Bank System*, available at <http://www.fhfa.gov/SupervisionRegulation/FederalHomeLoanBanks> (last visited 2/17/2016).

<sup>17</sup> Office of Financial Regulation, *Agency Legislative Bill Analysis of Senate Bill 1490* (Jan. 21, 2016). For example, the Freedom of Information Act does not apply to “matters that are...contained in or related to examination, operating, or condition reports prepared by, or on behalf of, or for the use of an *agency* responsible for the regulation or supervision of financial institutions.” 5 U.S.C. 552(b)(8). For purposes of the act, “agency” generally means an authority of the United States government (excluding its territories and possessions), but not of the states themselves. 5 U.S.C. 551(1).

<sup>18</sup> *Id.*

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's clarification of the OFR's ability to share information with the FHLBanks may expedite or facilitate financial institutions' membership applications to the FHLBanks and continued supervision by the Federal Housing Finance Agency.

C. Government Sector Impact:

The execution of an information-sharing agreement should allow the OFR and the FHLBanks to provide for the permissible use of supervisory information, restricted access, safekeeping, and other terms that will ensure the confidentiality of information shared. The impact to the OFR is minimal and can be absorbed within existing resources.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 655.057 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 Banking and Insurance on February 1, 2016:**

The CS clarifies that the OFR's authority to share information with other state, federal, or foreign agencies responsible for the regulation or supervision of financial institutions no longer includes FHLBs, which correctly reflects the status of FHLBs as not being a financial institution regulator. The CS authorizes the OFR to furnish information to FHLBs regarding its member institutions, in accordance with an information-sharing

agreement between the FHLBs and the OFR. The OFR is required to execute the information-sharing agreement with the FHLBs by August 1, 2016.

**B. Amendments:**

None.

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

---

By the Committee on Banking and Insurance; and Senators Garcia  
and Soto

597-02876-16

20161490c1

A bill to be entitled

An act relating to the Federal Home Loan Banks;  
amending s. 655.057, F.S.; providing that certain  
records requirements do not prevent or restrict the  
furnishing of certain information held by the Office  
of Financial Regulation to the Federal Home Loan Banks  
pursuant to an information-sharing agreement;  
requiring the office to execute such agreement by a  
specified date; providing an effective date.

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

Section 1. Paragraph (b) of subsection (5) of section  
655.057, Florida Statutes, is amended, and paragraph (f) is  
added to that subsection, to read:

655.057 Records; limited restrictions upon public access.—

(5) This section does not prevent or restrict:

(b) Furnishing records or information to any other state,  
federal, or foreign agency responsible for the regulation or  
supervision of financial institutions, ~~including Federal Home  
Loan Banks.~~

(f) Furnishing information to the Federal Home Loan Banks  
regarding their member institutions pursuant to an information-  
sharing agreement between the Federal Home Loan Banks and the  
office.

Any confidential information or records obtained from the office  
pursuant to this subsection shall be maintained as confidential  
and exempt from s. 119.07(1).

Section 2. The Office of Financial Regulation shall execute  
an information-sharing agreement with the Federal Home Loan

Page 1 of 2

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

597-02876-16

20161490c1

Banks for purposes of s. 655.057(5)(f), Florida Statutes, by  
August 1, 2016.

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**  
State Senator René García  
38<sup>th</sup> District

District Office:  
1490 West 68 Street  
Suite # 201  
Hialeah, FL 33014  
Phone# (305) 364-3100

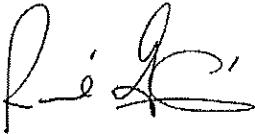
February 16, 2016

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

Dear Senator Flores:

Please have this letter serve as my formal request to have **SB 1490: Federal Home Loan Banks**, be heard in the next possible Fiscal Policy Committee Meeting. Should you have any questions or concerns, please do not hesitate to contact my office.

Sincerely,



State Senator René García  
District 38  
RG:AD

CC: Jennifer Hrdlicka, Tamra Lyon

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/24/16

Meeting Date

1490  
Bill Number (if applicable)

Topic At FHLB Bank

Amendment Barcode (if applicable)

Name Anthony DiMarco

Job Title Env of Govt. Affairs

Address 1007 Thomasville Rd

Phone 224-2264

Email adimarc@flbankers.com

Street

City

State

Zip

Speaking:  For  Against  Information

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

Representing Florida Bankers Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

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

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

2/24/16

*Meeting Date*

SB 1490

*Bill Number (if applicable)*

Topic Waive in Support of SB 1490

*Amendment Barcode (if applicable)*

Name Jamie Champion-Mongiovi

Job Title Director of Communications & Govt. Affairs

Address Office of Financial Regulation

Phone 850-410-9601

*Street*

Tallahassee

Florida

32399

Email jamie.mongiovi@flofr.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

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

Representing Office of Financial Regulation

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2.24.14

Meeting Date

1490

Bill Number (if applicable)

Topic fed home loan banks

Amendment Barcode (if applicable)

Name Ashley Kalifeh

Job Title lobbyist

Address 1010 E. College Ave

Phone 222-9075

Street

Tallahassee FL

Email akalifeh@capartyconsult.com

City

State

Zip

Speaking:  For  Against  Information

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

Representing League of Southeastern Credit Unions

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**  
State Senator René García  
38<sup>th</sup> District

District Office:  
1490 West 68 Street  
Suite # 201  
Hialeah, FL. 33014  
Phone# (305) 364-3100

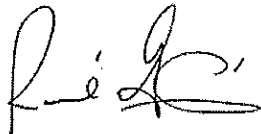
February 24, 2016

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

Dear Senator Flores:

I respectfully request that my aide, Miguel Abad, present **SB 1490: Federal Home Loan Banks**, at the Fiscal Policy Committee Meeting due to a scheduling conflict with the Children, Families and Elder Affairs Committee. Should you have any questions or concerns, please do not hesitate to contact my office.

Sincerely,



State Senator René García  
District 38  
RG:AD

CC: Jennifer Hrdlicka, Tamra Lyon

**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 1498

INTRODUCER: Senator Benacquisto

SUBJECT: Pest Control

DATE: February 23, 2016

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhvein</u>	<u>Becker</u>	<u>AG</u>	<b>Favorable</b>
2.	<u>Blizzard</u>	<u>DeLoach</u>	<u>AGG</u>	<b>Recommend: Favorable</b>
3.	<u>Jones</u>	<u>Hrdlicka</u>	<u>FP</u>	<b>Favorable</b>

---

**I. Summary:**

SB 1498 requires the Department of Agriculture and Consumer Services (department) to adopt a rule specifying the circumstances when less than 24-hour notification of structural fumigation is acceptable. The bill removes the current emergency exception.

The bill requires the department to adopt rules that include additional safety measures to be taken regarding the clearance of residential structures before reoccupation after a fumigation. These measures can include extended aeration times or specific clearance procedures.

Additionally, the bill authorizes the department to adopt rules that establish conditions for registration or reregistration of structural fumigants. The rules must require registrants (manufacturers) to:

- Train distributors and end users in safety measures and proper use, safe storage, and management of fumigant materials;
- Obtain continuing education program approval for stewardship training programs;
- Conduct quality assurance reviews;
- Report to the department any probation or stop-sale notices issued to end users. The department must then notify all other structural fumigant registrants of the reported probation or stop-sale notice; and
- Assist the department, upon request, with the removal of fumigant containers from distributors and end users compliance with permanent or extended stop-sale notices.

The bill has an insignificant negative fiscal impact on the department. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2016.

## II. Present Situation:

The Department of Agriculture and Consumer Services (department) regulates the structural pest control industry.<sup>1</sup> Fumigants are chemicals that, when at a required temperature and pressure, can exist in the gaseous state in sufficient concentration to be lethal to a given organism.<sup>2</sup> Sulfuryl fluoride is the most common pesticide used as a structural fumigant and is classified by the U.S. Environmental Protection Agency as a “Restricted Use Pesticide” due to its high toxicity to humans.<sup>3</sup>

There are 137 pest control businesses performing structural fumigations in Florida. The pesticide sulfuryl fluoride was used in 99.92 percent of the structural fumigations in Florida. Structural fumigations have increased by 57 percent for Fiscal Year 2014-2015. Since 2010, 166 calls were received by the Florida Poison Information Center Network related to sulfuryl fluoride exposure. Most exposures were unintentional and occurred at a residence. Florida law requires that suspected exposures to pesticides be reported to the Florida Department of Health and the department within 24 hours.<sup>4</sup>

The largest number of exposures were reported in Miami-Dade (30.7 percent), Broward (17.5 percent), Palm Beach (12 percent), Pinellas (9 percent), and Hillsborough (7.8 percent) counties. The most common clinical syndromes were gastrointestinal, neurological, respiratory, and ocular. The most common symptoms reported were nausea, eye irritation or pain, dyspnea, headache, vomiting, and dizziness. Since January 2010, one major illness and one death have been reported.<sup>5</sup>

### Section 482.051, F.S.

Section 482.051, F.S., provides the department with rulemaking authority to enforce ch. 482, F.S. The department is required to adopt rules for the protection of the health, safety, and welfare of pest control employees and the general public. Section 482.051, F.S., provides requirements that must be included in the department’s rules.

The department must have a rule which requires licensees to provide written notification to the department of the location that fumigants will be applied. The notice must be received by the department at least 24 hours before the fumigation.<sup>6</sup>

Section 482.051(4), F.S., provides in an authentic and verifiable emergency, when 24 hours’ notice is not possible, notice may be given by telephone, facsimile, or other form of acceptable electronic communication. The notice must be immediately followed by written confirmation

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<sup>1</sup> See ch. 482, F.S.

<sup>2</sup> Section 482.021(9), F.S.

<sup>3</sup> Office of Inspector General, Review of the Division of Agricultural Environmental Services, *Structural Fumigation Regulations and Processes*, p. 1 (January 2016) available at <http://media.wptv.com/image/Report.pdf> (last visited February 19, 2016).

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

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

<sup>6</sup> Section 482.051(4), F.S.

providing the required information.<sup>7</sup> However, what constitutes an emergency is not clearly defined. From 2010 to 2015, an average of 845 emergency notifications per year were reported.<sup>8</sup>

### **Structural Fumigation**

After a structural fumigation has occurred, the structure must be aerated. The aeration process includes a minimum one-hour active aeration and a minimum five-hour passive aeration. An active aeration requires the doors and windows of the structure to be opened and fans used to allow the fumigant to dissipate. The passive aeration occurs after the active aeration and requires the structure to be re-secured.<sup>9</sup>

Pest control businesses are not required to provide the department with the initiation time of the aeration process. After the aeration process is completed, licensees are required to use calibrated clearance devices to take readings throughout a structure to ensure any residual fumigant is within acceptable levels for re-occupancy. Licensees are required to maintain evidence of device calibration, but do not have to provide these records to the department unless requested.<sup>10</sup>

### **Fumigants**

Stewardship training educates applicators about pest control products, how to properly apply pest control products, and the risks associated with these products.<sup>11</sup> Currently, the requirement for participation in a stewardship program is enforced through language on the label of the fumigant. A manufacturer's label requires the completion of a stewardship course before purchase or use of the product, but does not specify a training frequency.<sup>12</sup>

The department does not require completion of a stewardship program and there are no rules language regarding these programs.<sup>13</sup>

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

**Section 1** amends s. 482.051, F.S., to require the department adopt a rule specifying the circumstances when less than 24-hour notification of structural fumigation is acceptable. The bill removes the current emergency exception.

The bill requires the department to adopt rules that prescribe safety measures to be taken regarding the clearance of residential structures before reoccupation after a fumigation. These measures can include extended aeration times or specific clearance procedures.

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

<sup>8</sup> Department of Agriculture and Consumer Services, Division of Agricultural Environmental Services, *Agency Bill Analysis for SB 1498*, (January 15, 2016) (on file with the Senate Committee on Fiscal Policy).

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

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

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

<sup>12</sup> *Supra* note 3 at p. 10. Section 487.025, F.S., requires a label to contain instructions for use necessary to protect the public.

<sup>13</sup> *Supra* note 8. The department regulates pesticides under ch. 487, F.S.



**Section 2** amends s. 487.051, F.S., to authorize the department to adopt rules that establish conditions for registration or reregistration of structural fumigants. The rules must require registrants (manufacturers) to:

- Train distributors and end users in safety measures and proper use, safe storage, and management of fumigant materials;
- Obtain continuing education program approval for stewardship training programs;
- Conduct quality assurance reviews;
- Report to the department any probation or stop-sale notices issued to end users. The department must then notify all other structural fumigant registrants of the reported probation or stop-sale notice; and
- Assist the department, upon request, with the removal of fumigant containers from distributors and end users compliance with permanent or extended stop-sale notices.

**Section 3** provides that 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:

Pest control businesses, manufacturers, and others may incur indeterminate costs to comply with department rules adopted pursuant to this bill.

C. Government Sector Impact:

The bill has an insignificant negative fiscal impact to the department because it will need to initiate the rulemaking process to strengthen safety requirements for structural fumigation and to update requirements for fumigant registrants. These costs can be absorbed within existing resources.

**VI. Technical Deficiencies:**

Chapter 487, F.S., does not define the terms “fumigant” or “structural fumigant.” Section 482.021(9), F.S., defines the term “fumigant”, however, the provisions of ch. 487, F.S., generally exclude or do not apply to ch. 482, F.S.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends sections 482.051 and 487.051 of the Florida Statutes.

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

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

None.

**B. Amendments:**

None.

By Senator Benacquisto

30-00950A-16

20161498\_\_

A bill to be entitled

An act relating to pest control; amending s. 482.051, F.S.; making technical changes; authorizing the Department of Agriculture and Consumer Services to specify the circumstances when a written, 24-hour advance notice of fumigation to the department is not required; authorizing the department to determine the notice required in such circumstances; deleting a provision specifying that, under certain emergency situations, the required advance notice may be first given by certain specified communication methods; requiring the department to adopt rules that require certain safety measures for clearance of residential structures after fumigation; amending s. 487.051, F.S.; authorizing the department to establish certain conditions for fumigant registration or reregistration; providing an effective date.

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

Section 1. Section 482.051, Florida Statutes, is amended to read:

482.051 Rules.—The department has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement ~~the provisions of~~ this chapter. ~~Before~~ Prior to proposing the adoption of a rule, the department ~~must~~ shall counsel with members of the pest control industry concerning the proposed rule. The department shall adopt rules for the protection of the health, safety, and welfare of pest control employees and the general public which ~~require~~:

(1) Require that all pesticides or economic poisons be used only in accordance with the registered labels and labeling, or

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

30-00950A-16

20161498\_\_

as directed by the United States Environmental Protection Agency or the department.

(2) Require that vehicles and trailers used in pest control be permanently marked with the licensee's name that is registered with the department. However, vehicles that are used to perform only sales and solicitation may have temporary or removable markers.

(3) Require that written contracts be ~~used~~ required for providing ~~termite~~ termites and other wood-destroying ~~organism~~ organisms pest control, that provisions necessary to ensure ~~assure~~ consumer protection as specified by the department be included in such contracts, and that ~~require~~ licensees ~~to~~ comply with the contracts issued.

(4) Require that a licensee, before performing general fumigation, notify in writing the department ~~of~~ inspector ~~having jurisdiction over~~ the location where the fumigation is to be performed, which notice must be received by the department ~~inspector~~ at least 24 hours before the fumigation and must contain such information as the department requires. The department may specify under what circumstances less than 24-hour notification is allowed and what notice is required in those circumstances. ~~However, in an authentic and verifiable emergency, when 24 hours' advance notice is not possible, advance notice may be given by telephone, facsimile, or any other form of acceptable electronic communication, but such notice must be immediately followed by written confirmation providing the required information.~~

(5) Require that any pesticide used as the primary preventive treatment for subterranean termites in new

Page 2 of 4

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

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20161498\_\_

62 construction be applied in the amount, concentration, and  
 63 treatment area in accordance with the label; that a copy of the  
 64 label of the registered pesticide being applied be carried in a  
 65 vehicle at the site where the pesticide is being applied; and  
 66 that the licensee maintain for 3 years the record of each  
 67 preconstruction treatment, indicating the date of treatment, the  
 68 location or address of the property treated, the total square  
 69 footage of the structure treated, the type of pesticide applied,  
 70 the concentration of each substance in the mixture applied, and  
 71 the total amount of pesticide applied.

72 (6) Authorize ~~That~~ the department to ~~may~~ issue an immediate  
 73 stop-use or stop-work order for fumigation performed in  
 74 violation of fumigant label requirements or department rules, or  
 75 in a manner that presents an immediate serious danger to the  
 76 health, safety, or welfare of the public, including, but not  
 77 limited to, failure to use required personal protective  
 78 equipment, failure to use a required warning agent, failure to  
 79 post required warning signs, failure to secure a structure's  
 80 usual entrances as required, or using a fumigant in a manner  
 81 that will likely result in hazardous exposure to humans,  
 82 animals, or the environment.

83 (7) Require that safety measures be taken for clearance of  
 84 residential structures before reoccupation after a fumigation.  
 85 These measures may include, but are not limited to, extended  
 86 aeration times or specific clearance procedures.

87 Section 2. Paragraph (f) is added to subsection (1) of  
 88 section 487.051, Florida Statutes, to read:

89 487.051 Administration; rules; procedure.—

90 (1) The department may by rule:

Page 3 of 4

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

30-00950A-16

20161498\_\_

91 (f) Establish conditions of registration or reregistration  
 92 for structural fumigants which include requirements that  
 93 registrants:

94 1. Train distributors and end users in safety measures and  
 95 in proper use, safe storage, and management of fumigant  
 96 materials.

97 2. Obtain continuing education program approval for  
 98 stewardship training programs.

99 3. Conduct quality assurance reviews.  
 100 4. Report to the department any probation or stop-sale  
 101 notice issued to end users. Under such circumstances, the  
 102 department shall notify all other structural fumigant  
 103 registrants of the reported probation or stop-sale notice.

104 5. Assist the department, upon request, with the removal of  
 105 fumigant containers from distributors and end users for  
 106 compliance with permanent or extended stop-sale notices.

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

Page 4 of 4

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/24/16

Meeting Date

1498

Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name Jim Spratt

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

Address 310 W. College Ave

Phone 850-228-1296

Street

TLH

City

FL

State

32301

Zip

Email Jim@magaliastrategiesllc.com

Speaking:  For  Against  Information

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

Representing Douglas Products, LLC

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/24

1498

Meeting Date

Bill Number (if applicable)

Topic Pest Control

Amendment Barcode (if applicable)

Name Sam Ard

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

Address PO Box 10406  
Street

Phone \_\_\_\_\_

TLH FL 32302  
City State Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing Certified Pest Control Operators

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)

1498  
Bill Number (if applicable)

Meeting Date

Topic Pest Control

Amendment Barcode (if applicable)

Name Lisa Henning

Job Title Consultant

Address 242 Office Plaza Dr

Phone 850-766-8808

Tallahassee FL 32301  
City State Zip

Email lisahenningconsulting.com

Speaking:  For  Against  Information

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

Representing Florida Pest Management 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)

Feb 24, 2016  
Meeting Date

1498  
Bill Number (if applicable)

Topic Pest Control

Amendment Barcode (if applicable)

Name Grace Lovett

Job Title Dir. Legislative Affairs

Address PL 10 The Capitol  
Street  
Tallahassee FL 32399  
City State Zip

Phone 850 617 7700  
Email grace.lovett@freshfromflorida.com

Speaking:  For  Against  Information

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

Representing FL Dept. of Agriculture + Consumer Services

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

Tallahassee, Florida 32399-1100

**COMMITTEES:**  
Banking and Insurance, *Chair*  
Appropriations, *Vice Chair*  
Appropriations Subcommittee on Health  
and Human Services  
Education Pre-K-12  
Higher Education  
Judiciary  
Rules

**SENATOR LIZBETH BENACQUISTO**

30th District

**JOINT COMMITTEE:**  
Joint Legislative Auditing Committee  
Joint Select Committee on Collective Bargaining

February 1, 2016

The Honorable Anitere Flores  
Senate Fiscal Policy, Chair  
414 Senate Office Building  
404 South Monroe Street  
Tallahassee, FL 32399

**RE: Presentation of SB 1498**

Dear Madam Chair:

Please allow this letter to serve as my respectful request to allow my staff member, Matthew Hunter, to present SB 1498 in committee today. I have another commitment at the same time.

Your kind consideration of this request is greatly appreciated. Please feel free to contact my office for any additional information.

Sincerely,

A handwritten signature in cursive script that reads "Lizbeth Benacquisto".

Lizbeth Benacquisto  
Senate District 30

Cc: Jennifer Hrdlicka

**REPLY TO:**

- 2310 First Street, Suite 305, Fort Myers, Florida 33901 (239) 338-2570
- 326 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5030

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

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

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

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

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

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BILL: CS/SB 1664

INTRODUCER: Fiscal Policy Committee and Senator Stargel

SUBJECT: Special Assessments on Agricultural Lands

DATE: February 25, 2016

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

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

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1664 prohibits counties and municipalities from levying or collecting special assessments for fire protection services on agricultural lands, unless the agricultural lands contain a residential dwelling, or a nonresidential farm building with a just value in excess of \$25,000. Special assessments that are levied because the land includes a residential dwelling or nonresidential farm building must be based solely on the special benefit that accrues to the dwelling, including the curtilage, or the farm building.

The bill excludes “agricultural pole barns” from imposition of the special assessment if 70 percent or more of the perimeter walls are permanently open and allow free ingress and egress.

The bill is effective November 1, 2017.

The Revenue Estimating Conference (REC) has not determined the impact of CS/SB 1664; however, the REC determined that the original bill would reduce local non-ad valorem revenues by \$6.9 million in Fiscal Year 2016-2017, with a \$6.9 million recurring reduction.

## II. Present Situation:

### Agricultural Property Classification

Section 193.461, F.S., provides that each county's property appraiser shall, for assessment purposes on an annual basis, classify all lands within a county as agricultural or nonagricultural. For land to be classified as agricultural, it must be used "primarily for bona fide agricultural purposes."<sup>1</sup> The term "bona fide agricultural purposes" means good faith commercial agricultural use of the land.<sup>2</sup> In determining whether the use of the land for agricultural purposes is bona fide, the property appraiser may take the following factors into consideration:

- The length of time the land has been used as agricultural.
- Whether the use has been continuous.
- The purchase price paid.
- Size, as it relates to specific agricultural use, but a minimum acreage may not be required for agricultural assessment.
- Whether an indicated effort has been made to care sufficiently and adequately for the land in accordance with accepted commercial agricultural practices, including fertilizing, liming, tilling, mowing, reforestation, and other accepted agricultural practices.
- Whether the land is under lease and, if so, the effective length, terms, and conditions of the lease.
- Other factors as may become applicable.<sup>3</sup>

Agricultural purposes include, but are not limited to: horticulture; floriculture; viticulture; forestry; dairy; livestock; poultry; bee; pisciculture, when the land is used principally for the production of tropical fish; aquaculture, including algaculture; sod farming; and all forms of farm products and farm production.<sup>4</sup>

Property appraisers are required to reclassify lands as nonagricultural when they are diverted from an agricultural to a nonagricultural use or no longer utilized for agricultural purposes.<sup>5</sup>

### Revenue Sources Based on Home Rule Authority

The Florida Constitution provides local governments with expansive home rule powers. Given these powers, local governments may impose proprietary fees, regulatory fees, and special assessments to pay the cost of providing a facility or service or regulating an activity. The validity of these fees and assessments depends on requirements established in Florida case law.<sup>6</sup>

### *Special Assessments*

Counties and municipalities utilize special assessments as a home rule revenue source to fund certain services and to construct and maintain capital facilities. Section 125.01(1)(r), F.S.,

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<sup>1</sup> Section 193.461(3)(b), F.S.

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

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

<sup>4</sup> Section 193.461(5), F.S.

<sup>5</sup> Section 193.461(4), F.S.

<sup>6</sup> See Office of Economic and Demographic Research, *Local Government Financial Information Handbook*, pgs. 9-16 (Dec. 2015), available at <http://www.edr.state.fl.us/Content/local-government/reports/lgh15.pdf> (last visited Feb. 20, 2016).

authorizes the levy of special assessments for county government. Chapter 170, F.S., authorizes the levy of special assessments by municipal governments. Section 125.271, F.S., authorizes the levy of special assessments by county emergency medical services. Special districts derive their authority to levy special assessments through general law or the special act creating the district.<sup>7</sup>

As established by case law, two requirements exist for the imposition of a valid special assessment: 1) the property assessed must derive a special benefit from the improvement or service provided; and 2) the assessment must be fairly and reasonably apportioned among the properties that receive the special benefit.<sup>8</sup>

The test to be applied in evaluating whether a special benefit is conferred on property by the provision of a service is whether there is a “logical relationship” between the services provided and the benefit to real property.<sup>9</sup> Many assessed services and improvements have been upheld as providing the requisite special benefit. Such services and improvements include: garbage disposal,<sup>10</sup> fire protection,<sup>11</sup> fire and rescue services,<sup>12</sup> and stormwater management services.<sup>13</sup>

Once an identified service or capital facility satisfies the special benefit test, the assessed amount is required to be fairly apportioned among the benefited properties in a manner consistent with the logical relationship embodied in the special benefit requirement.

Special assessments may be collected on an annual ad valorem tax bill.<sup>14</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 125.01, F.S., to prohibit a county from levying or collecting special assessments for the provision of fire protection services on lands classified as agricultural lands under s. 193.461, F.S., unless the agricultural lands contain a residential dwelling, or a nonresidential farm building with a just value in excess of \$25,000.

The bill requires special assessments that are levied to be based solely on the special benefit that accrues to the dwelling, including the curtilage, or the nonresidential farm building.

The bill excludes “agricultural pole barns” from imposition of the special assessment and defines agricultural pole barns as nonresidential farm buildings in which 70 percent or more of the perimeter walls are permanently open and allow free ingress and egress.

**Section 2** amends s. 170.01, F.S., to prohibit a municipality from levying or collecting special assessments for the provision of fire protection services on lands classified as agricultural lands

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<sup>7</sup> For example, s. 153.73, F.S., for county water and sewer districts; s. 163.514, F.S., for neighborhood improvement districts; s. 190.021, F.S., for community development districts; and s. 191.009, F.S., for independent special fire control districts.

<sup>8</sup> *City of Boca Raton v. State*, 595 So.2d 25, 29 (Fla. 1992).

<sup>9</sup> *Whisnant v. Stringfellow*, 50 So.2d 885 (Fla. 1951) (citing *Crowder v. Phillips*, 146 Fla. 440 (Fla. 1941)).

<sup>10</sup> *Harris v. Wilson*, 693 So.2d 945 (Fla 1997).

<sup>11</sup> *South Trail Fire Control Dist., Sarasota County v. State*, 273 So.2d 380 (Fla. 1973).

<sup>12</sup> *Lake County v. Water Oak Mgmt. Corp.*, 695 So.2d 667 (Fla. 1997).

<sup>13</sup> *Sarasota County v. Sarasota Church of Christ, Inc.*, 667 So.2d 180 (Fla. 1995).

<sup>14</sup> See s. 197.3632(1)(d), F.S.

under s. 193.461, F.S., unless the agricultural lands contain a residential dwelling, or a nonresidential farm building with a just value in excess of \$25,000.

The bill requires special assessments that are levied to be based solely on the special benefit that accrues to the dwelling, including the curtilage, or the nonresidential farm building.

The bill excludes “agricultural pole barns” from imposition of a special assessment and defines agricultural pole barns as nonresidential farm buildings in which 70 percent or more of the perimeter walls are permanently open and allow free ingress and egress.

**Section 3** provides that the bill is effective November 1, 2017.

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

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

This bill reduces the authority of counties and municipalities to raise revenues because it eliminates their ability to levy or collect special assessments for the provision of fire protection services on agricultural lands. Article VII, section 18(b) of the Florida Constitution requires a two-thirds vote of the membership of each house of the Legislature in order to enact a general law that reduces the authority of municipalities and counties to raise revenues in the aggregate. Article VII, section 18(d) of the Florida Constitution provides an exemption if the law is determined to have an insignificant fiscal impact, which for Fiscal Year 2016-2017 is \$2 million or less.<sup>15, 16</sup> Because the bill is estimated to reduce county and municipal revenues by more than an insignificant amount, the bill may require a two-thirds vote of the membership.

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

None.

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

None.

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

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

The Revenue Estimating Conference (REC) has not determined the impact of CS/SB 1664; however, the REC determined that the original bill would reduce local

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<sup>15</sup> An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (September 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Feb. 24, 2016).

<sup>16</sup> Based on the Demographic Estimating Conference’s population adopted on December 1, 2015. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Feb. 24, 2016).

non-ad valorem revenues by \$6.9 million in Fiscal Year 2016-2017, with a \$6.9 million recurring reduction.<sup>17</sup>

**B. Private Sector Impact:**

Owners of certain agricultural lands will benefit to the extent that they will not have to pay a special assessment for fire protection services that may have otherwise been levied by a county or a municipality.

**C. Government Sector Impact:**

The bill will eliminate the ability of counties and municipalities to collect special assessments for the provision of fire protection services on certain portions of agricultural lands.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends sections 125.01 and 170.01 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 February 24, 2016:**

The CS allows counties and municipalities to continue to levy special assessments for fire protection services on portions of agricultural lands that contain a residential dwelling, or a nonresidential farm building with a value in excess of \$25,000. However, the special assessment cannot be levied on agricultural pole barns if 70 percent or more of the perimeter walls are permanently open and allow free ingress and egress. The CS extends the effective date from July 1, 2016, to November 1, 2017.

**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>17</sup> Office of Economic and Demographic Research, Revenue Estimating Conference, *SB 1664 (HB 773)* (Jan. 29, 2016), available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2016/pdf/page436-439.pdf> (last visited Feb. 24, 2016).



461232

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/24/2016	.	
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	.	
	.	

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

**Senate Amendment (with title amendment)**

Delete lines 28 - 39  
and insert:  
a county may not levy special assessments for the provision of  
fire protection services on lands classified as agricultural  
lands under s. 193.461 unless such property contains a  
residential dwelling or nonresidential farm building, with the  
exception of an agricultural pole barn, provided the  
nonresidential farm building exceeds a just value of \$25,000.



461232

11 Such special assessments must be based solely on the special  
12 benefit accruing to that portion of the property consisting of  
13 the residential dwelling and curtilage, and qualifying  
14 nonresidential farm buildings. As used in this paragraph, the  
15 term "agricultural pole barn" means a nonresidential farm  
16 building in which 70 percent or more of the perimeter walls are  
17 permanently open and allow free ingress and egress.

18 Section 2. Subsection (4) is added to section 170.01,  
19 Florida Statutes, to read:

20 170.01 Authority for providing improvements and levying and  
21 collecting special assessments against property benefited.-

22 (4) Notwithstanding any other provision of law, a  
23 municipality may not levy special assessments for the provision  
24 of fire protection services on lands classified as agricultural  
25 lands under s. 193.461 unless such property contains a  
26 residential dwelling or nonresidential farm building, with the  
27 exception of an agricultural pole barn, provided the  
28 nonresidential farm building exceeds a just value of \$25,000.  
29 Such special assessments must be based solely on the special  
30 benefit accruing to that portion of the property consisting of  
31 the residential dwelling and curtilage, and qualifying  
32 nonresidential farm buildings. As used in this subsection, the  
33 term "agricultural pole barn" means a nonresidential farm  
34 building in which 70 percent or more of the perimeter walls are  
35 permanently open and allow free ingress and egress.

36 Section 3. This act shall take effect November 1, 2017.

37  
38 ===== T I T L E A M E N D M E N T =====

39 And the title is amended as follows:





461232

40           Delete lines 5 - 7  
41 and insert:  
42           special assessments on certain agricultural lands for  
43           the provision of fire protection services; providing  
44           exceptions to the prohibition, subject to certain  
45           requirements; defining the term "agricultural pole  
46           barn"; providing an effective date.

By Senator Stargel

15-01265-16

20161664\_\_

1                           A bill to be entitled  
 2           An act relating to special assessments on agricultural  
 3           lands; amending ss. 125.01 and 170.01, F.S.;  
 4           prohibiting counties and municipalities from levying  
 5           or collecting special assessments on certain  
 6           agricultural lands for the provision of fire  
 7           protection services; providing an effective date.  
 8  
 9   Be It Enacted by the Legislature of the State of Florida:  
 10  
 11           Section 1. Paragraph (r) of subsection (1) of section  
 12   125.01, Florida Statutes, is amended to read:  
 13           125.01 Powers and duties.—  
 14           (1) The legislative and governing body of a county shall  
 15   have the power to carry on county government. To the extent not  
 16   inconsistent with general or special law, this power includes,  
 17   but is not restricted to, the power to:  
 18           (r) Levy and collect taxes, both for county purposes and  
 19   for the providing of municipal services within any municipal  
 20   service taxing unit, and special assessments; borrow and expend  
 21   money; and issue bonds, revenue certificates, and other  
 22   obligations of indebtedness, which power shall be exercised in  
 23   such manner, and subject to such limitations, as may be provided  
 24   by general law. There shall be no referendum required for the  
 25   levy by a county of ad valorem taxes, both for county purposes  
 26   and for the providing of municipal services within any municipal  
 27   service taxing unit. Notwithstanding any other provision of law,  
 28   a county may not levy or collect special assessments for the  
 29   provision of fire protection services on lands classified as  
 30   agricultural lands under s. 193.461.  
 31           Section 2. Subsection (4) is added to section 170.01,  
 32   Florida Statutes, to read:

Page 1 of 2

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

15-01265-16

20161664\_\_

33           170.01 Authority for providing improvements and levying and  
 34   collecting special assessments against property benefited.—  
 35           (4) Notwithstanding any other provision of law, a  
 36   municipality may not levy or collect special assessments for the  
 37   provision of fire protection services on lands classified as  
 38   agricultural lands under s. 193.461.  
 39           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:**  
Higher Education, *Chair*  
Appropriations Subcommittee on Education  
Fiscal Policy  
Judiciary  
Military and Veterans Affairs, Space, and Domestic  
Security  
Regulated Industries

**JOINT COMMITTEE:**  
Joint Committee on Public Counsel Oversight

**SENATOR KELLI STARGEL**  
15th District

February 18, 2016

The Honorable Anitere Flores  
Senate Fiscal Policy Committee, Chair  
413 Senate Office Building  
404 S. Monroe Street  
Tallahassee, FL 32399

Dear Chair Flores:

I respectfully request that SB 1664, related to *Special Assessments on Agricultural Lands*, be placed on the committee agenda at your earliest convenience.

Thank you for your consideration and please do not hesitate to contact me should you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Kelli Stargel".

Kelli Stargel  
State Senator, District 15

Cc: Jennifer Hrdlicka/ Staff Director  
Tamra Lyon/ AA

**REPLY TO:**

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

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

2/25/16

Meeting Date

1664

Bill Number (if applicable)

Topic Fire Assessments on Ag Lands

Amendment Barcode (if applicable)

Name Adam Busford

Job Title Director of Legislative Affairs

Address 315 S Calhoun St # 850

Phone 222-2557

Street

Tallahassee FL 32301

City

State

Zip

Email adam.busford@

FSBF.org

Speaking:  For  Against  Information

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

Representing FL Farm Bureau

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/24  
Meeting Date

SB 1664  
Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name Butch Calhoun

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

Address 119 S. Monroe, Suite 300

Phone 521-0455

Tallahassee FL 32301  
City State Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing Florida Fruit & Vegetable Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

# CourtSmart Tag Report

Room: KN 412

Caption: Senate Fiscal Policy Committee

Case No.:

Judge:

Type:

Started: 2/24/2016 10:08:03 AM

Ends: 2/24/2016 11:59:21 AM

Length: 01:51:19

10:08:02 AM Roll call  
10:08:22 AM Quorum present  
10:08:34 AM Tab 7 SB 418 presented by Senator Smith  
10:08:53 AM Various members of the public waive in support of the bill  
10:09:34 AM Senator Smith waives close  
10:09:39 AM Roll call on SB 418  
10:09:47 AM SB 418 reported favorably  
10:10:02 AM Tab 5 SB 268 presented by Senator Ring  
10:10:42 AM Amendment 632060 presented by Senator Clemens  
10:11:48 AM Senator Stargel with question  
10:12:00 AM Senator Clemens with response to Senator Stargel  
10:12:21 AM Senator Bean with a question  
10:13:17 AM Senator Clemens with response for Senator Bean  
10:13:49 AM Senator Stargel recognized with a question  
10:14:33 AM Senator Clemens with response for Senator Stargel  
10:14:50 AM Senator Stargel with follow-up question  
10:15:20 AM Senator Clemens with response for Senator Stargel  
10:15:51 AM Senator Stargel with clarification  
10:15:56 AM Senator Clemens with response  
10:16:07 AM Senator Stargel recognized in debate on Amendment 632060  
10:16:44 AM Senator Clemens close on Amendment 632060  
10:17:26 AM Amendment 632060 withdrawn by Senator Clemens  
10:18:14 AM Amendment 292820 presented by Senator Ring  
10:18:28 AM Amendment 292820 adopted  
10:18:50 AM Senator Ring close on SB 268  
10:19:05 AM Roll call on CS/SB 268  
10:19:18 AM CS/SB 268 reported favorably  
10:19:35 AM Tab 16 SB 1226 presented by Senator Ring  
10:20:03 AM Roll call on SB 1226  
10:20:45 AM SB 1226 reported favorably  
10:21:06 AM Tab 1 SB 20 presented by Senator Diaz de la Portilla  
10:21:26 AM Amendment 322574 presented by Senator Diaz de la Portilla  
10:21:59 AM Amendment 322574 adopted  
10:22:01 AM Roll call on CS/SB 20  
10:22:17 AM CS/SB 20 reported favorably  
10:22:30 AM Tab 15 CS/SB 1190 presented by Senator Diaz de la Portilla  
10:23:24 AM Senator Hukill recognized with question for Senator Diaz de la Portilla  
10:24:25 AM Senator Diaz de la Portilla with response for Senator Hukill  
10:24:42 AM Various members of the public waive in support of the bill  
10:25:35 AM Senator Diaz de la Portilla waives close  
10:25:45 AM Roll call on CS/SB 1190  
10:25:51 AM CS/SB 1190 reported favorably  
10:26:03 AM Tab 13 CS/SB 1126 presented by Senator Detert  
10:27:15 AM Lauren Sheen recognized to speak  
10:28:15 AM Lillian Sheen recognized to speak as well  
10:29:11 AM Senator Bean recognized  
10:30:05 AM Various members of the public waive in support of the bill  
10:31:01 AM Senator Sachs recognized in debate  
10:31:32 AM Senator Detert recognized to close on the bill  
10:31:50 AM Roll call on CS/SB 1126  
10:32:15 AM CS/SB 1126 reported favorably  
10:32:33 AM Tab 14 CS/SB 1160 presented by Senator Detert

10:32:54 AM Frank Meiners waives in support of the bill  
10:33:40 AM Roll call on CS/SB 1160  
10:33:54 AM CS/SB 1160 reported favorably  
10:34:09 AM Tab 17 SB 1402 presented by Senator Simmons's aide  
10:34:54 AM Dr. Cori Repp waives in support  
10:35:35 AM Tammy Perdue waives in support  
10:35:38 AM Mary Thomas waives in support  
10:35:42 AM Elizabeth Boyd waives in support  
10:35:53 AM Toni Large waives in support  
10:35:56 AM Roll call on SB 1402  
10:36:05 AM SB 1402 reported favorably  
10:36:25 AM Tab 19 CS/SB 1490 presented by Senator Garcia's aide  
10:37:02 AM Various members of the public waive in support  
10:38:05 AM Roll call on CS/SB 1490  
10:38:24 AM CS/SB 1490 reported favorably  
10:38:36 AM Tab 12 CS/CS/SB 938 presented by Senator Benacquisto's office  
10:39:15 AM Chris Hansen with CHPA waives in support  
10:40:14 AM Roll call on CS/CS/SB 938  
10:40:26 AM CS/CS/SB 938 reported favorably  
10:40:42 AM Tab 20 SB 1498 presented by Mr. Hunter from Senator Benacquisto's office  
10:41:41 AM Various members of the public waive in support of the bill  
10:42:21 AM Roll call on SB 1498  
10:42:46 AM SB 1498 reported favorably  
10:43:06 AM Tab 6 CS/SB 332 presented by Senator Altman's aide  
10:43:52 AM Amendment 274136 presented by Senator Clemens  
10:44:54 AM Senator Hays with question for Senator Clemens  
10:45:23 AM Senator Clemens with response for Senator Hays  
10:45:30 AM Senator Stargel with question  
10:46:31 AM Senator Altman's aide with response  
10:47:16 AM Senator Sachs recognized with question  
10:47:27 AM Senator Clemens with response for Senator Sachs  
10:48:16 AM Senator Sachs with follow-up for Senator Clemens  
10:48:55 AM Senator Clemens with response for Senator Sachs  
10:49:49 AM Senator Hays recognized with question  
10:50:49 AM Senator Clemens with response for Senator Hays  
10:51:16 AM Senator Hays with follow-up  
10:51:27 AM Senator Clemens with response  
10:52:15 AM Senator Legg recognized with question  
10:52:31 AM Senator Altman's aide with response  
10:52:41 AM Senator Legg with follow-up  
10:52:47 AM Senator Altman's aide with response for Senator Legg  
10:53:06 AM Senator Legg with follow-up  
10:53:34 AM Senator Altman's aide with response for Senator Legg  
10:53:55 AM Senator Stargel recognized with a question  
10:54:06 AM Senator Altman's aide with response for Senator Stargel  
10:54:34 AM James Reichenbach II with ABATE of Florida, Inc. recognized to speak  
10:57:47 AM Senator Sachs with question for James Reichenbach  
10:58:46 AM James Reichenbach with response  
10:59:41 AM Senator Clemens recognized with a question for James Reichenbach  
11:00:40 AM James Reichenbach with response  
11:00:45 AM Senator Clemens with follow-up question  
11:01:02 AM James Reichenbach with response  
11:01:23 AM Senator Clemens with response  
11:01:40 AM Senator Clemens with follow-up  
11:01:41 AM James Reichenbach with response  
11:02:38 AM Senator Clemens with response  
11:03:37 AM Senator Sachs recognized in debate on Amendment 274136  
11:06:13 AM Senator Stargel recognized in debate on Amendment 274136  
11:07:45 AM Senator Clemens recognized in debate on Amendment 274136  
11:10:14 AM Amendment 274136 adopted  
11:11:14 AM TP/ pause on CS/SB 332  
11:11:36 AM Tab 18 CS/SB 1454 presented by Senator Hutson

11:12:07 AM Amendment 932594 presented by Senator Hutson  
11:12:31 AM Amendment 932594 adopted  
11:12:44 AM Roll call on CS/CS/SB 1454  
11:13:02 AM CS/CS/SB 1454 reported favorably  
11:13:17 AM Tab 6 SB 332 taken up again  
11:13:32 AM Senator Bean recognized  
11:14:00 AM Amendment 793960 presented by Senator Altman's aide  
11:14:16 AM Senator Hukill recognized with question on Amendment 793960  
11:15:04 AM Senator Altman's aide with response  
11:15:11 AM FP Staff Director recognized to respond  
11:15:29 AM Senator Hukill with clarification  
11:15:35 AM Senator Altman's aide response  
11:15:45 AM Senator Flores with clarification  
11:15:53 AM Senator Hukill with follow-up  
11:15:57 AM Senator Altman's aide with response  
11:16:07 AM Mark Delegal with State Farm recognized to speak on Amendment 793960  
11:16:47 AM Senator Bean recognized in debate on Amendment 793960  
11:17:47 AM Senator Abruzzo recognized in debate  
11:18:43 AM Amendment 793960 not adopted  
11:19:01 AM James Reichenbach waives in support of the bill  
11:19:15 AM Mike Lasche with FL Walks and Bikes recognized to speak on the bill  
11:22:23 AM Various members of the public waive in support of the bill  
11:23:23 AM Roll call on CS/CS/SB 332  
11:24:19 AM CS/CS/SB 332 reported favorably  
11:24:34 AM Tab 3 CS/SB 124 presented by Senator Evers  
11:25:12 AM Various members of the public waive in support of the bill  
11:26:11 AM Roll call on CS/SB 124  
11:26:24 AM CS/SB 124 reported favorably  
11:26:40 AM Senator Bradley would like to be recorded as voting favorably on various bills  
11:27:08 AM Senator Hays would like to be recorded as voting favorably on various bills  
11:27:11 AM Senator Abruzzo would like to be recorded as voting favorably on various bills  
11:27:40 AM Tab 4 CS/SB 126 presented by Senator Evers  
11:28:12 AM Senator Clemens recognized with question for Senator Evers  
11:29:11 AM Senator Evers with response for Senator Clemens  
11:29:16 AM Senator Clemens with follow-up question for Senator Evers  
11:29:54 AM Senator Evers with response for Senator Clemens  
11:30:00 AM Senator Clemens with another follow-up for Senator Evers  
11:30:19 AM Senator Evers with response  
11:30:23 AM Richard Watson with Associated Builders and Contractors waives in support  
11:30:42 AM Greg Pound recognized to speak  
11:30:59 AM Senator Clemens recognized in debate on CS/SB 126  
11:31:38 AM Senator Evers recognized to close on CS/SB 126  
11:32:21 AM Roll call on CS/SB 126  
11:33:11 AM CS/SB 126 reported favorably  
11:33:30 AM Tab 10 SB 764 presented by Senator Hays  
11:33:48 AM Senator Sachs with question  
11:34:47 AM Senator Hays with response  
11:34:49 AM Senator Sachs with clarification  
11:34:55 AM Senator Hays with response  
11:35:00 AM Roll call on SB 764  
11:35:25 AM SB 764 reported favorably  
11:35:44 AM Tab 9 CS/SB 706 presented by Senator Altman's office  
11:36:05 AM Senator Sachs presenting Amendment 967092  
11:36:57 AM Susan Goldstein with ARC Broward recognized to speak on Amendment 967092  
11:37:45 AM Senator Sachs with question for Susan Goldstein  
11:38:47 AM Susan Goldstein with response for Senator Sachs  
11:39:14 AM Senator Sachs withdraws Amendment 967092  
11:39:47 AM Susan Goldstein waives in support of bill  
11:40:03 AM Senator Bradley recognized in debate on the bill  
11:40:08 AM Senator Sachs recognized  
11:40:46 AM Roll call on CS/SB 706  
11:41:49 AM CS/SB 706 reported favorably



11:42:01 AM Chair passed to Senator Bradley  
11:42:09 AM Tab 2 CS/SB 46 presented by Senator Flores  
11:42:36 AM Jason Unger waives in support of the bill  
11:43:35 AM Senator Flores close on CS/SB 46  
11:43:48 AM Roll call on CS/SB 46  
11:43:52 AM CS/SB 46 reported favorably  
11:44:12 AM Tab 11 CS/CS/SB 768 presented by Senator Flores  
11:44:33 AM Amendment 397592 presented by Senator Flores  
11:44:57 AM Bernadette Howard with FL Police Chiefs Association waives in support of the amendment  
11:45:43 AM Amendment 397592 adopted  
11:45:48 AM Roll call on CS/CS/CS/SB 768  
11:46:07 AM CS/CS/CS/SB 768 reported favorably  
11:46:21 AM Chair given back to Senator Flores  
11:46:33 AM Tab 21 SB 1664 presented by Senator Stargel  
11:47:00 AM Amendment 461232 presented by Senator Stargel  
11:47:15 AM Amendment 461232 adopted  
11:47:36 AM Adam Basford waives in support  
11:47:42 AM Butch Calhoun waives in support  
11:47:49 AM Senator Clemens recognized in debate on the bill  
11:48:00 AM Roll call on SB 1664  
11:48:22 AM SB 1664 reported favorably  
11:48:37 AM Tab 8 CS/CS/SB 562 presented by Senator Stargel  
11:48:52 AM Amendment 216992 presented by Senator Stargel  
11:49:52 AM Toni Large waives in support of amendment  
11:50:51 AM Jared Lee recognized to speak  
11:53:00 AM Frank Meiners waives in support of the amendment  
11:53:17 AM Senator Bean motions for time certain vote  
11:54:16 AM Max Story recognized to speak  
11:55:00 AM Clint Shouppe waives in support  
11:55:16 AM Alice Vickers with FL Alliance for Consumer Protection recognized to speak  
11:56:15 AM William Cotterall recognized to speak  
11:56:59 AM Amendment 216992 adopted  
11:57:56 AM Various members of the public waive in support of the bill  
11:58:12 AM Various members of the public waive in opposition of the bill  
11:58:14 AM Senator Hukill recognized in debate  
11:58:23 AM Roll call on CS/CS/SB 562  
11:58:38 AM CS/CS/CS/SB 562 reported favorably  
11:58:55 AM Senator Bean wishes to be recognized for votes on various bills  
11:59:11 AM Senator Legg wishes to be recognized for votes on a bill  
11:59:12 AM Meeting adjourned