

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

**FINANCE AND TAX**  
**Senator Hukill, Chair**  
**Senator Abruzzo, Vice Chair**

**MEETING DATE:** Monday, April 13, 2015  
**TIME:** 4:00 —6:00 p.m.  
**PLACE:** James E. "Jim" King, Jr. Committee Room, 401 Senate Office Building

**MEMBERS:** Senator Hukill, Chair; Senator Abruzzo, Vice Chair; Senators Altman, Diaz de la Portilla, Flores, Margolis, Simpson, and Soto

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>CS/SB 532</b> Health Policy / Grimsley (Compare CS/CS/H 281, CS/CS/S 614)	Ordering of Medication; Providing that an order for administration is included in the medical exemption from sales tax; revising the term "prescription" to exclude an order for drugs or medicinal supplies by a licensed practitioner that is dispensed for certain administration; revising the term "administer" to include the term "administration"; authorizing a licensed practitioner to authorize a licensed physician assistant or advanced registered nurse practitioner to order controlled substances for a specified patient under certain circumstances, etc.  HP 03/31/2015 Fav/CS FT 04/13/2015 Fav/CS AP	Fav/CS Yeas 6 Nays 0
2	<b>CS/SB 1102</b> Communications, Energy, and Public Utilities / Legg (Similar CS/CS/H 617)	Utility Projects; Creating the "Utility Cost Containment Bond Act"; authorizing certain local government entities to finance the costs of a utility project by issuing utility cost containment bonds upon application by a local agency; authorizing an authority to issue utility cost containment bonds for specified purposes related to utility projects; requiring the local agency or its publicly owned utility to collect the utility project charge, etc.  CU 03/24/2015 Fav/CS FT 04/13/2015 Favorable AP	Favorable Yeas 6 Nays 0
3	<b>SB 1242</b> Hays (Identical H 931)	Interstate Compacts; Adopting and entering the state into an interstate Compact for a Balanced Budget; exempting the compact from the Article V Constitutional Convention Act; providing for proposal by the compact's member states of an amendment to the United States Constitution requiring the Federal Government to maintain a balanced budget with certain exceptions; providing that the balanced budget amendment is not considered ratified until ratified by a specified number of states; authorizing severability of the compact under certain circumstances, etc.  JU 03/31/2015 Favorable FT 04/13/2015 Favorable AP	Favorable Yeas 6 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Finance and Tax

Monday, April 13, 2015, 4:00 —6:00 p.m.

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Other Related Meeting Documents

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

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

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Prepared By: The Professional Staff of the Committee on Finance and Tax

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BILL: CS/CS/SB 532

INTRODUCER: Finance and Tax Committee; Health Policy Committee and Senator Grimsley

SUBJECT: Ordering of Medication

DATE: April 14, 2015

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Harper/Stovall</u>	<u>Stovall</u>	<u>HP</u>	<u>Fav/CS</u>
2.	<u>Gross</u>	<u>Diez-Arguelles</u>	<u>FT</u>	<u>Fav/CS</u>
3.	_____	_____	<u>AP</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 532 provides express authority for an advanced registered nurse practitioner to order any medication for administration to a patient in a hospital, ambulatory surgical center, or mobile surgical facility within the framework of an established protocol. The bill provides express authority in ch. 893, F.S., the Florida Comprehensive Drug Abuse Prevention and Control Act, for a supervisory physician to authorize a physician assistant or an advanced registered nurse practitioner to order controlled substances for administration to a patient in a hospital, ambulatory surgical center, or mobile surgical facility.

The bill also makes changes to ch. 465, F.S., relating to pharmacy, and ch. 893, F.S., relating to drug abuse prevention and control, to clarify the distinction between a prescription and an order for administration.

The bill provides for an effective date of July 1, 2015.

**II. Present Situation:**

**Regulation of Physician Assistants in Florida**

Chapter 458, F.S., sets forth the provisions for the regulation of the practice of medicine by the Board of Medicine. Chapter 459, F.S., similarly sets forth the provisions for the regulation of the practice of osteopathic medicine by the Board of Osteopathic Medicine. Physician assistants

(PAs) are regulated by both boards. Licensure of PAs is overseen jointly by the boards through the Council on Physician Assistants.<sup>1</sup>

Physician assistants are trained and required by statute to work under the supervision and control of medical physicians or osteopathic physicians.<sup>2</sup> The Board of Medicine and the Board of Osteopathic Medicine have adopted rules that set out the general principles a supervising physician must use in developing the scope of practice of the PA under both direct<sup>3</sup> and indirect<sup>4</sup> supervision. A supervising physician's decision to permit a PA to perform a task or procedure under direct or indirect supervision must be based on reasonable medical judgment regarding the probability of morbidity and mortality to the patient. The supervising physician must be certain that the PA is knowledgeable and skilled in performing the tasks and procedures assigned.<sup>5</sup> Each physician or group of physicians supervising a licensed PA must be qualified in the medical areas in which the PA is to perform and must be individually or collectively responsible and liable for the performance and the acts and omissions of the PA.<sup>6</sup>

Current law allows a supervisory physician to delegate to a licensed PA the authority to prescribe or dispense any medication used in the physician's practice, except controlled substances, general anesthetics, and radiographic contrast materials.<sup>7</sup> However, Florida law does allow a supervisory physician to delegate to a licensed PA the authority to order any medication, which would include controlled substances, general anesthetics, and radiographic contrast materials, for a patient of the physician during the patient's stay in a facility licensed under ch. 395, F.S.<sup>8,9</sup>

### **Regulation of Advanced Registered Nurse Practitioners in Florida**

Chapter 464, F.S., governs the licensure and regulation of nurses in Florida. Nurses are licensed by the Department of Health and are regulated by the Board of Nursing.<sup>10</sup>

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<sup>1</sup> The council consists of three physicians who are members of the Board of Medicine; one physician who is a member of the Board of Osteopathic Medicine; and a physician assistant appointed by the State Surgeon General. (*See* ss. 458.347(9) and 459.022(9), F.S.)

<sup>2</sup> Sections 458.347(4) and 459.022(4), F.S.

<sup>3</sup> "Direct supervision" requires the physician to be on the premises and immediately available. (*See* Rules 64B8-30.001(4) and 64B15-6.001(4), F.A.C.)

<sup>4</sup> "Indirect supervision" refers to the easy availability of the supervising physician to the physician assistant, which includes the ability to communicate by telecommunications, and requires the physician to be within reasonable physical proximity. (*See* Rules 64B8-30.001(5) and 64B15-6.001(5), F.A.C.)

<sup>5</sup> Rules 64B8-30.012(2) and 64B15-6.010(2), F.A.C.

<sup>6</sup> Sections 458.347(3) and 459.022(3), F.S.

<sup>7</sup> Sections 458.347(4)(e) and (f)1. and 459.022(4)(e), F.S.

<sup>8</sup> Section 458.347(4)(g)

<sup>9</sup> *See* s. 395.002(16), F.S. The facilities licensed under ch. 395, F.S., are hospitals, ambulatory surgical centers, and mobile surgical facilities.

<sup>10</sup> The Board of Nursing is comprised of 13 members appointed by the Governor and confirmed by the Senate who serve 4-year terms. Seven of the 13 members must be nurses who reside in Florida and have been engaged in the practice of professional nursing for at least 4 years. Of those seven members, one must be an advanced registered nurse practitioner, one a nurse educator at an approved nursing program, and one a nurse executive. Three members of the BON must be licensed practical nurses who reside in the state and have engaged in the practice of practical nursing for at least 4 years. The remaining three members must be Florida residents who have never been licensed as nurses and are in no way connected to the practice of nursing, any health care facility, agency, or insurer. Additionally, one member must be 60 years of age or older. (*See* s. 464.004(2), F.S.)

An advanced registered nurse practitioner (ARNP) is a licensed nurse who is certified in advanced or specialized nursing.<sup>11</sup> Florida recognizes three types of ARNPs: nurse practitioner (NP), certified registered nurse anesthetist (CRNA), and certified nurse midwife (CNM).<sup>12</sup> To be certified as an ARNP, a nurse must hold a current license as a registered nurse<sup>13</sup> and submit proof to the Board of Nursing that he or she meets one of the following requirements:<sup>14</sup>

- Satisfactory completion of a formal postbasic educational program of specialized or advanced nursing practice;
- Certification by an appropriate specialty board;<sup>15</sup> or
- Graduation from a master's degree program in a nursing clinical specialty area with preparation in specialized practitioner skills.

Advanced or specialized nursing acts may only be performed under protocol of a supervising physician. Within the established framework of the protocol, an ARNP may:<sup>16</sup>

- Monitor and alter drug therapies.
- Initiate appropriate therapies for certain conditions.
- Order diagnostic tests and physical and occupational therapy.

The statute further describes additional acts that may be performed within an ARNP's specialty certification (CRNA, CNM, and NP).<sup>17</sup>

Advanced registered nurse practitioners must meet financial responsibility requirements, as determined by rule of the Board of Nursing, and the practitioner profiling requirements.<sup>18</sup> The Board of Nursing, currently, requires ARNPs to carry professional liability coverage of at least \$100,000 per claim with a minimum annual aggregate of at least \$300,000 or an unexpired irrevocable letter of credit in the same amounts payable to the ARNP.<sup>19</sup>

Florida does not allow ARNPs to prescribe controlled substances.<sup>20</sup> However, s. 464.012(4)(a), F.S., provides express authority for a CRNA to order certain controlled substances "to the extent authorized by established protocol approved by the medical staff of the facility in which the anesthetic service is performed."

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<sup>11</sup> "Advanced or specialized nursing practice" is defined as the performance of advanced-level nursing acts approved by the Board of Nursing which, by virtue of postbasic specialized education, training and experience, are appropriately performed by an advanced registered nurse practitioner. (*See* s. 464.003(2), F.S.)

<sup>12</sup> Section 464.003(3), F.S. Florida certifies clinical nurse specialists as a category distinct from advanced registered nurse practitioners. (*See* ss. 464.003(7) and 464.0115, F.S.)

<sup>13</sup> Practice of professional nursing. (*See* s. 464.003(20), F.S.)

<sup>14</sup> Section 464.012(1), F.S.

<sup>15</sup> Specialty boards expressly recognized by the Board of Nursing include: Council on Certification of Nurse Anesthetists, or Council on Recertification of Nurse Anesthetists; American College of Nurse Midwives; American Nurses Association (American Nurses Credentialing Center); National Certification Corporation for OB/GYN, Neonatal Nursing Specialties; National Board of Pediatric Nurse Practitioners and Associates; National Board for Certification of Hospice and Palliative Nurses; American Academy of Nurse Practitioners; Oncology Nursing Certification Corporation; American Association of Critical-Care Nurses Adult Acute Care Nurse Practitioner Certification. (*See* Rule 64B9-4.002(2), F.A.C.)

<sup>16</sup> Section 464.012(3), F.S.

<sup>17</sup> Section 464.012(4), F.S.

<sup>18</sup> Sections 456.0391 and 456.041, F.S.

<sup>19</sup> Rule 64B9-4.002(5), F.A.C.

<sup>20</sup> Sections 893.02(21) and 893.05(1), F.S.

## Definitions related to the Ordering of Medicinal Drugs

Chapter 464, F.S., does not contain a definition of the terms “order” or “prescribe.” Chapter 465, F.S., relating to pharmacy, defines “prescription” as “any order for drugs or medicinal supplies written or transmitted by any means of communication by a duly licensed practitioner authorized by the laws of the state to prescribe such drugs or medicinal supplies and intended to be dispensed by a pharmacist.”<sup>21</sup> “Dispense” is defined as “the transfer of possession of one or more doses of a medicinal drug by a pharmacist to the ultimate consumer or her or his agent.”<sup>22</sup> “Administration” is defined as “the obtaining and giving of a single dose of medicinal drugs by a legally authorized person to a patient for her or his consumption.”<sup>23</sup> Chapter 893, F.S., relating to drug abuse prevention and control, contains similar definitions.<sup>24</sup>

## ARNP Petition for Declaratory Statement

On January 22, 2014, a petition for declaratory statement<sup>25</sup> was filed with the Board of Nursing which asked “Can ARNPs legally order narcotics for patients we treat in the institution with written protocols from our attending Doctors [sic]?”<sup>26</sup> The petition noted that prior to January 1, 2014, ARNPs ordered controlled substances for patients. Effective January 1, 2014, the hospital disallowed the practice and required all ARNPs to get an order from a physician. The hospital cited passage of legislation in 2013 which clarified the authority of physician assistants to order controlled substances, but did not address the authority of ARNPs.<sup>27</sup> The Board of Nursing dismissed the petition finding that it failed to comply with the requirements of ch. 120, F.S., and that it sought an opinion regarding the scope of practice of a category of licensees based on an employer’s policies.

## Drug Enforcement Agency Registration

An individual practitioner<sup>28</sup> who is an agent or employee of another practitioner (other than a mid-level practitioner<sup>29</sup>) registered to dispense controlled substances, may, when acting in the normal course of business or employment, administer or dispense (other than by issuance of a prescription) controlled substances if and to the extent authorized by state law, under the registration of the employer or principal practitioner in lieu of being registered himself or herself.<sup>30</sup>

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<sup>21</sup> Section 465.003(14), F.S.

<sup>22</sup> Section 465.003(6), F.S.

<sup>23</sup> Section 465.003(1), F.S.

<sup>24</sup> See ss. 893.02(1), 893.02(7), and 893.02(22), F.S.

<sup>25</sup> A declaratory statement is an agency’s opinion regarding the applicability of a statutory provision, rule, or agency order to a petitioner’s set of circumstances. (*See* s. 120.565(1), F.S.)

<sup>26</sup> Petition for Declaratory Statement filed by Carolann Robley ARNP, MSN, BC, FNP (on file with the Senate Committee on Health Policy).

<sup>27</sup> *See* ch. 2013-127, Laws of Fla.

<sup>28</sup> “Practitioner” means a physician, dentist, veterinarian, scientific investigator, pharmacy, hospital, or other person licensed, registered, or otherwise permitted, by the United States of the jurisdiction in which he practices or does research, to distribute, dispense, conduct research with respect to, administer, or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research. (21 U.S.C. s.802(21))

<sup>29</sup> Examples of mid-level practitioners include, but are not limited to: nurse practitioners, nurse midwives, nurse anesthetists, clinical nurse specialists, and physician assistants.

<sup>30</sup> 21 C.F.R. 1301.22.

Health care practitioners who are agents or employees of a hospital or other institution, may, when acting in the usual course of business or employment, administer, dispense, or prescribe controlled substances under the registration of the hospital or other institution in which he or she is employed, in lieu of individual registration, provided that:

- The dispensing, administering, or prescribing is in the usual course of professional practice;
- The practitioner is authorized to do so by the state in which he or she practices;
- The hospital or other institution has verified that the practitioner is permitted to administer, dispense, or prescribe controlled substances within the state;
- The practitioner acts only within the scope of employment in the hospital or other institution;
- The hospital or other institution authorizes the practitioner to administer, dispense, or prescribe under its registration and assigns a specific internal code number for each practitioner; and
- The hospital or other institution maintains a current list of internal codes and the corresponding practitioner.<sup>31</sup>

### III. Effect of Proposed Changes:

**Sections 1 and 2** make conforming changes to ss. 458.347(4)(g) and 459.022(4)(f), F.S., related to the authority of a PA to order medications, but does not alter the authority of supervisory physicians or PAs.

**Sections 3 and 7** provide express authority for an ARNP to order any medication for administration to a patient in a hospital, ambulatory surgical center, or mobile surgical facility within the framework of an established protocol. The bill also provides express authority in ch. 893, F.S., for a supervisory physician to authorize a PA or ARNP to order controlled substances for administration to a patient in a hospital, ambulatory surgical center, or mobile surgical facility.

**Sections 4, 5, and 6** clarify the distinction between a prescription and an order for administration by amending the definition of “prescription” in chs. 465 and 893, F.S., to exclude an order that is dispensed for administration and making conforming changes in s. 893.04, F.S. The bill also revises the definition of “administer” in ch. 893, F.S., to include the term “administration.”

**Sections 8 - 13** reenact various sections of Florida law as required to incorporate amendments made thereto.

**Section 14** provides a July 1, 2015, effective date.

### IV. Constitutional Issues:

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

None.

<sup>31</sup> *Id.*; See also U.S. Department of Justice, Drug Enforcement Administration, *Practitioner’s Manual*, 27 (2006), available at [http://www.deadiversion.usdoj.gov/pubs/manuals/pract/pract\\_manual012508.pdf](http://www.deadiversion.usdoj.gov/pubs/manuals/pract/pract_manual012508.pdf) (last visited Mar. 27, 2015).

**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:**

Physicians who utilize ARNPs to serve hospitalized patients or physicians who supervise ARNPs with a hospital practice, and hospitals that employ ARNPs, may see increased efficiencies if ARNPs can order controlled substances directly without the need for obtaining a physician's order. These efficiencies include time savings for the practitioners and better utilization of potentially limited space, such as emergency room beds where patients might otherwise wait while a supervising physician is located.

**C. Government Sector Impact:**

The impact described in V. B., above, would also apply to public hospitals and physicians employed in public hospitals.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 458.347, 459.022, 464.012, 465.003, 893.02, 893.04, and 893.05.

This bill reenacts the following sections of the Florida Statutes: 112.0455(5)(i), 381.986(7)(b), 400.462(26), 401.445(1), 409.906(18), 409.9201(1)(a), 440.102(1)(l), 458.331(1)(pp), 459.015(1)(rr), 465.014(1), 465.015(2)(c), 465.015(3), 465.016(1)(s), 465.022(5)(j), 465.023(1)(h), 465.1901, 499.003(43), 499.0121(14), 766.103(3), 768.36(1)(b), 810.02(3)(f), 812.014(2)(c), 831.30(1), 856.015(1)(c), 893.0551(3)(d), 893.0551(3)(e), 944.47(1)(a), 951.22(1), 985.711(1)(a), 1003.57(1)(i), and 1006.09(8).

**IX. Additional Information:**

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

**CS/CS by Finance and Tax on April 13, 2015:**

The CS/CS deletes Section 1 of the bill to remove changes made to the sales and use tax exemption for medication.

**CS by Health Policy on March 31, 2015:**

The committee substitute amends s. 212.08, F.S., related to medical sales tax exemptions, to conform to changes made elsewhere in the bill. The CS revises the definition of “prescription” and clarifies that any medical products and supplies or medicine dispensed according to “an order for administration” are exempt from sales tax under ch. 212, F.S.

- B. **Amendments:**

None.



520414

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/13/2015	.	
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The Committee on Finance and Tax (Flores) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 55 - 137.

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

And the title is amended as follows:

Delete lines 3 - 6

and insert:

amending ss.

By the Committee on Health Policy; and Senator Grimsley

588-03209-15

2015532c1

1 A bill to be entitled  
 2 An act relating to the ordering of medication;  
 3 amending s. 212.08, F.S.; providing that an order for  
 4 administration is included in the medical exemption  
 5 from sales tax; revising the term "prescription" to  
 6 exclude an order for administration; amending ss.  
 7 458.347 and 459.022, F.S.; revising the authority of a  
 8 licensed physician assistant to order medication under  
 9 the direction of a supervisory physician for a  
 10 specified patient; amending s. 464.012, F.S.;  
 11 authorizing an advanced registered nurse practitioner  
 12 to order medication for administration to a specified  
 13 patient; amending s. 465.003, F.S.; revising the term  
 14 "prescription" to exclude an order for drugs or  
 15 medicinal supplies by a licensed practitioner that is  
 16 dispensed for certain administration; amending s.  
 17 893.02, F.S.; revising the term "administer" to  
 18 include the term "administration"; revising the term  
 19 "prescription" to exclude an order for drugs or  
 20 medicinal supplies by a licensed practitioner that is  
 21 dispensed for certain administration; amending s.  
 22 893.04, F.S.; conforming provisions to changes made by  
 23 act; amending s. 893.05, F.S.; authorizing a licensed  
 24 practitioner to authorize a licensed physician  
 25 assistant or advanced registered nurse practitioner to  
 26 order controlled substances for a specified patient  
 27 under certain circumstances; reenacting ss.  
 28 400.462(26), 401.445(1), 409.906(18), and 766.103(3),  
 29 F.S., to incorporate the amendments made to ss.

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

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2015532c1

30 458.347 and 459.022, F.S., in references thereto;  
 31 reenacting ss. 401.445(1) and 766.103(3), F.S., to  
 32 incorporate the amendment made to s. 464.012, F.S., in  
 33 references thereto; reenacting ss. 409.9201(1) (a),  
 34 458.331(1) (pp), 459.015(1) (rr), 465.014(1),  
 35 465.015(2) (c), 465.016(1) (s), 465.022(5) (j),  
 36 465.023(1) (h), 465.1901, 499.003(43), and 831.30(1),  
 37 F.S., to incorporate the amendment made to s. 465.003,  
 38 F.S., in references thereto; reenacting ss.  
 39 112.0455(5) (i), 381.986(7) (b), 440.102(1) (l),  
 40 458.331(1) (pp), 459.015(1) (rr), 465.015(3),  
 41 465.016(1) (s), 465.022(5) (j), 465.023(1) (h),  
 42 499.0121(14), 768.36(1) (b), 810.02(3) (f),  
 43 812.014(2) (c), 856.015(1) (c), 944.47(1) (a), 951.22(1),  
 44 985.711(1) (a), 1003.57(1) (i), and 1006.09(8), F.S., to  
 45 incorporate the amendment made to s. 893.02, F.S., in  
 46 references thereto; reenacting s. 893.0551(3) (e),  
 47 F.S., to incorporate the amendment made to s. 893.04,  
 48 F.S., in a reference thereto; reenacting s.  
 49 893.0551(3) (d), F.S., to incorporate the amendment  
 50 made to s. 893.05, F.S., in a reference thereto;  
 51 providing an effective date.

52  
 53 Be It Enacted by the Legislature of the State of Florida:

54  
 55 Section 1. Paragraphs (a) and (b) of subsection (2) of  
 56 section 212.08, Florida Statutes, are amended to read:  
 57 212.08 Sales, rental, use, consumption, distribution, and  
 58 storage tax; specified exemptions.—The sale at retail, the

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59 rental, the use, the consumption, the distribution, and the  
60 storage to be used or consumed in this state of the following  
61 are hereby specifically exempt from the tax imposed by this  
62 chapter.

63 (2) EXEMPTIONS; MEDICAL.—

64 (a) There shall be exempt from the tax imposed by this  
65 chapter any medical products and supplies or medicine dispensed  
66 according to an individual prescription or prescriptions or an  
67 order for administration, written by a prescriber authorized by  
68 law to prescribe medicinal drugs; hypodermic needles; hypodermic  
69 syringes; chemical compounds and test kits used for the  
70 diagnosis or treatment of human disease, illness, or injury; and  
71 common household remedies recommended and generally sold for  
72 internal or external use in the cure, mitigation, treatment, or  
73 prevention of illness or disease in human beings, but not  
74 including cosmetics or toilet articles, notwithstanding the  
75 presence of medicinal ingredients therein, according to a list  
76 prescribed and approved by the Department of Business and  
77 Professional Regulation, which list shall be certified to the  
78 Department of Revenue from time to time and included in the  
79 rules promulgated by the Department of Revenue. There shall also  
80 be exempt from the tax imposed by this chapter artificial eyes  
81 and limbs; orthopedic shoes; prescription eyeglasses and items  
82 incidental thereto or which become a part thereof; dentures;  
83 hearing aids; crutches; prosthetic and orthopedic appliances;  
84 and funerals. In addition, any items intended for one-time use  
85 which transfer essential optical characteristics to contact  
86 lenses shall be exempt from the tax imposed by this chapter;  
87 however, this exemption shall apply only after \$100,000 of the

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2015532c1

88 tax imposed by this chapter on such items has been paid in any  
89 calendar year by a taxpayer who claims the exemption in such  
90 year. Funeral directors shall pay tax on all tangible personal  
91 property used by them in their business.

92 (b) For the purposes of this subsection:

93 1. "Prosthetic and orthopedic appliances" means any  
94 apparatus, instrument, device, or equipment used to replace or  
95 substitute for any missing part of the body, to alleviate the  
96 malfunction of any part of the body, or to assist any disabled  
97 person in leading a normal life by facilitating such person's  
98 mobility. Such apparatus, instrument, device, or equipment shall  
99 be exempted according to an individual prescription or  
100 prescriptions written by a physician licensed under chapter 458,  
101 chapter 459, chapter 460, chapter 461, or chapter 466, or  
102 according to a list prescribed and approved by the Department of  
103 Health, which list shall be certified to the Department of  
104 Revenue from time to time and included in the rules promulgated  
105 by the Department of Revenue.

106 2. "Cosmetics" means articles intended to be rubbed,  
107 poured, sprinkled, or sprayed on, introduced into, or otherwise  
108 applied to the human body for cleansing, beautifying, promoting  
109 attractiveness, or altering the appearance and also means  
110 articles intended for use as a compound of any such articles,  
111 including, but not limited to, cold creams, suntan lotions,  
112 makeup, and body lotions.

113 3. "Toilet articles" means any article advertised or held  
114 out for sale for grooming purposes and those articles that are  
115 customarily used for grooming purposes, regardless of the name  
116 by which they may be known, including, but not limited to, soap,

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588-03209-15

2015532c1

117 toothpaste, hair spray, shaving products, colognes, perfumes,  
118 shampoo, deodorant, and mouthwash.

119 4. "Prescription" includes any order for drugs or medicinal  
120 supplies written or transmitted by any means of communication by  
121 a ~~duly~~ licensed practitioner authorized by the laws of this the  
122 state to prescribe such drugs or medicinal supplies and intended  
123 to be dispensed by a pharmacist, except for an order that is  
124 dispensed for administration. The term also includes an orally  
125 transmitted order by the lawfully designated agent of such  
126 practitioner; ~~The term also includes~~ an order written or  
127 transmitted by a practitioner licensed to practice in a  
128 jurisdiction other than this state, but only if the pharmacist  
129 called upon to dispense such order determines, in the exercise  
130 of his or her professional judgment, that the order is valid and  
131 necessary for the treatment of a chronic or recurrent illness;  
132 ~~and. The term also includes~~ a pharmacist's order for a product  
133 selected from the formulary created pursuant to s. 465.186. A  
134 prescription may be retained in written form, or the pharmacist  
135 may cause it to be recorded in a data processing system,  
136 provided that such order can be produced in printed form upon  
137 lawful request.

138 Section 2. Paragraph (g) of subsection (4) of section  
139 458.347, Florida Statutes, is amended to read:

140 458.347 Physician assistants.—

141 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

142 (g) A supervisory physician may delegate to a licensed  
143 physician assistant the authority to, and the licensed physician  
144 assistant acting under the direction of the supervisory  
145 physician may, order any medication medications for

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146 administration to the supervisory physician's patient ~~during his~~  
147 ~~or her care~~ in a facility licensed under chapter 395,  
148 ~~notwithstanding any provisions in chapter 465 or chapter 893~~  
149 ~~which may prohibit this delegation. For the purpose of this~~  
150 ~~paragraph, an order is not considered a prescription. A licensed~~  
151 ~~physician assistant working in a facility that is licensed under~~  
152 ~~chapter 395 may order any medication under the direction of the~~  
153 ~~supervisory physician.~~

154 Section 3. Paragraph (f) of subsection (4) of section  
155 459.022, Florida Statutes, is amended to read:

156 459.022 Physician assistants.—

157 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

158 (f) A supervisory physician may delegate to a licensed  
159 physician assistant the authority to, and the licensed physician  
160 assistant acting under the direction of the supervisory  
161 physician may, order any medication medications for  
162 administration to the supervisory physician's patient ~~during his~~  
163 ~~or her care~~ in a facility licensed under chapter 395,  
164 ~~notwithstanding any provisions in chapter 465 or chapter 893~~  
165 ~~which may prohibit this delegation. For the purpose of this~~  
166 ~~paragraph, an order is not considered a prescription. A licensed~~  
167 ~~physician assistant working in a facility that is licensed under~~  
168 ~~chapter 395 may order any medication under the direction of the~~  
169 ~~supervisory physician.~~

170 Section 4. Paragraph (a) of subsection (3) of section  
171 464.012, Florida Statutes, is amended to read:

172 464.012 Certification of advanced registered nurse  
173 practitioners; fees.—

174 (3) An advanced registered nurse practitioner shall perform

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175 those functions authorized in this section within the framework  
 176 of an established protocol that is filed with the board upon  
 177 biennial license renewal and within 30 days after entering into  
 178 a supervisory relationship with a physician or changes to the  
 179 protocol. The board shall review the protocol to ensure  
 180 compliance with applicable regulatory standards for protocols.  
 181 The board shall refer to the department licensees submitting  
 182 protocols that are not compliant with the regulatory standards  
 183 for protocols. A practitioner currently licensed under chapter  
 184 458, chapter 459, or chapter 466 shall maintain supervision for  
 185 directing the specific course of medical treatment. Within the  
 186 established framework, an advanced registered nurse practitioner  
 187 may:

188 (a) Monitor and alter drug therapies and order any  
 189 medication for administration to a patient in a facility  
 190 licensed under chapter 395.

191 Section 5. Subsection (14) of section 465.003, Florida  
 192 Statutes, is amended to read:

193 465.003 Definitions.—As used in this chapter, the term:

194 (14) "Prescription" includes any order for drugs or  
 195 medicinal supplies written or transmitted by any means of  
 196 communication by a ~~duly~~ licensed practitioner authorized by the  
 197 laws of ~~this the~~ state to prescribe such drugs or medicinal  
 198 supplies and intended to be dispensed by a pharmacist, except  
 199 for an order that is dispensed for administration. The term also  
 200 includes an orally transmitted order by the lawfully designated  
 201 agent of such practitioner; ~~The term also includes~~ an order  
 202 written or transmitted by a practitioner licensed to practice in  
 203 a jurisdiction other than this state, but only if the pharmacist

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204 called upon to dispense such order determines, in the exercise  
 205 of her or his professional judgment, that the order is valid and  
 206 necessary for the treatment of a chronic or recurrent illness;  
 207 ~~and. The term "prescription" also includes~~ a pharmacist's order  
 208 for a product selected from the formulary created pursuant to s.  
 209 465.186. Prescriptions may be retained in written form or the  
 210 pharmacist may cause them to be recorded in a data processing  
 211 system, provided that such order can be produced in printed form  
 212 upon lawful request.

213 Section 6. Subsections (1) and (22) of section 893.02,  
 214 Florida Statutes, are amended to read:

215 893.02 Definitions.—The following words and phrases as used  
 216 in this chapter shall have the following meanings, unless the  
 217 context otherwise requires:

218 (1) "Administer" or "administration" means the direct  
 219 application of a controlled substance, whether by injection,  
 220 inhalation, ingestion, or any other means, to the body of a  
 221 person or animal.

222 (22) "Prescription" ~~means and~~ includes any an order for  
 223 drugs or medicinal supplies which is written, ~~signed,~~ or  
 224 transmitted by any word of mouth, telephone, telegram, or other  
 225 means of communication by a ~~duly~~ licensed practitioner  
 226 authorized licensed by the laws of ~~this the~~ state to prescribe  
 227 such drugs or medicinal supplies, is issued in good faith and in  
 228 the course of professional practice, is intended to be ~~filled,~~  
 229 ~~compounded, or~~ dispensed by a ~~another~~ person authorized licensed  
 230 by the laws of ~~this the~~ state to do so, and meets meeting the  
 231 requirements of s. 893.04.

232 (a) The term also includes an order for drugs or medicinal

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233 supplies ~~se~~ transmitted or written by a physician, dentist,  
 234 veterinarian, or other practitioner licensed to practice in a  
 235 state other than Florida, but only if the pharmacist called upon  
 236 to fill such an order determines, in the exercise of his or her  
 237 professional judgment, that the order was issued pursuant to a  
 238 valid patient-physician relationship, that it is authentic, and  
 239 that the drugs or medicinal supplies ~~se~~ ordered are considered  
 240 necessary for the continuation of treatment of a chronic or  
 241 recurrent illness.

242 (b) The term does not include an order that is dispensed  
 243 for administration by a licensed practitioner authorized by the  
 244 laws of this state to administer such drugs or medicinal  
 245 supplies.

246 (c) However, If the physician writing the prescription is  
 247 not known to the pharmacist, the pharmacist shall obtain proof  
 248 to a reasonable certainty of the validity of the said  
 249 prescription.

250 (d) A prescription ~~order~~ for a controlled substance may  
 251 shall not be issued on the same prescription blank with another  
 252 prescription ~~order~~ for a controlled substance that which is  
 253 named or described in a different schedule or with another, ~~nor~~  
 254 ~~shall any prescription order for a controlled substance be~~  
 255 ~~issued on the same prescription blank as a prescription order~~  
 256 for a medicinal drug, as defined in s. 465.003(8), that is which  
 257 ~~does not fall within the definition of a controlled substance as~~  
 258 ~~defined in this act.~~

259 Section 7. Paragraphs (a), (d), and (f) of subsection (2)  
 260 of section 893.04, Florida Statutes, are amended to read:

261 893.04 Pharmacist and practitioner.-

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262 (2) (a) A pharmacist may not dispense a controlled substance  
 263 listed in Schedule II, Schedule III, or Schedule IV to any  
 264 patient or patient's agent without first determining, in the  
 265 exercise of her or his professional judgment, that the  
 266 prescription order ~~order~~ is valid. The pharmacist may dispense the  
 267 controlled substance, in the exercise of her or his professional  
 268 judgment, when the pharmacist or pharmacist's agent has obtained  
 269 satisfactory patient information from the patient or the  
 270 patient's agent.

271 (d) Each ~~written~~ prescription written ~~prescribed~~ by a  
 272 practitioner in this state for a controlled substance listed in  
 273 Schedule II, Schedule III, or Schedule IV must include ~~both~~ a  
 274 written and a numerical notation of the quantity of the  
 275 controlled substance prescribed and a notation of the date in  
 276 numerical, month/day/year format, or with the abbreviated month  
 277 written out, or the month written out in whole. A pharmacist  
 278 may, upon verification by the prescriber, document any  
 279 information required by this paragraph. If the prescriber is not  
 280 available to verify a prescription, the pharmacist may dispense  
 281 the controlled substance, but may insist that the person to whom  
 282 the controlled substance is dispensed provide valid photographic  
 283 identification. If a prescription includes a numerical notation  
 284 of the quantity of the controlled substance or date, but does  
 285 not include the quantity or date written out in textual format,  
 286 the pharmacist may dispense the controlled substance without  
 287 verification by the prescriber of the quantity or date if the  
 288 pharmacy previously dispensed another prescription for the  
 289 person to whom the prescription was written.

290 (f) A pharmacist may not knowingly dispense ~~fill~~ a

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291 prescription that has been forged for a controlled substance  
 292 listed in Schedule II, Schedule III, or Schedule IV.

293 Section 8. Subsection (1) of section 893.05, Florida  
 294 Statutes, is amended to read:

295 893.05 Practitioners and persons administering controlled  
 296 substances in their absence.—

297 (1)(a) A practitioner, in good faith and in the course of  
 298 his or her professional practice only, may prescribe,  
 299 administer, dispense, mix, or otherwise prepare a controlled  
 300 substance, or the practitioner may cause the controlled  
 301 substance ~~same~~ to be administered by a licensed nurse or an  
 302 intern practitioner under his or her direction and supervision  
 303 only.

304 (b) Pursuant to s. 458.347(4)(g), s. 459.022(4)(f), or s.  
 305 464.012(3), as applicable, a practitioner who supervises a  
 306 licensed physician assistant or advanced registered nurse  
 307 practitioner may authorize the licensed physician assistant or  
 308 advanced registered nurse practitioner to order controlled  
 309 substances for administration to a patient in a facility  
 310 licensed under chapter 395.

311 (c) A veterinarian may ~~se~~ prescribe, administer, dispense,  
 312 mix, or prepare a controlled substance for use on animals only,  
 313 and may cause the controlled substance ~~it~~ to be administered by  
 314 an assistant or orderly under the veterinarian's direction and  
 315 supervision only.

316 (d) A certified optometrist licensed under chapter 463 may  
 317 not administer or prescribe a controlled substance listed in  
 318 Schedule I or Schedule II of s. 893.03.

319 Section 9. Subsection (26) of s. 400.462, subsection (1) of

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320 s. 401.445, subsection (18) of s. 409.906, and subsection (3) of  
 321 s. 766.103, Florida Statutes, are reenacted for the purpose of  
 322 incorporating the amendments made by this act to ss. 458.347 and  
 323 459.022, Florida Statutes, in references thereto.

324 Section 10. Subsection (1) of s. 401.445 and subsection (3)  
 325 of s. 766.103, Florida Statutes, are reenacted for the purpose  
 326 of incorporating the amendment made by this act to s. 464.012,  
 327 Florida Statutes, in references thereto.

328 Section 11. Paragraph (a) of subsection (1) of s. 409.9201,  
 329 paragraph (pp) of subsection (1) of s. 458.331, paragraph (rr)  
 330 of subsection (1) of s. 459.015, subsection (1) of s. 465.014,  
 331 paragraph (c) of subsection (2) of s. 465.015, paragraph (s) of  
 332 subsection (1) of s. 465.016, paragraph (j) of subsection (5) of  
 333 s. 465.022, paragraph (h) of subsection (1) of s. 465.023, s.  
 334 465.1901, subsection (43) of s. 499.003, and subsection (1) of  
 335 s. 831.30, Florida Statutes, are reenacted for the purpose of  
 336 incorporating the amendments made by this act to s. 465.003,  
 337 Florida Statutes, in references thereto.

338 Section 12. Paragraph (i) of subsection (5) of s. 112.0455,  
 339 paragraph (b) of subsection (7) of s. 381.986, paragraph (1) of  
 340 subsection (1) of s. 440.102, paragraph (pp) of subsection (1)  
 341 of s. 458.331, paragraph (rr) of subsection (1) of s. 459.015,  
 342 subsection (3) of s. 465.015, paragraph (s) of subsection (1) of  
 343 s. 465.016, paragraph (j) of subsection (5) of s. 465.022,  
 344 paragraph (h) of subsection (1) of s. 465.023, subsection (14)  
 345 of s. 499.0121, paragraph (b) of subsection (1) of s. 768.36,  
 346 paragraph (f) of subsection (3) of s. 810.02, paragraph (c) of  
 347 subsection (2) of s. 812.014, paragraph (c) of subsection (1) of  
 348 s. 856.015, paragraph (a) of subsection (1) of s. 944.47,

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349 subsection (1) of s. 951.22, paragraph (a) of subsection (1) of  
350 s. 985.711, paragraph (i) of subsection (1) of s. 1003.57, and  
351 subsection (8) of s. 1006.09, Florida Statutes, are reenacted  
352 for the purpose of incorporating the amendments made by this act  
353 to s. 893.02, Florida Statutes, in references thereto.

354 Section 13. Paragraph (e) of subsection (3) of s. 893.0551,  
355 Florida Statutes, is reenacted for the purpose of incorporating  
356 the amendments made by this act to s. 893.04, Florida Statutes,  
357 in a reference thereto.

358 Section 14. Paragraph (d) of subsection (3) of s. 893.0551,  
359 Florida Statutes, is reenacted for the purpose of incorporating  
360 the amendments made by this act to s. 893.05, Florida Statutes,  
361 in a reference thereto.

362 Section 15. This act shall take effect July 1, 2015.



The Florida Senate

## Committee Agenda Request

**To:** Senator Dorothy L. Hukill, Chair  
Committee on Finance and Tax

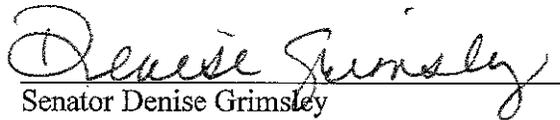
**Subject:** Committee Agenda Request

**Date:** April 8, 2015

---

I respectfully request that **Senate Bill #532**, relating to Ordering of Medication, be placed on the:

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

  
\_\_\_\_\_  
Senator Denise Grimsley  
Florida Senate, District 21

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/13/15

Meeting Date

532

Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name Chris Nuland

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

Address 1000 Riverside Ave

Phone 904-233-3051

Street

Jacksonville, FL 32204

Email nulandlawe ad.com

City

State

Zip

Speaking:  For  Against  Information

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

Representing Florida Chapter, American College of Physicians

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.

# APPEARANCE RECORD

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

4-13-15

Meeting Date

532

Bill Number (if applicable)

Topic Ordering of Medication

Amendment Barcode (if applicable)

Name MARTHA DECASTRO

Job Title VP for Nursing

Address 306 E College Ave

Phone (850) 222 9800

Street

Tallahassee FL 32301

City

State

Zip

Email martha@fha.org

Speaking:  For  Against  Information

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

Representing Florida Hospital 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

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

April 13, 2015  
Meeting Date

532  
Bill Number (if applicable)

Topic Ordering of Medication

Amendment Barcode (if applicable)

Name Melody Selis

Job Title Govt Affairs Mngr

Address 307 W. Park Ave  
Street

Phone 850-229-3907

TLH FL 32301  
City State Zip

Email mselect@anca.org

Speaking:  For  Against  Information

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

Representing Florida Health Care 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)

4/13/15

Meeting Date

SB 532

Bill Number (if applicable)

Topic Ordering Medication

Amendment Barcode (if applicable)

Name Michael ANWAY

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

Address 315 S. Calhoun

Phone \_\_\_\_\_

Tallahassee FL

Email \_\_\_\_\_

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)

4/13/15

Meeting Date

532

Bill Number (if applicable)

Topic Ordering of Medication

Amendment Barcode (if applicable)

Name Zayne Smith

Job Title ASD

Address 200 W. College Ave.

Phone 850 577-5163

Street

Tally

City

FL

State

32301

Zip

Email zsmith@aarpa.org

Speaking:  For  Against  Information

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

Representing AA R P

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)

# APPEARANCE RECORD

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

4-13-15

Meeting Date

~~532~~ 532

Bill Number (if applicable)

Topic ordering of medications

Amendment Barcode (if applicable)

Name Lori Killinger

Job Title attorney/lobbyist

Address 315 S. Calhoun St. Ste 830

Phone 890 222 5702

Street

Tallahassee

City

FL

State

32308

Zip

Email lkillinger@llw-law.com

Speaking:  For  Against  Information

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

Representing Florida Assn of Nurse Anesthetists

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)

4/13/15

Meeting Date

532

Bill Number (if applicable)

Topic Ordering of medication

Amendment Barcode (if applicable)

Name Chris Floyd

Job Title Consultant

Address Street

Phone (850) 766-5385

Email

City

State

Zip

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

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

Representing Florida Association of Nurse Practitioners

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 Finance and Tax

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BILL: CS/SB 1102

INTRODUCER: Communications, Energy, and Public Utilities Committee and Senator Legg

SUBJECT: Utility Projects

DATE: April 10, 2015

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Wiehle</u>	<u>Caldwell</u>	<u>CU</u>	<b>Fav/CS</b>
2.	<u>Babin</u>	<u>Diez-Arguelles</u>	<u>FT</u>	<b>Favorable</b>
3.	_____	_____	<u>AP</u>	_____

---

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1102 establishes a new finance mechanism – utility cost containment bonds – available to an intergovernmental authority to finance or refinance projects related to water or wastewater service on behalf of a municipality, county, special district, public corporation, regional water authority, or other governmental entity. Utility cost containment bonds are secured by a utility project charge levied on utility customers. The separate charge is designed to satisfy rating agency criteria to achieve a higher bond rating and, therefore, a lower interest rate and more favorable terms for bonds issued to fund eligible projects.

Briefly, the financing mechanism created by the bill operates as follows:

- A local agency applies to the intergovernmental utility authority to finance the costs of an eligible project using utility cost containment bonds.
- The intergovernmental utility authority adopts a financing resolution, setting forth certain requirements for issuance of the bonds.
- The bonds are secured by the revenues from a separate utility project charge stated on the bill of each present and future customer of the services specified in the financing resolution.
- The revenues from the charge are transferred to the intergovernmental utility authority and held in trust for the benefit of the bondholders.

The Florida Governmental Utility Authority (FGUA) is the only intergovernmental authority that currently meets the criteria to provide financing under the bill. Thus, the bill expands FGUA's original purpose of owning and operating a public utility system.

The bill is effective July 1, 2015.

## **II. Present Situation:**

### **Financing Authority of Local Government Entities for Public Works Projects**

Local governments are authorized under current law to issue bonds, revenue certificates, and other forms of indebtedness related to the provision of public works projects.

#### ***County Bonding***

A county may issue water revenue bonds, sewer revenue bonds, or general obligation bonds to pay all or part of the cost to purchase, construct, improve, extend, enlarge, or reconstruct water supply systems or sewage disposal systems.<sup>1</sup> Water revenue bonds are payable solely from water service charges.<sup>2</sup> Sewer revenue bonds are payable solely from sewer service charges.<sup>3</sup> Neither type of revenue bond pledges the property, credit, or general tax revenue of the county. General obligation bonds are payable from ad valorem taxes alone or from ad valorem taxes with an additional secured pledge of water service charges, sewer service charges, special assessments, or a combination of these sources.<sup>4</sup> Issuance of general obligation bonds requires approval by referendum, and a county is required to levy annually a special tax upon all taxable property within the county to pay the principle and interest as it becomes due.<sup>5</sup> Counties may also create special water and sewer districts to serve unincorporated areas, and the district's board may issue revenue bonds to finance all or part of the cost of a water system, sewer system, or both. Such bonds are payable from the revenues derived from operation of the utility system as provided by law and the authorizing resolution of the district's board.<sup>6</sup>

#### ***Municipal Bonding***

A municipality may issue revenue bonds, general obligation bonds, ad valorem bonds, or improvement bonds to finance capital expenditures made for a public purpose. Revenue bonds are payable from sources other than ad valorem taxes and are not secured by a pledge of the property, credit, or general tax revenue of the municipality.<sup>7</sup> General obligation bonds are payable from any special taxes levied for the purpose of repayment and any other sources as provided by the authorizing ordinance or resolution.<sup>8</sup> Such bonds are secured by the full faith and credit and taxing power of the municipality and may require approval by referendum. Ad valorem bonds are payable from the proceeds of ad valorem taxes and require approval by referendum.<sup>9</sup> Improvement bonds are special obligations payable solely from the proceeds of special assessments levied for a project.<sup>10</sup>

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<sup>1</sup> Section 153.03(1) and (2), F.S.

<sup>2</sup> Section 153.02(9), F.S.

<sup>3</sup> Section 153.02(10), F.S.

<sup>4</sup> Section 153.02(11), F.S.

<sup>5</sup> FLA. CONST. art. VII, s. 12; section 153.07, F.S.

<sup>6</sup> Section 153.63(1), F.S. Such bonds may also be secured by the pledge of special assessments or the full faith and credit of the district.

<sup>7</sup> Section 166.101(4), F.S.

<sup>8</sup> Section 166.101(2), F.S.

<sup>9</sup> Fla. Const. art. VII, s. 12; section 166.101(3), F.S.

<sup>10</sup> Section 166.101, F.S., et seq.

Further, a municipality may issue mortgage revenue certificates or debentures to acquire, construct, or extend public works, including, among other things, water and alternative water supply facilities, sewage collection and disposal facilities, gas plants and distribution systems, and stormwater projects.<sup>11</sup> These instruments constitute a lien only against the property and revenue of the utility. These instruments may not impose any tax liability upon any real or personal property in the municipality and may not constitute a debt against the issuing municipality.<sup>12</sup>

The Division of Bond Finance (DBF) of the State Board of Administration provides information to, and collects information from, units of local government<sup>13</sup> concerning the issuance of bonds by such entities.<sup>14</sup> Each unit of local government must provide DBF a complete description of its new general obligation bonds and revenue bonds and must provide advanced notice of the impending sale of a new issue of bonds.<sup>15</sup> According to DBF, a public utility generally finances projects with revenue bonds, securing the debt with a pledge of net revenues of the utility system. These net revenues consist of the income of the public utility remaining after paying expenses necessary to operate and maintain the utility. DBF notes that this current practice requires the efficient operation of the utility system to assure that sufficient net revenues are available to pay debt service.

### **Creation and Financing Authority of Intergovernmental Utility Authorities**

The Florida Interlocal Cooperation Act of 1969 (Act) is intended to permit local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage.<sup>16</sup> The Act provides that local governmental entities may jointly exercise their powers by entering into a contract in the form of an interlocal agreement.<sup>17</sup> Under such an agreement, the local governmental units may create a separate legal or administrative entity “to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities.”<sup>18</sup> A separate entity created by an interlocal agreement possesses the authority specified in the agreement.<sup>19</sup> Among the authority granted such an entity is the power to authorize, issue, and sell bonds.<sup>20</sup>

The Act specifically addresses the establishment of such entities to provide water service or sewer service (hereinafter referred to as “intergovernmental utility authorities” or “IGUAs”). The

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<sup>11</sup> Section 180.08, F.S.

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

<sup>13</sup> “Unit of local government” is defined in s. 218.369, F.S., as “a county, municipality, special district, district school board, local agency, authority, or consolidated city-county government or any other local governmental body or public body corporate and politic authorized or created by general or special law and granted the power to issue general obligation or revenue bonds.”

<sup>14</sup> Section 218.37, F.S.

<sup>15</sup> *Id.* DBF is authorized only to collect information concerning these bonds; it does not exercise any substantive authority to review or approve these transactions.

<sup>16</sup> Section 163.01(2), F.S.

<sup>17</sup> Section 163.01(5), F.S.

<sup>18</sup> Section 163.01(2), F.S.

<sup>19</sup> Section 163.01(7)(b), F.S.

<sup>20</sup> Section 163.01(7)(d), F.S.

Act authorizes the creation of IGUAs to acquire, own, construct, improve, operate, and manage public facilities relating to a governmental function or purpose, including water and alternative water supply facilities, wastewater facilities, and water reuse facilities.<sup>21</sup> An IGUA created under this provision may also finance such facilities on behalf of any person. The membership of an IGUA created under this provision is limited to two or more special districts, municipalities, or counties of the state. The IGUA's facilities may serve populations "within or outside of the members of the entity" but not within the service area of an existing utility system. IGUAs are not subject to regulation by the Public Service Commission.<sup>22</sup>

An IGUA created under section 163.07(g), F.S., may finance or refinance the acquisition, construction, expansion, and improvement of facilities through the issuance of bonds, notes, or other obligations. Except as may be limited by the interlocal agreement under which the entity is created, all of the privileges, benefits, powers, and terms of the statutes relating to counties<sup>23</sup> and municipalities<sup>24</sup> are fully applicable to the IGUA. Bonds, notes, and other obligations issued by the IGUA are issued on behalf of the public agencies that are members of the IGUA.<sup>25</sup>

The Florida Governmental Utility Authority (FGUA) was formed in 1999 pursuant to s. 163.01(7)(g), F.S. As noted on its website, FGUA is a separate legal entity created by interlocal agreement with the limited purpose of owning and operating a public utility system. It provides retail water and wastewater utility services in several portions of the state. The FGUA consists of 14 counties: Alachua, Citrus, Collier, Hardee, Hillsborough, Lake, Lee, Marion, Orange, Pasco, Polk, Putnam, Seminole, and Volusia counties have systems in the FGUA.<sup>26</sup> The FGUA's governing board is comprised of seven members representing Citrus, DeSoto, Hendry, Lee, Marion, Pasco, and Polk counties.<sup>27</sup> Each board member is a county employee appointed by their local government.<sup>28</sup>

### **Utility Securitization Financing in Florida**

Following the severe tropical storm seasons that Florida faced in 2004 and 2005, the Legislature created a new financing mechanism, referred to as securitization, by which investor-owned electric utilities could petition the Public Service Commission for issuance of a financing order authorizing the utility to issue bonds through a separate legal entity.<sup>29</sup> If granted, the financing order was required to establish a nonbypassable charge to the utility's customers in order to provide a secure stream of revenues to the separate legal entity from which the bonds would be paid. The purpose of this mechanism was to allow the utilities access to low-cost financing to cover storm recovery costs and replenishment of depleted storm reserve funds. This mechanism has been implemented in only one instance.<sup>30</sup>

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<sup>21</sup> Section 163.01(7)(g), F.S.

<sup>22</sup> Section 367.022(2), F.S.

<sup>23</sup> Section 125.01, F.S.

<sup>24</sup> Section 166.021, F.S.

<sup>25</sup> Section 163.01(7)(g)7., F.S.

<sup>26</sup> <http://www.fgua.com/fgua-history> (last visited Mar. 18, 2015).

<sup>27</sup> <http://www.fgua.com/the-board> (last visited Mar. 18, 2015).

<sup>28</sup> *Id.*

<sup>29</sup> Section 366.8260, F.S.

<sup>30</sup> Docket No. 060038-EI, Florida Public Service Commission.

### III. Effect of Proposed Changes:

#### Summary

The bill establishes a new financing mechanism – utility cost containment bonds – available to an intergovernmental authority to finance or refinance projects related to water or wastewater service on behalf of a municipality, county, special district, public corporation, regional water authority, or other governmental entity. Utility cost containment bonds are secured by a utility project charge levied on utility customers. The separate charge is designed to satisfy rating agency criteria to achieve a higher bond rating and, therefore, a lower interest rate and more favorable terms for bonds issued to fund eligible projects.

The FGUA is the only intergovernmental authority that currently meets the criteria to provide financing under the bill. Thus, the bill expands FGUA’s original purpose of owning and operating a public utility system.

#### Definitions

The bill provides the following definitions:

“Authority” means an entity, including a successor to the powers and functions of such entity, created pursuant to s. 163.01(7)(g), F.S., that provides public utility services and whose membership consists of at least three counties.<sup>31</sup> The term includes any successor to the powers and functions of such an entity.

“Cost,” as applied to a utility project or portion of a utility project financed under this section, means any of the following:

- Any part of the expense of constructing, renovating, or acquiring lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a utility project;
- The expense of demolishing or removing any buildings or structures on acquired land, including the expense of acquiring any lands to which the buildings or structures may be moved, and the cost of all machinery and equipment used for the demolition or removal;
- Finance charges;
- Interest, as determined by the authority;
- Provisions for working capital and debt service reserves;
- Expenses for extensions, enlargements, additions, replacements, renovations, and improvements;
- Expenses for architectural, engineering, financial, accounting, and legal services, and for plans, specifications, estimates, and administration; and
- Any other expenses necessary or incidental to determining the feasibility of constructing a utility project or incidental to the construction, acquisition, or financing of a utility project.

“Customer” means a person receiving water or wastewater service from a publicly owned utility.

“Financing cost” means any of the following:

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<sup>31</sup> Only the Florida Governmental Utility Authority currently meets this definition.

- Interest and redemption premiums that are payable on utility cost containment bonds;
- The cost of retiring the principal of utility cost containment bonds, whether at maturity, including acceleration of maturity upon an event of default, or upon redemption, including sinking fund redemption.
- The cost related to issuing or servicing utility cost containment bonds, including payment under an interest rate swap agreement, and any types of fee.
- A payment or expense associated with a bond insurance policy; financial guaranty; contract, agreement, or other credit or liquidity enhancement for bonds; or contract, agreement, or other financial agreement entered into in connection with utility cost containment bonds;
- Any coverage charges.
- The funding of one or more reserve accounts related to utility cost containment bonds.

“Finance” or “financing” includes refinancing.

“Financing resolution” means a resolution adopted by the governing body of an authority that finances or refinances a utility project with utility cost containment bonds and that imposes a utility project charge in connection with the utility cost containment bonds. A financing resolution may be separate from a resolution authorizing the issuance of the bonds.

“Governing body” means the body that governs a local agency.

“Local agency” means a member of the authority, or an agency or subdivision of that member, that is sponsoring or refinancing a utility project, or any municipality, county, authority, special district, public corporation, regional water authority, or other governmental entity of the state that is sponsoring or refinancing a utility project.<sup>32</sup>

“Public utility services” means water or wastewater services provided by a publicly owned utility. The term does not include communications services as defined in s. 202.11, F.S., Internet, or cable services.

“Publicly owned utility” means a utility furnishing retail or wholesale water or wastewater services that is owned and operated by a local agency. The term includes any successor to the powers and functions of such a utility.

“Revenue” means income and receipts of the authority related to the financing of utility projects and issuance of utility cost containment bonds, including any of the following:

- Bond purchase agreements.
- Bonds acquired by the authority.
- Installment sale agreements and other revenue-producing agreements entered into by the authority.
- Utility projects financed or refinanced by the authority.
- Grants and other sources of income.
- Moneys paid by a local agency.

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<sup>32</sup> Because FGUA provides “public utility services” (water and wastewater services) that may be supported by a financeable “utility project,” it appears to qualify as an authority or other governmental entity of the state and would meet the definition of a “local agency.” Thus, FGUA could be both an “authority” and a “local agency” under the bill.

- Interlocal agreements with a local agency, including all service agreements.
- Interest or other income from any investment of money in any fund or account established for the payment of principal, interest, or premiums on utility cost containment bonds, or the deposit of proceeds of utility cost containment bonds.

“Utility cost containment bonds” means bonds, notes, commercial paper, variable rate securities, and any other evidences of indebtedness issued by an authority, the proceeds of which are used directly or indirectly to pay or reimburse a local agency or its publicly owned utility for the costs of a utility project and which are secured by a pledge of, and are payable from, utility project property.

“Utility project” means the acquisition, construction, installation, retrofitting, rebuilding, or other addition to or improvement of any equipment, device, structure, process, facility, technology, rights, or property located in or out of the state that is used in connection with the operations of a publicly owned utility.

“Utility project charge” means a charge levied on customers of a publicly owned utility to pay the financing costs of utility cost containment bonds issued pursuant to the bill. The term includes any authorized adjustment to the utility project charge.

“Utility project property” means the property right created by the bill. The term does not include any interest in a customer’s real or personal property, but does include the right, title, and interest of an authority in any of the following:

- The financing resolution, the utility project charge, and any adjustment to the utility project charge.
- The financing costs of the utility cost containment bonds and all revenues, and all collections, claims, payments, moneys, or proceeds for, or arising from, the utility project charge.
- All rights to obtain adjustments to the utility project charge pursuant to the bill.

### **Local Agency Authority**

The process to issue utility cost containment bonds is initiated by the governing body of the local agency holding a public meeting and determining:

- The project to be financed is a utility project.<sup>33</sup>
- The local agency will finance costs of the utility project and the associated financing costs will be paid from utility project property (i.e., the charge to utility customers);
- Based on the best information available, the rates charged to the local agency’s retail customers by the publicly owned utility, including the utility project charge resulting from the financing of the utility project with utility cost containment bonds, are expected to be lower than the rates that would be charged if the project was financed with bonds payable from revenues of the publicly owned utility.

After such meeting and determinations, the local agency may apply to the intergovernmental utility authority to finance the costs of a utility project using the proceeds of utility cost containment bonds. In its application, the local agency must specify the utility project to be

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<sup>33</sup> Under the bill, this determination is deemed “final and conclusive.”

financed, the maximum principal amount, the maximum interest rate, and the maximum stated terms of the utility cost containment bonds.

### **The Intergovernmental Utility Authority**

The bill authorizes an intergovernmental utility authority to issue utility cost containment bonds to finance or refinance utility projects; to refinance debt of a local agency previously issued to finance or refinance such projects, if the refinancing results in present value savings; or, upon approval of a local agency, to refinance previously issued utility cost containment bonds.

To finance a utility project, the authority may form a single-purpose limited liability company and authorize the company to adopt the financing resolution. Alternatively the authority and two or more of its members or other public agencies may create a new single-purpose entity by interlocal agreement. Either type of entity may be created by the authority solely for the purposes of performing the duties and responsibilities of the authority and is treated as an authority for purposes of the bill.

With respect to regional water projects, the authority must work with local agencies that request assistance to determine the most cost-effective manner of financing. If these entities determine that issuance of utility cost containment bonds will result in lower financing costs for a project, the authority must issue the bonds at the request of the local agencies.

The governing body of an authority that is financing the costs of an eligible utility project must adopt a financing resolution and impose a utility project charge. All provisions of the financing resolution are binding on the authority. The financing resolution must include the following:

- A description of the financial calculation method the authority will use to determine the utility project charge. The calculation method must include a periodic adjustment methodology to be applied at least annually to the utility project charge. The adjustment methodology may not be changed. The authority must establish the allocation of the utility project charge among classes of customers of the publicly owned utility. The decisions of the authority are final and conclusive.
- A requirement that each customer in the class or classes of customers specified in the financing resolution who receives water or wastewater service through the publicly owned utility must pay the utility project charge, regardless of whether the customer has an agreement to receive water or wastewater service from a person other than the publicly owned utility.
- A requirement that the utility project charge be charged separately from other charges on the bill of each customer of the utility that is in the class or classes of customers specified in the financing resolution.
- A requirement that the authority enter into a servicing agreement with the local agency or its publicly owned utility to collect the utility project charge.

The authority may require in the financing resolution that, in the event of default by the local agency or its publicly owned utility, the authority must order the sequestration and payment to the beneficiaries of the revenues arising from the utility project property (discussed in detail, below) if the beneficiaries apply for payment of the revenues under a lien. This may apply to a successor entity as well. If a local agency that has outstanding utility cost containment bonds

ceases to operate a water or wastewater utility, directly or through its publicly owned utility, any successor entity must assume and perform all obligations of the local agency and its publicly owned utility and assume the servicing agreement with the authority while the utility cost containment bonds remain outstanding.

### **Utility Project Charges**

In the financing resolution, the authority must impose a utility project charge sufficient to ensure timely payment of all financing costs with respect to utility cost containment bonds. The charge must be based on estimates of water or wastewater service usage. The authority may require information from the local agency or its publicly owned utility to establish the charge.

The utility project charge is a nonbypassable charge on all present and future customers of the publicly owned utility in the class or classes of customers specified in the financing resolution at the time of its adoption. If a customer who is subject to the charge enters into an agreement to purchase water or wastewater service from a supplier other than the publicly owned utility, the customer remains liable for payment of the charge if the customer received any service or benefit from the utility after the date the charge was imposed (for example, if the customer gets a well or if a competitor were allowed to also serve the area).

At least annually, and at any other interval specified in the financing resolution and related documents, the authority must determine whether adjustments to the utility project charge are required and, if so, make the necessary adjustments to correct for any overcollection or undercollection of financing costs from the charge or to otherwise ensure timely payment of the financing costs of the bonds, including payment of any required debt service coverage. The authority may require information from the local agency or its publicly owned utility to adjust the charge. If an adjustment is deemed necessary, it must be made using the methodology specified in the financing resolution. An adjustment may not impose the charge upon a class of customers not previously subject to the charge under the financing resolution.

Revenues from a utility project charge are deemed special revenues of the authority and do not constitute revenue of the local agency or its publicly owned utility for any purpose. The local agency or its publicly owned utility must act as a servicing agent for collecting the charge pursuant to a servicing agreement to be required by the financing resolution. The local agency or its publicly owned utility is authorized to use its established collection policies and remedies under law to enforce collection of the charge. The money collected must be held in trust for the exclusive benefit of the persons entitled to have the financing costs paid from the utility project charge.

The timely and complete payment of all utility project charges by the customer is a condition of receiving water or wastewater service from the publicly owned utility. A customer liable for a utility project charge is not permitted to withhold payment of any portion of the charge.

The pledge of a utility project charge to secure payment of utility cost containment bonds is irrevocable, and the state or any other entity is not permitted to reduce, impair, or otherwise adjust the utility project charge, except for the periodic adjustments that the authority is required to make pursuant to the financing resolution.

### **Utility Project Property**

The utility project charge constitutes utility project property when a financing resolution authorizing the charge becomes effective. Utility project property constitutes property, including contracts that secure utility cost containment bonds, whether or not the revenues and proceeds arising with respect to the utility project property have accrued. The utility project property continuously exists as property for all purposes for the period provided in the financing resolution or until all financing costs with respect to the related utility cost containment bonds are paid in full, whichever occurs first.

Upon the effective date of the financing resolution, the utility project property is subject to a first priority statutory lien to secure the payment of the utility cost containment bonds. The lien secures the payment of all financing costs that exist at that time or that subsequently arise to the holders of the bonds, the trustee or representative for the holders of the bonds, and any other entity specified in the financing resolution or the documents relating to the bonds. The lien attaches to the utility project property regardless of the current ownership of the utility project property, including any local agency or its publicly owned utility, the authority, or other person.

Upon the effective date of the financing resolution, the lien is valid and enforceable against the owner of the utility project property and all third parties, and additional public notice is not required. The lien is a continuously perfected lien on all revenues and proceeds generated from the utility project property, regardless of whether the revenues or proceeds have accrued.

All revenues with respect to utility project property related to utility cost containment bonds, including payments of the utility project charge, must first be applied to the payment of the financing costs of the bonds then due, including the funding of reserves for the bonds. Any excess revenues will be applied as determined by the authority for the benefit of the utility for which the bonds were issued.

### **Utility Cost Containment Bonds**

The proceeds of utility cost containment bonds made available to the local agency or its publicly owned utility must be used for the utility project identified in the application for financing of the project or used to refinance indebtedness of the local agency that financed or refinanced the project. The bonds must be issued pursuant to the provisions of the bill and the procedures specified for intergovernmental utility authorities under s. 163.01(7)(g)8., F.S., and may be validated pursuant to existing procedures for such entities under s. 163.01(7)(g)9., F.S.

The authority must pledge all utility project property as security for payment of the bonds. All rights of the authority with respect to the pledged property are for the benefit of and enforceable by the beneficiaries of the pledge as provided in the related financing documents.

If utility project property is pledged as security for the payment of utility cost containment bonds, the local agency or its publicly owned utility must enter into a contract with the authority which requires that the local agency or its utility:

- Continue to operate the utility, including the utility project that is being financed or refinanced;

- Collect the utility project charge from customers for the benefit and account of the authority and the beneficiaries of the pledge of the charge, and
- Separately account for and remit revenue from the utility project charge to, or for the account of, the authority.

The utility cost containment bonds are nonrecourse to the credit or any assets of the local agency or the publicly owned utility, but are payable from, and secured by a pledge of, the utility project property relating to the bonds and any additional security or credit enhancement specified in the documents relating to the bonds. If the authority is financing the project through a single-purpose limited liability company, the bonds are payable from, and secured by, a pledge of amounts paid by the company to the authority from the applicable utility project property. This represents the exclusive method of perfecting a pledge of utility project property by the company.

The issuance of utility cost containment bonds does not obligate the state or any political subdivision of the state to levy or to pledge any form of taxation to pay the bonds or to make any appropriation for their payment. Each bond must contain on its face the following statement or a similar statement: “Neither the full faith and credit nor the taxing power of the State of Florida or any political subdivision thereof is pledged to the payment of the principal of, or interest on, this bond.”

The authority may not rescind, alter, or amend any resolution or document that pledges utility cost charges for payment of utility cost containment bonds.

Subject to the terms of the pledge document, the validity and relative priority of a pledge is not defeated or adversely affected by the commingling of revenues generated by the utility project property with other funds of the local agency or the publicly owned utility collecting a utility project charge on behalf of an authority.

Financing costs in connection with utility cost containment bonds are a special obligation of the authority and do not constitute a liability of the state or any political subdivision of the state. Financing costs are not a pledge of the full faith and credit of the state or any political subdivision, including the authority, but are payable solely from the funds identified in the documents relating to the bonds. This does not preclude guarantees or credit enhancements in connection with the bonds.

Except as provided in the bill with respect to adjustments to a utility project charge, recovery of the financing costs for utility cost containment bonds from the utility project charge is irrevocable. Further, the authority is prohibited from: rescinding, altering, or amending the applicable financing resolution to revalue or revise the financing costs of the bonds for ratemaking purposes; determining that the financing costs for the related bonds or the utility project charge is unjust or unreasonable; or in any way reducing or impairing the value of utility project property that includes the charge. The amount of revenues arising with respect to the financing costs for the related bonds or the charge are not subject to reduction, impairment, postponement, or termination for any reason until all financing costs to be paid from the charge are fully met and discharged.

Further, except as provided in the bill with respect to adjustments to a utility project charge, the bill establishes a pledge that the state may not limit or alter the financing costs or the utility project property, including the utility project charge associated with the bonds, or any rights related to the utility project property until all financing costs with respect to the bonds are fully discharged. This provision does not preclude limitation or alteration if adequate provision is made by law to protect the owners of the bonds. The state's pledge may be included by the authority in the governing documents for the bonds.

### **Bankruptcy Prohibition**

Notwithstanding any other law, an authority that has issued utility cost containment bonds may not become a debtor under the United States Bankruptcy Code or become the subject of any similar case or proceeding under any other state or federal law if any payment obligation from utility project property remains with respect to the bonds. Further, a governmental officer or organization may not authorize the authority to become such a debtor or become subject to such a case or proceeding in this circumstance.

### **Construction**

The bill provides for its liberal construction to effectively carry out its intent and purposes. Further, the bill expressly grants and confers upon public entities all incidental powers necessary to carry the bill into effect.

The bill takes effect July 1, 2015.

## **IV. Constitutional Issues:**

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

None.

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

None.

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

None.

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

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

None.

**B. Private Sector Impact:**

Customers may benefit from lower financing costs for local agency utility projects, if the resulting savings are passed through to customers. CS/SB 1102 does not require that savings be passed through to customers.

Once utility cost containment bonds are issued, a customer will be obligated to pay the charge for as long as he or she resides on property within the service territory.

**C. Government Sector Impact:**

The bill may reduce local government expenditures by reducing financing costs for water or wastewater utility projects for utilities owned and operated by a local agency, including any municipality, county, special district, public corporation, regional water authority, or other governmental entity sponsoring or refinancing a utility project.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates an as-yet unnumbered section 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 Communications, Energy, and Public Utilities on March 24, 2015:**

The CS:

- Removes all reference to stormwater projects.
- Inserts a cross-reference to clarify what communications services are referred to in defining “public utility services.
- Provides that the definition of the term “utility project property” does not include any interest in a customer’s real or personal property.

**B. Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/13/2015	.	
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	.	
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The Committee on Finance and Tax (Soto) recommended the following:

**Senate Amendment**

Delete lines 71 - 206

and insert:

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

(a) "Authority" means an entity created under s. 163.01(7)(g), Florida Statutes, which provides public utility services and whose membership consists of at least three counties. The term includes any successor to the powers and functions of such an entity. The term also includes any local



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11 agency as defined herein.

12 (b) "Cost," as applied to a utility project or a portion of  
13 a utility project financed under this section, means:

14 1. Any part of the expense of constructing, renovating, or  
15 acquiring lands, structures, real or personal property, rights,  
16 rights-of-way, franchises, easements, and interests acquired or  
17 used for a utility project;

18 2. The expense of demolishing or removing any buildings or  
19 structures on acquired land, including the expense of acquiring  
20 any lands to which the buildings or structures may be moved, and  
21 the cost of all machinery and equipment used for the demolition  
22 or removal;

23 3. Finance charges;

24 4. Interest, as determined by the authority;

25 5. Provisions for working capital and debt service  
26 reserves;

27 6. Expenses for extensions, enlargements, additions,  
28 replacements, renovations, and improvements;

29 7. Expenses for architectural, engineering, financial,  
30 accounting, and legal services, plans, specifications,  
31 estimates, and administration; or

32 8. Any other expenses necessary or incidental to  
33 determining the feasibility of constructing a utility project or  
34 incidental to the construction, acquisition, or financing of a  
35 utility project.

36 (c) "Customer" means a person receiving water or wastewater  
37 service from a publicly owned utility.

38 (d) "Finance" or "financing" includes refinancing.

39 (e) "Financing cost" means:



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40 1. Interest and redemption premiums that are payable on  
41 utility cost containment bonds;

42 2. The cost of retiring the principal of utility cost  
43 containment bonds, whether at maturity, including acceleration  
44 of maturity upon an event of default, or upon redemption,  
45 including sinking fund redemption;

46 3. The cost related to issuing or servicing utility cost  
47 containment bonds, including any payment under an interest rate  
48 swap agreement and any type of fee;

49 4. A payment or expense associated with a bond insurance  
50 policy; financial guaranty; contract, agreement, or other credit  
51 or liquidity enhancement for bonds; or contract, agreement, or  
52 other financial agreement entered into in connection with  
53 utility cost containment bonds;

54 5. Any coverage charges; or

55 6. The funding of one or more reserve accounts relating to  
56 utility cost containment bonds.

57 (f) "Financing resolution" means a resolution adopted by  
58 the governing body of an authority which provides for the  
59 financing or refinancing of a utility project with utility cost  
60 containment bonds and which imposes a utility project charge in  
61 connection with the utility cost containment bonds in accordance  
62 with subsection (4). A financing resolution may be separate from  
63 a resolution authorizing the issuance of the bonds.

64 (g) "Governing body" means the body that governs a local  
65 agency.

66 (h) "Local agency" means a member of the authority, or an  
67 agency or subdivision of that member, which is sponsoring or  
68 refinancing a utility project, or any municipality, county,



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69 authority, special district, public corporation, regional water  
70 authority, or other governmental entity of the state which is  
71 sponsoring or refinancing a utility project.

72 (i) "Public utility services" means water or wastewater  
73 services provided by a publicly owned utility. The term does not  
74 include communications services, as defined in s. 202.11,  
75 Florida Statutes, Internet access services, or information  
76 services.

77 (j) "Publicly owned utility" means a utility providing  
78 retail or wholesale water or wastewater services which is owned  
79 and operated by a local agency. The term includes any successor  
80 to the powers and functions of such a utility.

81 (k) "Revenue" means income and receipts of the authority  
82 related to the financing of utility projects and issuance of  
83 utility cost containment bonds, including any of the following:

- 84 1. Bond purchase agreements;
- 85 2. Bonds acquired by the authority;
- 86 3. Installment sales agreements and other revenue-producing  
87 agreements entered into by the authority;
- 88 4. Utility projects financed or refinanced by the  
89 authority;
- 90 5. Grants and other sources of income;
- 91 6. Moneys paid by a local agency;
- 92 7. Interlocal agreements with a local agency, including all  
93 service agreements; or
- 94 8. Interest or other income from any investment of money in  
95 any fund or account established for the payment of principal,  
96 interest, or premiums on utility cost containment bonds, or the  
97 deposit of proceeds of utility cost containment bonds.



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98           (l) "Utility cost containment bonds" means bonds, notes,  
99 commercial paper, variable rate securities, and any other  
100 evidence of indebtedness issued by an authority, the proceeds of  
101 which are used directly or indirectly to pay or reimburse a  
102 local agency or its publicly owned utility for the costs of a  
103 utility project, which are secured by a pledge of, and are  
104 payable from, utility project property.

105           (m) "Utility project" means the acquisition, construction,  
106 installation, retrofitting, rebuilding, or other addition to or  
107 improvement of any equipment, device, structure, process,  
108 facility, technology, rights, or property located within or  
109 outside this state which is used in connection with the  
110 operations of a publicly owned utility.

111           (n) "Utility project charge" means a charge levied on  
112 customers of a publicly owned utility to pay the financing costs  
113 of utility cost containment bonds issued under subsection (4).  
114 The term includes any adjustments to the utility project charge  
115 under subsection (5).

116           (o) "Utility project property" means the property right  
117 created pursuant to subsection (6). The term does not include  
118 any interest in a customer's real or personal property but  
119 includes the right, title, and interest of an authority in any  
120 of the following:

121           1. The financing resolution, the utility project charge,  
122 and any adjustment to the utility project charge established in  
123 accordance with subsection (5);

124           2. The financing costs of the utility cost containment  
125 bonds and all revenues, and all collections, claims, payments,  
126 moneys, or proceeds for, or arising from, the utility project



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127 charge; or

128 3. All rights to obtain adjustments to the utility project  
129 charge pursuant to subsection (5).

130 (3) UTILITY PROJECTS.—

131 (a) A local agency that owns and operates a publicly owned  
132 utility may, on its own initiative or by application to an  
133 intergovernmental entity that qualifies as an authority under  
134 this act, finance the costs of a utility project using the  
135 proceeds of utility cost containment bonds. If the local agency  
136 applies to a qualified intergovernmental authority, the local  
137 agency's application shall specify the utility project to be  
138 financed by the utility cost containment bonds and the maximum  
139 principal amount, the maximum interest rate, and the maximum  
140 stated terms of the utility cost containment bonds.

141 (b) A local agency may not finance a utility project under  
142 this section, either on its own initiative or by application to  
143 a qualified intergovernmental authority, unless the governing  
144 body has determined, in a duly noticed public meeting,

By the Committee on Communications, Energy, and Public  
Utilities; and Senator Legg

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1 A bill to be entitled  
2 An act relating to utility projects; providing a short  
3 title; providing definitions; authorizing certain  
4 local government entities to finance the costs of a  
5 utility project by issuing utility cost containment  
6 bonds upon application by a local agency; specifying  
7 application requirements; requiring a successor entity  
8 of a local agency to assume and perform the  
9 obligations of the local agency with respect to the  
10 financing of a utility project; providing procedures  
11 for local agencies to use when applying to finance a  
12 utility project using utility cost containment bonds;  
13 authorizing an authority to issue utility cost  
14 containment bonds for specified purposes related to  
15 utility projects; authorizing an authority to form  
16 alternate entities to finance utility projects;  
17 requiring the governing body of the authority to adopt  
18 a financing resolution and impose a utility project  
19 charge on customers of a publicly owned utility as a  
20 condition of utility project financing; specifying  
21 required and optional provisions of the financing  
22 resolution; specifying powers of the authority;  
23 requiring the local agency or its publicly owned  
24 utility to assist the authority in the establishment  
25 or adjustment of the utility project charge; requiring  
26 that customers of the public utility specified in the  
27 financing resolution pay the utility project charge;  
28 providing for adjustment of the utility project  
29 charge; establishing ownership of the revenues of the

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30 utility project charge; requiring the local agency or  
31 its publicly owned utility to collect the utility  
32 project charge; conditioning a customer's receipt of  
33 public utility services on payment of the utility  
34 project charge; authorizing a local agency or its  
35 publicly owned utility to use available remedies to  
36 enforce collection of the utility project charge;  
37 providing that the pledge of the utility project  
38 charge to secure payment of bonds issued to finance  
39 the utility project is irrevocable and cannot be  
40 reduced or impaired except under certain conditions;  
41 providing that a utility project charge constitutes  
42 utility project property; providing that utility  
43 project property is subject to a lien to secure  
44 payment of costs relating to utility cost containment  
45 bonds; establishing payment priorities for the use of  
46 revenues of the utility project property; providing  
47 for the issuance and validation of utility cost  
48 containment bonds; securing the payment of utility  
49 cost containment bonds and related costs; providing  
50 that utility cost containment bonds do not obligate  
51 the state or any political subdivision and are not  
52 backed by their full faith and credit and taxing  
53 power; requiring that certain disclosures be printed  
54 on utility cost containment bonds; providing that  
55 financing costs related to utility cost containment  
56 bonds are an obligation of the authority only;  
57 providing limitations on the state's ability to alter  
58 financing costs or utility project property under

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59 certain circumstances; prohibiting an authority with  
60 outstanding payment obligations on utility cost  
61 containment bonds from becoming a debtor under certain  
62 federal or state laws; providing for construction;  
63 endowing public entities with certain powers;  
64 providing an effective date.

65  
66 Be It Enacted by the Legislature of the State of Florida:

67 Section 1. Utility Cost Containment Bond Act.-

68 (1) SHORT TITLE.-This section may be cited as the "Utility  
69 Cost Containment Bond Act."

70 (2) DEFINITIONS.-As used in this section, the term:

71 (a) "Authority" means an entity created under s.  
72 163.01(7)(g), Florida Statutes, that provides public utility  
73 services and whose membership consists of at least three  
74 counties. The term includes any successor to the powers and  
75 functions of such an entity.

76 (b) "Cost," as applied to a utility project or a portion of  
77 a utility project financed under this section, means:

78 1. Any part of the expense of constructing, renovating, or  
79 acquiring lands, structures, real or personal property, rights,  
80 rights-of-way, franchises, easements, and interests acquired or  
81 used for a utility project;

82 2. The expense of demolishing or removing any buildings or  
83 structures on acquired land, including the expense of acquiring  
84 any lands to which the buildings or structures may be moved, and  
85 the cost of all machinery and equipment used for the demolition  
86 or removal;

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88 3. Finance charges;  
89 4. Interest, as determined by the authority;  
90 5. Provisions for working capital and debt service  
91 reserves;  
92 6. Expenses for extensions, enlargements, additions,  
93 replacements, renovations, and improvements;  
94 7. Expenses for architectural, engineering, financial,  
95 accounting, and legal services, plans, specifications,  
96 estimates, and administration; or  
97 8. Any other expenses necessary or incidental to  
98 determining the feasibility of constructing a utility project or  
99 incidental to the construction, acquisition, or financing of a  
100 utility project.  
101 (c) "Customer" means a person receiving water or wastewater  
102 service from a publicly owned utility.  
103 (d) "Finance" or "financing" includes refinancing.  
104 (e) "Financing cost" means:  
105 1. Interest and redemption premiums that are payable on  
106 utility cost containment bonds;  
107 2. The cost of retiring the principal of utility cost  
108 containment bonds, whether at maturity, including acceleration  
109 of maturity upon an event of default, or upon redemption,  
110 including sinking fund redemption;  
111 3. The cost related to issuing or servicing utility cost  
112 containment bonds, including any payment under an interest rate  
113 swap agreement and any type of fee;  
114 4. A payment or expense associated with a bond insurance  
115 policy; financial guaranty; contract, agreement, or other credit  
116 or liquidity enhancement for bonds; or contract, agreement, or

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117 other financial agreement entered into in connection with  
 118 utility cost containment bonds;  
 119 5. Any coverage charges; or  
 120 6. The funding of one or more reserve accounts relating to  
 121 utility cost containment bonds.  
 122 (f) "Financing resolution" means a resolution adopted by  
 123 the governing body of an authority that provides for the  
 124 financing or refinancing of a utility project with utility cost  
 125 containment bonds and that imposes a utility project charge in  
 126 connection with the utility cost containment bonds in accordance  
 127 with subsection (4). A financing resolution may be separate from  
 128 a resolution authorizing the issuance of the bonds.  
 129 (g) "Governing body" means the body that governs a local  
 130 agency.  
 131 (h) "Local agency" means a member of the authority, or an  
 132 agency or subdivision of that member, that is sponsoring or  
 133 refinancing a utility project, or any municipality, county,  
 134 authority, special district, public corporation, regional water  
 135 authority, or other governmental entity of the state that is  
 136 sponsoring or refinancing a utility project.  
 137 (i) "Public utility services" means water or wastewater  
 138 services provided by a publicly owned utility. The term does not  
 139 include communications services, as defined in s. 202.11,  
 140 Florida Statutes, Internet access services, or information  
 141 services.  
 142 (j) "Publicly owned utility" means a utility providing  
 143 retail or wholesale water or wastewater services that is owned  
 144 and operated by a local agency. The term includes any successor  
 145 to the powers and functions of such a utility.

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146 (k) "Revenue" means income and receipts of the authority  
 147 related to the financing of utility projects and issuance of  
 148 utility cost containment bonds, including any of the following:  
 149 1. Bond purchase agreements;  
 150 2. Bonds acquired by the authority;  
 151 3. Installment sales agreements and other revenue-producing  
 152 agreements entered into by the authority;  
 153 4. Utility projects financed or refinanced by the  
 154 authority;  
 155 5. Grants and other sources of income;  
 156 6. Moneys paid by a local agency;  
 157 7. Interlocal agreements with a local agency, including all  
 158 service agreements; or  
 159 8. Interest or other income from any investment of money in  
 160 any fund or account established for the payment of principal,  
 161 interest, or premiums on utility cost containment bonds, or the  
 162 deposit of proceeds of utility cost containment bonds.  
 163 (l) "Utility cost containment bonds" means bonds, notes,  
 164 commercial paper, variable rate securities, and any other  
 165 evidence of indebtedness issued by an authority the proceeds of  
 166 which are used directly or indirectly to pay or reimburse a  
 167 local agency or its publicly owned utility for the costs of a  
 168 utility project and which are secured by a pledge of, and are  
 169 payable from, utility project property.  
 170 (m) "Utility project" means the acquisition, construction,  
 171 installation, retrofitting, rebuilding, or other addition to or  
 172 improvement of any equipment, device, structure, process,  
 173 facility, technology, rights, or property located within or  
 174 outside this state which is used in connection with the

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175 operations of a publicly owned utility.  
 176 (n) "Utility project charge" means a charge levied on  
 177 customers of a publicly owned utility to pay the financing costs  
 178 of utility cost containment bonds issued under subsection (4).  
 179 The term includes any adjustments to the utility project charge  
 180 under subsection (5).  
 181 (o) "Utility project property" means the property right  
 182 created pursuant to subsection (6). The term does not include  
 183 any interest in a customer's real or personal property but  
 184 includes the right, title, and interest of an authority in any  
 185 of the following:  
 186 1. The financing resolution, the utility project charge,  
 187 and any adjustment to the utility project charge established in  
 188 accordance with subsection (5);  
 189 2. The financing costs of the utility cost containment  
 190 bonds and all revenues, and all collections, claims, payments,  
 191 moneys, or proceeds for, or arising from, the utility project  
 192 charge; or  
 193 3. All rights to obtain adjustments to the utility project  
 194 charge pursuant to subsection (5).  
 195 (3) UTILITY PROJECTS.—  
 196 (a) A local agency that owns and operates a publicly owned  
 197 utility may apply to an authority to finance the costs of a  
 198 utility project using the proceeds of utility cost containment  
 199 bonds. In its application to the authority, the local agency  
 200 shall specify the utility project to be financed by the utility  
 201 cost containment bonds and the maximum principal amount, the  
 202 maximum interest rate, and the maximum stated terms of the  
 203 utility cost containment bonds.

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204 (b) A local agency may not apply to an authority for the  
 205 financing of a utility project under this section unless the  
 206 governing body has determined, in a duly noticed public meeting,  
 207 all of the following:  
 208 1. The project to be financed is a utility project.  
 209 2. The local agency will finance costs of the utility  
 210 project, and the costs associated with the financing will be  
 211 paid from utility project property, including the utility  
 212 project charge for the utility cost containment bonds.  
 213 3. Based on the best information available to the governing  
 214 body, the rates charged to the local agency's retail customers  
 215 by the publicly owned utility, including the utility project  
 216 charge resulting from the financing of the utility project with  
 217 utility cost containment bonds, are expected to be lower than  
 218 the rates that would be charged if the project were financed  
 219 with bonds payable from revenues of the publicly owned utility.  
 220 (c) A determination by the governing body that a project to  
 221 be financed with utility cost containment bonds is a utility  
 222 project is final and conclusive, and the utility cost  
 223 containment bonds issued to finance the utility project and the  
 224 utility project charge shall be valid and enforceable as set  
 225 forth in the financing resolution and the documents relating to  
 226 the utility cost containment bonds.  
 227 (d) If a local agency that has outstanding utility cost  
 228 containment bonds ceases to operate a water or wastewater  
 229 utility, directly or through its publicly owned utility,  
 230 references in this section to the local agency or to its  
 231 publicly owned utility shall be to the successor entity. The  
 232 successor entity shall assume and perform all obligations of the

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233 local agency and its publicly owned utility required by this  
 234 section and shall assume the servicing agreement required under  
 235 subsection (4) while the utility cost containment bonds remain  
 236 outstanding.

237 (4) FINANCING UTILITY PROJECTS.—

238 (a) An authority may issue utility cost containment bonds  
 239 to finance or refinance utility projects; refinance debt of a  
 240 local agency incurred in financing or refinancing utility  
 241 projects, provided such refinancing results in present value  
 242 savings to the local agency; or, with the approval of the local  
 243 agency, refinance previously issued utility cost containment  
 244 bonds.

245 1. To finance a utility project, the authority may:

246 a. Form a single-purpose limited liability company and  
 247 authorize the company to adopt the financing resolution of such  
 248 utility project; or

249 b. Create a new single-purpose entity by interlocal  
 250 agreement under s. 163.01, Florida Statutes, the membership of  
 251 which shall consist of the authority and two or more of its  
 252 members or other public agencies.

253 2. A single-purpose limited liability company or a single-  
 254 purpose entity may be created by the authority solely for the  
 255 purpose of performing the duties and responsibilities of the  
 256 authority specified in this section and shall constitute an  
 257 authority for all purposes of this section. Reference to the  
 258 authority includes a company or entity created under this  
 259 paragraph.

260 (b) The governing body of an authority that is financing  
 261 the costs of a utility project shall adopt a financing

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262 resolution and shall impose a utility project charge as  
 263 described in subsection (5). All provisions of a financing  
 264 resolution adopted pursuant to this section are binding on the  
 265 authority.

266 1. The financing resolution must:

267 a. Provide a brief description of the financial calculation  
 268 method the authority will use in determining the utility project  
 269 charge. The calculation method shall include a periodic  
 270 adjustment methodology to be applied at least annually to the  
 271 utility project charge. The authority shall establish the  
 272 allocation of the utility project charge among classes of  
 273 customers of the publicly owned utility. The decision of the  
 274 authority shall be final and conclusive, and the method of  
 275 calculating the utility project charge and the periodic  
 276 adjustment may not be changed;

277 b. Require each customer in the class or classes of  
 278 customers specified in the financing resolution who receives  
 279 water or wastewater service through the publicly owned utility  
 280 to pay the utility project charge regardless of whether the  
 281 customer has an agreement to receive water or wastewater service  
 282 from a person other than the publicly owned utility;

283 c. Require that the utility project charge be charged  
 284 separately from other charges on the bill of customers of the  
 285 publicly owned utility in the class or classes of customers  
 286 specified in the financing resolution; and

287 d. Require that the authority enter into a servicing  
 288 agreement with the local agency or its publicly owned utility to  
 289 collect the utility project charge.

290 2. The authority may require in the financing resolution

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291 that, in the event of a default by the local agency or its  
 292 publicly owned utility with respect to revenues from the utility  
 293 project property, the authority, upon application by the  
 294 beneficiaries of the statutory lien as set forth in subsection  
 295 (6), shall order the sequestration and payment to the  
 296 beneficiaries of revenues arising from utility project property.  
 297 This subparagraph does not limit any other remedies available to  
 298 the beneficiaries by reason of default.

299 (c) An authority has all the powers provided in this  
 300 section and s. 163.01(7)(g), Florida Statutes.

301 (d) Each authority shall work with local agencies that  
 302 request assistance to determine the most cost-effective manner  
 303 of financing regional water projects. If the entities determine  
 304 that the issuance of utility cost containment bonds will result  
 305 in lower financing costs for a project, the authority shall  
 306 cooperate with such local agencies and, if requested by the  
 307 local agencies, issue utility cost containment bonds as provided  
 308 in this section.

309 (5) UTILITY PROJECT CHARGE.—

310 (a) The authority shall impose a sufficient utility project  
 311 charge, based on estimates of water or wastewater service usage,  
 312 to ensure timely payment of all financing costs with respect to  
 313 utility cost containment bonds. The local agency or its publicly  
 314 owned utility shall provide the authority with information  
 315 concerning the publicly owned utility which may be required by  
 316 the authority in establishing the utility project charge.

317 (b) The utility project charge is a nonbypassable charge to  
 318 all present and future customers of the publicly owned utility  
 319 in the class or classes of customers specified in the financing

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320 resolution upon its adoption. If a customer of a publicly owned  
 321 utility that is subject to a utility project charge enters into  
 322 an agreement to purchase water or wastewater service from a  
 323 supplier other than the publicly owned utility, the customer  
 324 remains liable for the payment of the utility project charge if  
 325 the customer has received any service or benefit from the  
 326 publicly owned utility after the date the utility project charge  
 327 was imposed.

328 (c) The authority shall determine at least annually and at  
 329 such additional intervals as provided in the financing  
 330 resolution and documents related to the applicable utility cost  
 331 containment bonds whether adjustments to the utility project  
 332 charge are required. The authority shall use the adjustment to  
 333 correct for any overcollection or undercollection of financing  
 334 costs from the utility project charge or to make any other  
 335 adjustment necessary to ensure the timely payment of the  
 336 financing costs of the utility cost containment bonds, including  
 337 adjustment of the utility project charge to pay any debt service  
 338 coverage requirement for the utility cost containment bonds. The  
 339 local agency or its publicly owned utility shall provide the  
 340 authority with information concerning the publicly owned utility  
 341 which may be required by the authority in adjusting the utility  
 342 project charge.

343 1. If the authority determines that an adjustment to the  
 344 utility project charge is required, the adjustment shall be made  
 345 using the methodology specified in the financing resolution.

346 2. The adjustment may not impose the utility project charge  
 347 on a class of customers that was not subject to the utility  
 348 project charge pursuant to the financing resolution imposing the

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349 utility project charge.

350 (d) Revenues from a utility project charge are special  
 351 revenues of the authority and do not constitute revenue of the  
 352 local agency or its publicly owned utility for any purpose,  
 353 including any dedication, commitment, or pledge of revenue,  
 354 receipts, or other income that the local agency or its publicly  
 355 owned utility has made or will make for the security of any of  
 356 its obligations.

357 (e) The local agency or its publicly owned utility shall  
 358 act as a servicing agent for collecting the utility project  
 359 charge throughout the duration of the servicing agreement  
 360 required by the financing resolution. The local agency or its  
 361 publicly owned utility shall hold the money collected in trust  
 362 for the exclusive benefit of the persons entitled to have the  
 363 financing costs paid from the utility project charge, and the  
 364 money does not lose its designation as revenues of the authority  
 365 by virtue of possession by the local agency or its publicly  
 366 owned utility.

367 (f) The customer must make timely and complete payment of  
 368 all utility project charges as a condition of receiving water or  
 369 wastewater service from the publicly owned utility. The local  
 370 agency or its publicly owned utility may use its established  
 371 collection policies and remedies provided under law to enforce  
 372 collection of the utility project charge. A customer liable for  
 373 a utility project charge may not withhold payment, in whole or  
 374 in part, thereof.

375 (g) The pledge of a utility project charge to secure  
 376 payment of utility cost containment bonds is irrevocable, and  
 377 the state, or any other entity, may not reduce, impair, or

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378 otherwise adjust the utility project charge, except that the  
 379 authority shall implement the periodic adjustments to the  
 380 utility project charge as provided under this subsection.

381 (6) UTILITY PROJECT PROPERTY.—

382 (a) A utility project charge constitutes utility project  
 383 property on the effective date of the financing resolution  
 384 authorizing such utility project charge. Utility project  
 385 property constitutes property, including for contracts securing  
 386 utility cost containment bonds, regardless of whether the  
 387 revenues and proceeds arising with respect to the utility  
 388 project property have accrued. Utility project property shall  
 389 continuously exist as property for all purposes with all of the  
 390 rights and privileges of this section through the end of the  
 391 period provided in the financing resolution or until all  
 392 financing costs with respect to the related utility cost  
 393 containment bonds are paid in full, whichever occurs first.

394 (b) Upon the effective date of the financing resolution,  
 395 the utility project property is subject to a first-priority  
 396 statutory lien to secure the payment of the utility cost  
 397 containment bonds.

398 1. The lien secures the payment of all financing costs then  
 399 existing or subsequently arising to the holders of the utility  
 400 cost containment bonds, the trustees or representatives of the  
 401 holders of the utility cost containment bonds, and any other  
 402 entity specified in the financing resolution or the documents  
 403 relating to the utility cost containment bonds.

404 2. The lien attaches to the utility project property  
 405 regardless of the current ownership of the utility project  
 406 property, including any local agency or its publicly owned

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407 utility, the authority, or any other person.

408 3. Upon the effective date of the financing resolution, the  
 409 lien is valid and enforceable against the owner of the utility  
 410 project property and all third parties, and additional public  
 411 notice is not required.

412 4. The lien is a continuously perfected lien on all  
 413 revenues and proceeds generated from the utility project  
 414 property regardless of whether the revenues or proceeds have  
 415 accrued.

416 (c) All revenues with respect to utility project property  
 417 related to utility cost containment bonds, including payments of  
 418 the utility project charge, shall be applied first to the  
 419 payment of the financing costs of the utility cost containment  
 420 bonds then due, including the funding of reserves for the  
 421 utility cost containment bonds. Any excess revenues shall be  
 422 applied as determined by the authority for the benefit of the  
 423 utility for which the utility cost containment bonds were  
 424 issued.

425 (7) UTILITY COST CONTAINMENT BONDS.-

426 (a) Utility cost containment bonds shall be issued within  
 427 the parameters of the financing provided by the authority  
 428 pursuant to this section. The proceeds of the utility cost  
 429 containment bonds made available to the local agency or its  
 430 publicly owned utility shall be used for the utility project  
 431 identified in the application for financing of the utility  
 432 project or used to refinance indebtedness of the local agency  
 433 which financed or refinanced utility projects.

434 (b) Utility cost containment bonds shall be issued as set  
 435 forth in this section and s. 163.01(7)(g)8., Florida Statutes,

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436 and may be validated pursuant to s. 163.01(7)(g)9., Florida  
 437 Statutes.

438 (c) The authority shall pledge the utility project property  
 439 as security for the payment of the utility cost containment  
 440 bonds. All rights of an authority with respect to utility  
 441 project property pledged as security for the payment of utility  
 442 cost containment bonds shall be for the benefit of, and  
 443 enforceable by, the beneficiaries of the pledge to the extent  
 444 provided in the financing documents relating to the utility cost  
 445 containment bonds.

446 1. If utility project property is pledged as security for  
 447 the payment of utility cost containment bonds, the local agency  
 448 or its publicly owned utility shall enter into a contract with  
 449 the authority which requires, at a minimum, that the publicly  
 450 owned utility:

451 a. Continue to operate its publicly owned utility,  
 452 including the utility project that is being financed or  
 453 refinanced;

454 b. Collect the utility project charge from customers for  
 455 the benefit and account of the authority and the beneficiaries  
 456 of the pledge of the utility project charge; and

457 c. Separately account for and remit revenue from the  
 458 utility project charge to, or for the account of, the authority.

459 2. The pledge of a utility project charge to secure payment  
 460 of utility cost containment bonds is irrevocable, and the state  
 461 or any other entity may not reduce, impair, or otherwise adjust  
 462 the utility project charge, except that the authority shall  
 463 implement periodic adjustments to the utility project charge as  
 464 provided under subsection (5).

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465 (d) Utility cost containment bonds shall be nonrecourse to  
 466 the credit or any assets of the local agency or the publicly  
 467 owned utility but shall be payable from, and secured by a pledge  
 468 of the utility project property relating to the utility cost  
 469 containment bonds and any additional security or credit  
 470 enhancement specified in the documents relating to the utility  
 471 cost containment bonds. If, pursuant to subsection (4), the  
 472 authority is financing the project through a single-purpose  
 473 limited liability company, the utility cost containment bonds  
 474 shall be payable from, and secured by, a pledge of amounts paid  
 475 by the company to the authority from the applicable utility  
 476 project property. This paragraph shall be the exclusive method  
 477 of perfecting a pledge of utility project property by the  
 478 company securing the payment of financing costs under any  
 479 agreement of the company in connection with the issuance of  
 480 utility cost containment bonds.

481 (e) The issuance of utility cost containment bonds does not  
 482 obligate the state or any political subdivision thereof to levy  
 483 or to pledge any form of taxation to pay the utility cost  
 484 containment bonds or to make any appropriation for their  
 485 payment. Each utility cost containment bond must contain on its  
 486 face a statement in substantially the following form:

487  
 488 "Neither the full faith and credit nor the taxing power of the  
 489 State of Florida or any political subdivision thereof is pledged  
 490 to the payment of the principal of, or interest on, this bond."

491  
 492 (f) Notwithstanding any other law or this section, a  
 493 financing resolution or other resolution of the authority, or

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494 documents relating to utility cost containment bonds, the  
 495 authority may not rescind, alter, or amend any resolution or  
 496 document that pledges utility cost charges for payment of  
 497 utility cost containment bonds.

498 (g) Subject to the terms of any pledge document created  
 499 under this section, the validity and relative priority of a  
 500 pledge is not defeated or adversely affected by the commingling  
 501 of revenues generated by the utility project property with other  
 502 funds of the local agency or the publicly owned utility  
 503 collecting a utility project charge on behalf of an authority.

504 (h) Financing costs in connection with utility cost  
 505 containment bonds are a special obligation of the authority and  
 506 do not constitute a liability of the state or any political  
 507 subdivision thereof. Financing costs are not a pledge of the  
 508 full faith and credit of the state or any political subdivision  
 509 thereof, including the authority, but are payable solely from  
 510 the funds identified in the documents relating to the utility  
 511 cost containment bonds. This paragraph does not preclude  
 512 guarantees or credit enhancements in connection with utility  
 513 cost containment bonds.

514 (i) Except as otherwise provided in this section with  
 515 respect to adjustments to a utility project charge, the recovery  
 516 of the financing costs for the utility cost containment bonds  
 517 from the utility project charge shall be irrevocable, and the  
 518 authority does not have the power, by rescinding, altering, or  
 519 amending the applicable financing resolution, to revalue or  
 520 revise for ratemaking purposes the financing costs of utility  
 521 cost containment bonds; to determine that the financing costs  
 522 for the related utility cost containment bonds or the utility

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523 project charge is unjust or unreasonable; or to in any way  
 524 reduce or impair the value of utility project property that  
 525 includes the utility project charge, either directly or  
 526 indirectly. The amount of revenues arising with respect to the  
 527 financing costs for the related utility cost containment bonds  
 528 or the utility project charge are not subject to reduction,  
 529 impairment, postponement, or termination for any reason until  
 530 all financing costs to be paid from the utility project charge  
 531 are fully met and discharged.

532 (j) Except as provided in subsection (5) with respect to  
 533 adjustments to a utility project charge, the state pledges and  
 534 agrees with the owners of utility cost containment bonds that  
 535 the state may not limit or alter the financing costs or the  
 536 utility project property, including the utility project charge,  
 537 relating to the utility cost containment bonds, or any rights  
 538 related to the utility project property, until all financing  
 539 costs with respect to the utility cost containment bonds are  
 540 fully met and discharged. This paragraph does not preclude  
 541 limitation or alteration if adequate provision is made by law to  
 542 protect the owners. The authority may include the state's pledge  
 543 in the governing documents for utility cost containment bonds.

544 (8) LIMITATION ON DEBT RELIEF.—Notwithstanding any other  
 545 law, an authority that issued utility cost containment bonds may  
 546 not, and a governmental officer or organization may not  
 547 authorize the authority to, become a debtor under the United  
 548 States Bankruptcy Code or become the subject of any similar case  
 549 or proceeding under any other state or federal law if any  
 550 payment obligation from utility project property remains with  
 551 respect to the utility cost containment bonds.

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579-02832-15 20151102c1

552 (9) CONSTRUCTION.—This section and all grants of power and  
 553 authority in this section shall be liberally construed to  
 554 effectuate their purposes. All incidental powers necessary to  
 555 carry this section into effect are expressly granted to, and  
 556 conferred upon, public entities.

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

Page 20 of 20

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



# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**COMMITTEES:**

Education Pre-K - 12, Chair  
Ethics and Elections, Vice Chair  
Appropriations Subcommittee on Education  
Fiscal Policy  
Government Oversight and Accountability  
Higher Education

**SENATOR JOHN LEGG**

17th District

Legg.John.web@FLSenate.gov

March 25, 2015

The Honorable Dorothy Hukill  
Committee on Finance and Tax Chair  
207 The Capitol  
404 S. Monroe Street  
Tallahassee, FL 32399

**RE: SB 1102 - Utility Projects**

Dear Chair Hukill:

SB 1102 - Utility Projects has been referred to your committee. I respectfully request that it be placed on the Committee on Finance and Tax Agenda, at your convenience. Your leadership and consideration are appreciated.

Sincerely,

John Legg  
State Senator, District 17

cc: Jose Diez-Arguelles, Staff Director

JL/jb

SENATE APPROPRIATIONS  
RECEIVED  
15 MAR 25 PM 1:27  
JULIE TO: CHAIRMAN  
STAFF DIR. \_\_\_\_\_ STAFF \_\_\_\_\_

REPLY TO:

- 262 Crystal Grove Boulevard, Lutz, Florida 33548 (813) 909-9919
- 316 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5017

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

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

# APPEARANCE RECORD

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

4/13/15

Meeting Date

1102

Bill Number (if applicable)

Topic utility financing

~~366138~~

Amendment Barcode (if applicable)

Name Bill Peebles

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

Address PO Box 10930

Phone 850 544 3029

17h FL 32702  
City State Zip

Email bill@billpeebles.com

Speaking:  For  Against  Information

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

Representing Toho Water Authority

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.

# APPEARANCE RECORD

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

4-13-15

Meeting Date

1102

Bill Number (if applicable)

366138

Amendment Barcode (if applicable)

Topic Utility Projects

Name Lee Killinger

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

Address 201 W. Park  
Street

Phone 851-322-8907

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Email lee@antfieldflorida.com

Speaking:  For  Against  Information

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

Representing American Water Works 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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# APPEARANCE RECORD

4-13-15

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

1102

Meeting Date

Bill Number (if applicable)

Topic Utility Cost Containment Bonds

Soto Amendment

Name Kevin Dempsey

Amendment Barcode (if applicable)

366138

Job Title Vice President

Address 100 N Tampa St

Phone 813.765.1680

Street

Tampa

FL

33602

City

State

Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing Citigroup

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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# APPEARANCE RECORD

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

4/13/15

Meeting Date

1102

Bill Number (if applicable)

Soto 366134

Amendment Barcode (if applicable)

Topic UTILITY BOND - INFORMATION

Name J.W. HOWARD

Job Title EXECUTIVE DIRECTOR

Address 943 Spoonbill Circle  
Street

Phone 954-331-1595

WESTON  
City

FL  
State

33326  
Zip

Email JAMES.HOWARD@MS.COM

Speaking:  For  Against  Information

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

Representing MORGAN STANLEY

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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# APPEARANCE RECORD

4-13-15

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

SB 1102

Meeting Date

Bill Number (if applicable)

Topic Utility Cost Containment Bonds

Amendment Barcode (if applicable)

Name Kevin Dempsey

Job Title Vice President

Address 100 N Tampa St

Phone 813.765.1680

Street

Tampa

FL

33602

City

State

Zip

Email

Speaking:  For  Against  Information

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

Representing Citigroup

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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# APPEARANCE RECORD

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

4/13/15

Meeting Date

1102

Bill Number (if applicable)

Topic UTILITY BOARD

Amendment Barcode (if applicable)

Name J. HOWARD

Job Title EXECUTIVE DIRECTOR

Address 943 Spoonbill Circle

Phone 954-331-1595

Street

WESTON

FL

State

33324

Zip

Email JAMES.HOWARD@MS.COM

Speaking:  For  Against  Information

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

Representing MORGAN STANLEY

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)

4/13

Meeting Date

1102

Bill Number (if applicable)

Topic 1102 Utility Bonding

Amendment Barcode (if applicable)

Name MIKE HARRELL

Job Title Govt Relations

Address \_\_\_\_\_

Phone \_\_\_\_\_

Street

Email \_\_\_\_\_

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against

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

↓ Bill → Amendment

Representing FGUA

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)



# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**COMMITTEES:**  
Education Pre-K - 12, Chair  
Ethics and Elections, Vice Chair  
Appropriations Subcommittee on Education  
Fiscal Policy  
Government Oversight and Accountability  
Higher Education

**SENATOR JOHN LEGG**  
17th District

Legg.John.web@FLSenate.gov

April 13, 2015

The Honorable Dorothy Hukill  
Senate Committee on Finance and Tax, Chair  
207 The Capitol  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Dear Chair Hukill:

Senate Bill 1102, related to Utility Projects, is on the Committee Finance and Tax agenda for April 13, 2015. I will not be in Tallahassee and I will be unable to attend.

Please recognize my Legislative Assistant, Jim Browne, to present SB 1102 on my behalf. Please feel free to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "John Legg", written over a horizontal line.

John Legg  
State Senator, District 17

cc: Jose Diez-Arguelles, Staff Director

**REPLY TO:**

- 262 Crystal Grove Boulevard, Lutz, Florida 33548 (813) 909-9919
- 316 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5017

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

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

**The Florida Senate**  
**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 Finance and Tax

---

BILL: SB 1242

INTRODUCER: Senator Hays

SUBJECT: Interstate Compacts

DATE: April 10, 2015

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	<b>Favorable</b>
2.	<u>Fournier</u>	<u>Diez-Arguelles</u>	<u>FT</u>	<b>Favorable</b>
3.	_____	_____	<u>AP</u>	_____

---

**I. Summary:**

SB 1242 creates s. 11.95, F.S., which provides that the State of Florida enacts, adopts, and agrees to be bound by a compact (Compact) with other states for the purpose of calling a constitutional convention, pursuant to Article V of the United State Constitution, for the purpose of adopting a balanced budget amendment to the United States Constitution. Upon passage of the bill, the state enters into the Compact with other states and agrees to observe the provisions of the compact, including prospective ratification of the balanced budget amendment.

The balanced budget amendment proposed by the bill provides the following:

- **Section 1.** Total outlays of the government shall not exceed total receipts at any point in time unless the excess is financed by debt issued as provided in the amendment.
- **Section 2.** Outstanding debt may not exceed 105 percent of the outstanding debt on the effective date of the amendment unless approved by state legislatures, as provided in Section 3.
- **Section 3.** Allows for an increase in the debt limit if approved by a majority of state legislatures.
- **Section 4.** Requires the President to designate specific expenditures for impoundment whenever the outstanding debt exceeds 98 percent of the debt limit.
- **Section 5.** Requires a two-thirds majority of the membership of both houses of Congress to create a new or increase an existing general revenue tax. This requirement does not apply to enactment of a new end user sales tax which would completely replace every existing income tax levied by the United States government, or to the reduction or elimination of an exemption, deduction, or credit allowed under an existing general revenue tax.
- **Section 6.** Provides definitions of terms used in the amendment.
- **Section 7.** Provides that the amendment is immediately operative upon ratification, self-enforcing, and Congress may enact conforming legislation.

The Compact contains the specific language of the balanced budget amendment and provides a framework and procedure by which the Compact will accomplish its goal of amending the United States Constitution. It includes:

- A declaration of policy, purpose, and intent.
- Provisions by which a state may become a member of the Compact, including a commitment by each Member State to perform and comply strictly in accordance with the terms and conditions of the Compact. A Member State may withdraw from the Compact if there are fewer than 38 Member States (three-fourths of the states), but once at least three-fourths of the states are Member States no Member State may withdraw from the Compact without unanimous consent of all Member States.
- Establishment of the Compact Commission, the method by which each Member State may appoint members to the commission, and other administrative rules and procedures, including procedures for notifying Member States of key events relating to the Compact.
- Procedures for petitioning Congress for a convention to propose and ratify the balanced budget amendment.
- Procedures regarding the appointment of delegates by the Member States and rules for the conduct of the convention. The convention is limited to 24 hours.
- Prospective ratification of the amendment by each Member State.
- Rules for construction, enforcement, venue, and severability, including a requirement that the convention be held in Dallas, Texas, and that the exclusive venue for all actions arising from the Compact is in the United States District Court for the Northern District of Texas or the courts of the State of Texas within that jurisdiction.
- Termination of the Compact when the Constitution of the United States is amended by the balanced budget amendment, or seven years after the first state passes legislation enacting, adopting, and agreeing to be bound to the Compact.<sup>1</sup>

## II. Present Situation:

### United States Government Deficit and Debt

An excess of (government) outlays over receipts is called a budget deficit. A budget deficit can be financed by borrowing, usually in the form of issuing securities, government bonds, and bills, which create government debt. The federal deficit and debt are related but not identical. As described by the United States Department of the Treasury:

The deficit is the fiscal year difference between what the United States Government (Government) takes in from taxes and other revenues, called receipts, and the amount of money the Government spends, called outlays. The items included in the deficit are considered either on-budget or off-budget.

You can think of the total debt as accumulated deficits plus accumulated off-budget surpluses. The on-budget deficits require the U.S. Treasury to borrow money to raise cash needed to keep the Government operating. We borrow the money by selling securities like Treasury bills, notes, bonds and savings bonds to the public.

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<sup>1</sup> The States of Georgia and Alaska enacted such legislation in April, 2014.

The Treasury securities issued to the public and to the Government Trust Funds (Intragovernmental Holdings) then become part of the total debt.<sup>2</sup>

The United States Budget Deficit for 2014 was \$483 billion. In 2011 it was \$1,299 billion, and has fallen every year since then, due to increased taxes and other revenues and stable outlays.<sup>3</sup>

The federal debt for 2014 consisted of \$12.8 trillion in securities held by the public, which includes individuals, corporations, state and local governments, Federal Reserve Banks, foreign governments, and other entities outside the federal government. The government also reports \$5.1 trillion of intragovernmental debt outstanding. Debt held by the public plus intragovernmental debt equals “gross federal debt” which, with some adjustments, is subject to a statutory debt ceiling.<sup>4</sup>

The treatment of several categories of revenue and spending, plus the exclusion of certain obligations, creates some ambiguity in the interpretation of reported measures of the federal debt. For example, obligations of Fannie Mae and Freddie Mac, guaranteed obligations related to financial institutions arising from the late 2000s financial crisis, and future obligations under Medicare, Medicaid, and Social Security are not included in the reported debt.

### **United States Government Spending: Florida Impacts**

Spending by the United States government makes up a significant portion of revenue received by the State of Florida. In Fiscal Year 2013-2014, United States government spending supplied \$23.3 billion—32 percent of the state’s of total direct revenue.<sup>5</sup> It is the single largest source of funds available to the state. Two-thirds of these funds are for health and welfare programs, education and transportation account for approximately 10 percent each, over four percent goes to agricultural programs and the remainder is spread among 19 other spending categories.

Household incomes are also dependent on federal spending. As of December 2013, 4,114,745 Floridians were Social Security beneficiaries, and the total monthly benefit amount was \$4.9 billion.<sup>6</sup> Floridians’ Medicare benefits in 2013 were \$47.3 billion.<sup>7</sup> Florida ranked number four among the states in defense spending with \$22.8 billion spent in the state in 2009, with 105,724 total personnel with \$9.4 billion in total payroll.<sup>8</sup>

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<sup>2</sup> TreasuryDirect, “Frequently Asked Questions About the Public Debt,” U.S. Department of the Treasury, *available at* [http://www.treasurydirect.gov/govt/resources/faq/faq\\_publicdebt.html](http://www.treasurydirect.gov/govt/resources/faq/faq_publicdebt.html) (last visited Apr. 8, 2015).

<sup>3</sup> United States Department of the Treasury, *A Citizen’s Guide to the 2014 Financial Report of the U.S. Government*, *available at* <http://www.fiscal.treasury.gov/frsreports/rpt/finrep/fr/14frusg/CitizenGuide/2014.pdf> (last visited Apr. 8, 2015).

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

<sup>5</sup> Florida Revenue Estimating Conference, *Long-Term Revenue Analysis FY 1970-71 Through FY 2023-24* Volume 30 (Fall, 2014)

<sup>6</sup> OASDI Beneficiaries by State and County, 2013-Florida, *available at* [http://www.ssa.gov/policy/docs/statcomps/oasdi\\_sc/2013/fl.html](http://www.ssa.gov/policy/docs/statcomps/oasdi_sc/2013/fl.html) (last visited Apr. 8, 2015).

<sup>7</sup> United States Dept. of Commerce, Bureau of Economic Analysis.

<sup>8</sup> Robert Levinson, Sopen Shah, Paige K. Connor, Bloomberg Government Study, *Impact of Defense Spending: A State-by-State Analysis* (Nov. 17, 2011).

## Methods of Amending the U.S. Constitution

Article V of the United States Constitution provides two methods for proposing amendments to the Constitution. The first method authorizes Congress to propose amendments to the states, which are approved by a two-thirds vote of both Houses of Congress.<sup>9</sup> Amendments approved in this manner do not require the President's signature and are transmitted to each state for ratification.<sup>10</sup> Starting with the Bill of Rights in 1789, Congress used this method to submit 33 amendments to the states. Of those 33 proposals, 27 amendments to the Constitution were approved by the states.<sup>11</sup>

The second method, which has never been used, requires Congress to call a convention for proposing amendments when two-thirds of the state legislatures apply to Congress to call an amendments convention.<sup>12</sup> Currently, 34 states would need to make applications to meet the two-thirds requirement to call an Article V Convention. Because an Article V amendments convention has never been conducted, what might actually occur procedurally or substantively is unclear.

Article V further provides that the amendments shall become a part of the Constitution when ratified by the legislatures of three-fourths of the states or by conventions in three-fourths of the states. This would require ratification by 38 states. Because Article V provides that the amendments become valid when ratified by three-fourths of the legislatures or conventions "as the one or the other Mode of Ratification may be proposed by the Congress," Congress may choose the method of ratification. With the exception of the 21st Amendment, which repealed the 18th Amendment and prohibition, Congress has sent all proposed amendments to the legislatures for ratification.<sup>13,14</sup>

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<sup>9</sup> U.S. CONST. art. V.

<sup>10</sup> U.S. National Archives and Records Administration, *The Constitutional Amendment Process*, available at <http://www.archives.gov/federal-register/constitution> (last visited Feb. 4, 2014).

<sup>11</sup> Thomas H. Neale, Congressional Research Service, *The Article V Convention: Contemporary Issues for Congress* (July 9, 2012), available at <http://www.fas.org/sgp/crs/misc/R42589.pdf>.

<sup>12</sup> U.S. CONST. Article V.

<sup>13</sup> Neale, *supra*, note 3, at 22.

<sup>14</sup> With respect to ratification, it has become accepted procedure, although not stated in the Constitution, that Congress may set time limits on the ratification process and specify when an amendment must be ratified by the requisite number of states to become valid. With several amendments, Congress stated that ratification must occur within 7 years after their proposal to become effective. (See footnote 2 above.) The U.S. Supreme Court, in *Dillon v. Gloss*, 256 U.S. 368 (1921), concluded that Congress does have the authority to determine what a reasonable time frame for ratification is, even though the Constitution is silent on the matter.

Although no attempts to call an Article V Convention have ever been successful, two relatively recent attempts approached the requisite number of 34 applications to Congress. In 1969, a total of 33 states submitted applications for a convention to address U.S. Supreme Court decisions that dealt with voting districts and the apportionment of votes. The effort fell short of the total number required by one application. Several states later rescinded their applications and the call for a convention dissipated. James Kenneth Rogers, *The Other Way to Amend the Constitution: The Article V Constitutional Convention Amendment Process*, 30 Harv.J.L. & Pub. Pol'Y 1005, 1009-1010 (2007). In the second instance, and similar to this proposal, state legislatures made application to Congress to call an Article V Convention requesting a balanced budget amendment. In 1975, North Dakota was the first state to make application, followed by a succession of 30 other states over the years, ending with Missouri's application in 1983 as the 32nd application. The effort fell short of the 34 applications to Congress by two states and again, interest in calling for a convention declined. (Rogers at 1010)

## Florida's Article V Constitution Act

The Legislature passed the Article V Constitutional Convention Act in 2014 to establish the framework for selecting, appointing, and restricting Florida delegates if an Article V Constitutional Convention is called. The bill also established an advisory group to provide guidance to the delegates in carrying out their responsibilities.<sup>15</sup>

## Federal and State Balanced Budget Requirements

There is no requirement in the U.S. Constitution that the federal government operate under a balanced federal budget. Florida, in contrast, is required to have a balanced budget and those provisions are set forth in both the State Constitution and statute. Article VII, section 1 of the Florida Constitution states that “Provision shall be made by law for raising sufficient revenue to defray the expenses of the state for each fiscal period.” Similarly, s. 216.221(1), F.S., provides that “All appropriations shall be maximum appropriations, based upon the collection of sufficient revenues to meet and provide for such appropriations.” The subsection also provides that it is the Governor’s duty to ensure that “revenues collected will be sufficient to meet the appropriations and that no deficit occurs in any state fund.”

According to the National Conference of State Legislatures, as of 2014, 45 states had some kind of a constitutional requirement for a balanced budget. In four states it is only a statutory requirement, while Vermont is the only state without any requirement for a balanced budget.<sup>16</sup>

## Interstate Compacts

The Compact Clause of the United States Constitution provides that “No state shall, without the Consent of Congress, ... enter into any Agreement or Compact with another State ....”<sup>17</sup> This provision is the only section of the Constitution that addresses formal agreements between and among the various states. The Constitution does not place “limits on what might be done through an interstate compact other than the requirement of congressional consent.”<sup>18</sup> Congress expresses its consent in the form of a joint resolution or act of Congress that specifies its approval of the text of the compact and adds any conditions or provisions that it determines are necessary, with the text of the compact contained in the document.<sup>19</sup>

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<sup>15</sup> Chapter 2014-52, Laws of Fla.

<sup>16</sup> E-mail from Todd Haggerty, NCSL Fiscal Affairs Program (Feb. 3, 2014) (on file with the Senate Committee on Judiciary).

<sup>17</sup> U.S. CONST. art. I, s. 10, cl. 3.

<sup>18</sup> Thomas Neale, Congressional Research Service, *The Article V Convention: Contemporary Issues for Congress* (April 11, 2014).

<sup>19</sup> *Id.* 14-15. Authorities disagree as to whether a Congressional joint resolution, such as is contemplated in the Compact, must be signed by the President before becoming law. Thomas Neale, with the Congressional Research Service, states that this proposal could be challenged as unconstitutional without presentment to the President. In contrast, supporters of this proposal state that it would not need presidential approval because no other application calling for a Constitutional Convention has required a presidential signature to become effective.

### **Compact for a Balanced Budget – Enactments**

The Compact for a Balanced Budget proposed by this bill and discussed below has been adopted by Georgia, Alaska, Mississippi, and North Dakota and is pending before several other state legislatures.<sup>20</sup> House Congressional Resolution 26, which effectuates the Compact for a Balanced Budget, was filed in Congress on March 19, 2015. The resolution calls for an Article V Convention for a balanced budget amendment as contemplated in the Compact for a Balanced Budget. The congressional resolution will not take effect until Congress receives a sufficient number of certified conforming copies evidencing that at least three-fourths of the states are Member States of the Compact and have made application for a convention.<sup>21</sup>

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

The bill creates s. 11.95, F.S., which provides that the State of Florida enacts, adopts, and agrees to be bound by a compact (Compact) with other states for the purpose of calling a constitutional convention, pursuant to Article V of the United State Constitution for the purpose of a balanced budget amendment.

The text of the constitutional amendment is provided in Article II of the Compact as follows:

**"SECTION 1.** Total outlays of the government of the United States shall not exceed total receipts of the government of the United States at any point in time unless the excess of outlays over receipts is financed exclusively by debt issued in strict conformity with this article.

**"SECTION 2.** Outstanding debt shall not exceed authorized debt, which initially shall be an amount equal to 105 percent of the outstanding debt on the effective date of this article.

Authorized debt shall not be increased above its aforesaid initial amount unless such increase is first approved by the legislatures of the several states as provided in Section 3.

**"SECTION 3.** From time to time, Congress may increase authorized debt to an amount in excess of its initial amount set by Section 2 only if it first publicly refers to the legislatures of the several states an unconditional, single subject measure proposing the amount of such increase, in such form as provided by law, and the measure is thereafter publicly and unconditionally approved by a simple majority of the legislatures of the several states, in such form as provided respectively by state law; provided that no inducement requiring an expenditure or tax levy shall be demanded, offered, or accepted as a quid pro quo for such approval. If such approval is not obtained within 60 calendar days after referral, then the measure shall be deemed disapproved and the authorized debt shall thereby remain unchanged.

**"SECTION 4.** Whenever the outstanding debt exceeds 98 percent of the debt limit set by Section 2, the President shall enforce said limit by publicly designating specific expenditures for impoundment in an amount sufficient to ensure outstanding debt shall not exceed the authorized debt. Said impoundment shall become effective 30 days thereafter, unless Congress first designates an alternate impoundment of the same or greater amount by concurrent resolution, which shall become immediately effective. The failure of the President to designate or enforce the required impoundment is an impeachable misdemeanor. Any purported issuance or incurrence of any debt in excess of the debt limit set by Section 2 is void.

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<sup>20</sup> Telephone interview with Nick Drania, Compact for America Educational Foundation, Inc., (March 29, 2015).

<sup>21</sup> H.R. Con. Res. 26, 114th Cong. (2015).

**"SECTION 5.** No bill that provides for a new or increased general revenue tax shall become law unless approved by a two-thirds roll call vote of the whole number of each House of Congress. However, this requirement shall not apply to any bill that provides for a new end user sales tax which would completely replace every existing income tax levied by the government of the United States; or for the reduction or elimination of an exemption, deduction, or credit allowed under an existing general revenue tax.

**"SECTION 6.** For purposes of this article, "debt" means any obligation backed by the full faith and credit of the government of the United States; "outstanding debt" means all debt held in any account and by any entity at a given point in time; "authorized debt" means the maximum total amount of debt that may be lawfully issued and outstanding at any single point in time under this article; "total outlays of the government of the United States" means all expenditures of the government of the United States from any source; "total receipts of the government of the United States" means all tax receipts and other income of the government of the United States, excluding proceeds from its issuance or incurrence of debt or any type of liability; "impoundment" means a proposal not to spend all or part of a sum of money appropriated by Congress; and "general revenue tax" means any income tax, sales tax, or value-added tax levied by the government of the United States excluding imposts and duties.

**"SECTION 7.** This article is immediately operative upon ratification, self-enforcing, and Congress may enact conforming legislation to facilitate enforcement."

### **Compact Membership and Withdrawal**

Article III of the Compact establishes membership and withdrawal requirements. It provides that the Compact governs each Member State<sup>22</sup> to the fullest extent permitted by its respective constitution and supersedes and repeals any conflicting law. Additionally, each Member State is contractually bound to other Member States and promises and agrees to comply with the terms and conditions of the Compact.

When less than three-fourths, or 38, of the states are Member States, any Member State may withdraw from this Compact. However, once at least three-fourths of the states are Member States, then no Member State may withdraw from the Compact prior to its termination absent unanimous consent of all Member States.

### **Compact Commission and Compact Administrators**

Article IV of the Compact establishes the Compact Commission and the Compact Administrator. The Compact Commission will appoint and oversee a Compact Administrator, promote the Compact, coordinate the performance of obligations under the Compact, and defend and enforce the Compact in legal proceedings, among other things.

The Compact Administrator will notify the states of the date, time, and location of the convention; organize the convention, maintain a list of all Member States and their appointed delegates; and maintain all official records relating to the Compact. The Compact Administrator will also notify Member States of key events.

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<sup>22</sup> A "Member State" is defined as "a State that has enacted, adopted, and agreed to be bound to this Compact."

## **Resolution Applying for a Convention**

Article V of the Compact provides that the states are applying to Congress for the calling of a convention. The application will only have legal effect, due to a conditional enactment provision, when 38 states join the compact.

## **Appointment of Delegates, Limitations, and Instructions**

Article VI of the Compact regulates the appointment and authority of delegates who will attend a convention pursuant to the Compact. The President of the Senate, or his or her designee, and the Speaker of the House of Representatives, or his or her designee, will represent Florida as its sole and exclusive delegates. A delegate may be replaced or recalled by the Legislature at any time for good cause, such as criminal misconduct or the violation of the Compact. Each delegate must take an oath to "act strictly in accordance with the terms and conditions of the Compact for a Balanced Budget, the Constitution of the state I represent, and the Constitution of the United States."

A delegate's authority is limited to introducing, debating, voting upon, proposing, and enforcing the convention rules specified in the Compact, and to introducing, debating, voting on, and rejecting or proposing for ratification the balanced budget amendment. Any actions taken by any delegate beyond this limited authority are void ab initio.<sup>23</sup> Additionally, a delegate may not introduce, debate, vote upon, reject, or propose for ratification any constitutional amendment at the convention other than the balanced budget amendment.

If any Member State or delegate violates any provision of the Compact, then every delegate of that Member State immediately forfeits his or her appointment, and must immediately cease participation at the convention, vacate the convention, and return to his or her respective state's capitol.<sup>24</sup>

## **Convention Rules**

Article VII of the Compact details the convention agenda and rules. The agenda of the Convention will be exclusively limited to introducing, debating, voting on, and rejecting or proposing for ratification the balanced budget amendment. The convention will not consider any matter outside of this agenda. The convention has a limited time-frame in which it must act. It must permanently adjourn either 24 hours after commencing consideration of the balanced budget amendment or the completion of the business on its agenda, whichever occurs first.

Regardless of whether a state is a member to the compact, each state may have no more than three delegates at the convention. However, each state will only have one vote.

The convention will be chaired by the delegate representing the first state to have become a Member State. Any vote, including the rejection or proposal of any constitutional amendment, requires a quorum to be present and a majority affirmative vote of those states constituting the

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<sup>23</sup> "Void ab initio" means void from the beginning.

<sup>24</sup> Given the very brief nature of the convention provided by the Compact, it appears that expulsion of a state's delegates would effectively bar a state from having any delegates at the convention. *See* Article VII, Convention Rules below.

quorum. In adopting rules of parliamentary procedure, the convention must exclusively adopt or adapt provisions from Robert's Rules of Order and the American Institute of Parliamentarians Standard Code of Parliamentary Procedure.

Unless otherwise specified by Congress in its call, the convention will be held in Dallas, Texas, on the sixth Wednesday after the latter of the date on which three-fourths of the states become Member States or the enactment date of the Congressional resolution calling the convention.<sup>25</sup> In the event that the chair declares an emergency due to disorder or an imminent threat to public health and safety, and a majority of the States present do not object, convention proceedings may be temporarily suspended and the Commission will relocate or reschedule the convention.

### **Prohibition on Ultra Vires<sup>26</sup> Convention**

Article VIII of the Compact prohibits Member States from participating in any convention organized pursuant to the Compact other than one called pursuant to and in accordance with the rules provided in the Compact. Additionally, Member States are prohibited from ratifying any proposed amendment to the Constitution of the United States, which originates from the convention, other than the balanced budget amendment.

### **Resolution Prospectively Ratifying the Balanced Budget Amendment**

Article IX of the Compact provides that upon becoming a Member State, the Legislature prospectively adopts and ratifies the balanced budget amendment. However, this Article does not take effect until Congress refers the balanced budget amendment to the states for ratification by three-fourths of the Legislatures of the states.

### **Construction, Enforcement, and Termination of the Compact**

Article X of the Compact regulates the construction of the Compact as well as providing for its legal enforcement and termination. To the extent that the effectiveness of the Compact requires the alteration of legislative rules to be effective, legislation agreeing to be bound by the Compact is deemed to waive, repeal, supersede, or amend all such rules to allow for the effectiveness of the Compact to the fullest extent permitted by the constitution of the Member State.

The Compact provides that the chief law enforcement officer of each Member State may defend the Compact from any legal challenge, as well as seek civil mandatory and prohibitory injunctive relief to enforce the Compact. The exclusive venue for all actions arising under the Compact will be in the United States District Court for the Northern District of Texas or the courts of the State of Texas within the jurisdictional boundaries of the district court. Each Member State is required to submit to the jurisdiction of those courts with respect to all actions arising under the Compact. However, the Compact Commission may waive this provision.

The severability clause of the Compact provides that any provision of the Compact except Article VIII related to ultra vires conventions may be severable. If a court finds that the Compact

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<sup>25</sup> The time and date of the convention is provided in Article X of the Compact.

<sup>26</sup> "Ultra vires" means "[u]nauthorized; beyond the scope of power allowed or granted by a corporate charter or by law." Black's Law Dictionary (10th ed. 2014).

is entirely contrary to the state constitution of a Member State or otherwise entirely invalid, that Member State is withdrawn from the Compact, and the Compact will remain in full force and effect as to any remaining Member State. Moreover, if a court finds the Compact to be wholly or substantially in violation of Article I, Section 10, of the United State Constitution, then it will be construed and enforced solely as reciprocal legislation enacted by the affected Member States.

The termination clause provides that the Compact will terminate when it is fully performed and the Constitution of the United States is amended by the balanced budget amendment. However, in the event such amendment does not occur within seven years after the date the first state passed legislation agreeing to be bound to the Compact, the Compact terminates and the Commission dissolves 90 days after that seven year date.

The bill provides that it takes effect upon becoming law.

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

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

This bill does not appear to require cities or counties to spend funds or limit their ability to raise funds or receive state revenue. Therefore, the provisions of Art. VII, sec. 18 of the Florida Constitution do not apply.

##### **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:**

To the extent that the amendment requires reductions or limits the growth in federal government expenditures it could affect the welfare and livelihoods of Floridians that rely on government employment, pensions, transfer payments, or assistance. It could also affect businesses that serve as government contractors.

If the balanced budget amendment reduces the federal government's ability to respond to national security threats, natural disasters, or economic crises, this bill will jeopardize the general welfare of the state.

**C. Government Sector Impact:**

Spending reductions or limitations caused by the amendment that reduce existing or future payments to the state could substantially affect state spending on health, education, transportation, agriculture, and other programs that rely on federal expenditures.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

By enacting this bill, the Legislature will be prospectively ratifying a constitutional amendment. This will significantly affect a future Legislature's ability to make decisions at such time as the required 38 states join the compact, and will limit public input and debate on the issue.

Although the interstate compact which the state adopts and enters under the bill is the "Compact for a Balanced Budget Amendment," the actual amendment language goes beyond a requirement for a balanced budget and places restrictions on the ability of the United States Congress to balance the budget by increasing tax revenue.

**VIII. Statutes Affected:**

This bill creates section 11.95 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 Hays

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1 A bill to be entitled  
 2 An act relating to interstate compacts; creating s.  
 3 11.95, F.S.; adopting and entering the state into an  
 4 interstate Compact for a Balanced Budget; exempting  
 5 the compact from the Article V Constitutional  
 6 Convention Act; providing the policy, purpose, and  
 7 intent of the compact; defining terms; providing for  
 8 proposal by the compact's member states of an  
 9 amendment to the United States Constitution requiring  
 10 the Federal Government to maintain a balanced budget  
 11 with certain exceptions; requiring member states to  
 12 strictly comply with the terms of the compact;  
 13 describing circumstances under which the compact  
 14 becomes contractually binding on a member state;  
 15 establishing a Compact Commission and specifying the  
 16 commission's membership and duties; providing for  
 17 appointment of a Compact Administrator and specifying  
 18 the administrator's duties; providing for funding of  
 19 the Compact Commission and Compact Administrator;  
 20 providing for the member states to apply to the United  
 21 States Congress for a convention under Article V of  
 22 the United States Constitution to propose the balanced  
 23 budget amendment; requiring cooperation among the  
 24 commission, the member states, and the Compact  
 25 Administrator; providing for the appointment, terms,  
 26 duties, and authority of convention delegates;  
 27 requiring an oath to be taken by delegates; specifying  
 28 rules to govern procedures at the convention;  
 29 specifying actions that are considered ultra vires;

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30 providing that the balanced budget amendment is not  
 31 considered ratified until ratified by a specified  
 32 number of states; providing for construction and  
 33 enforcement of the compact; providing an effective  
 34 date for the compact; authorizing severability of the  
 35 compact under certain circumstances; providing for  
 36 termination of the compact under certain conditions;  
 37 providing an effective date.

38  
 39 Be It Enacted by the Legislature of the State of Florida:

40  
 41 Section 1. Section 11.95, Florida Statutes, is created to  
 42 read:

43 11.95 Compact for a balanced budget.—Notwithstanding the  
 44 Article V Constitutional Convention Act, ss. 11.93-11.9352, the  
 45 State of Florida enacts, adopts, and agrees to be bound by the  
 46 following compact:

47 ARTICLE I

48 DECLARATION OF POLICY, PURPOSE, AND INTENT

49 WHEREAS, every State enacting, adopting, and agreeing to be  
 50 bound by this Compact intends to ensure that their respective  
 51 Legislature's use of the power to originate a Balanced Budget  
 52 Amendment under Article V of the Constitution of the United  
 53 States will be exercised conveniently and with reasonable  
 54 certainty as to the consequences thereof.

55 NOW, THEREFORE, in consideration of their expressed mutual  
 56 promises and obligations, be it enacted by every State enacting,  
 57 adopting, and agreeing to be bound by this Compact, and resolved  
 58 by each of their respective Legislatures, as the case may be, to

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59 exercise herewith all of their respective powers as set forth  
60 herein, notwithstanding any law to the contrary.

61 ARTICLE II

62 DEFINITIONS

63 As used in this Compact, the term:

64 Section 1. "Compact" means this "Compact for a Balanced  
65 Budget."

66 Section 2. "Convention" means the convention for proposing  
67 amendments organized by this Compact under Article V of the  
68 Constitution of the United States and, where contextually  
69 appropriate to ensure the terms of this Compact are not evaded,  
70 any other similar gathering or body, which might be organized as  
71 a consequence of Congress receiving the application set out in  
72 this Compact and claim authority to propose or effectuate any  
73 amendment, alteration, or revision to the Constitution of the  
74 United States. This term does not encompass a convention for  
75 proposing amendments under Article V of the Constitution of the  
76 United States that is organized independently of this Compact  
77 based on the separate and distinct application of any State.

78 Section 3. "State" means one of the several States of the  
79 United States. Where contextually appropriate, the term "State"  
80 shall be construed to include all of its branches, departments,  
81 agencies, political subdivisions, and officers and  
82 representatives acting in their official capacity.

83 Section 4. "Member State" means a State that has enacted,  
84 adopted, and agreed to be bound to this Compact. For any State  
85 to qualify as a Member State with respect to any other State  
86 under this Compact, each such State must have enacted, adopted,  
87 and agreed to be bound by substantively identical compact

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88 legislation.

89 Section 5. "Compact Notice Recipients" means the Archivist  
90 of the United States, the President of the United States, the  
91 President of the United States Senate, the Office of the  
92 Secretary of the United States Senate, the Speaker of the United  
93 States House of Representatives, the Office of the Clerk of the  
94 United States House of Representatives, the chief executive  
95 officer of each State, and the presiding officer(s) of each  
96 house of the Legislatures of the several States.

97 Section 6. Notice. All notices required by this Compact  
98 shall be by United States Certified Mail, return receipt  
99 requested, or an equivalent or superior form of notice, such as  
100 personal delivery documented by evidence of actual receipt.

101 Section 7. "Balanced Budget Amendment" means the following:

102 "ARTICLE

103 "SECTION 1. Total outlays of the government of the United  
104 States shall not exceed total receipts of the government of the  
105 United States at any point in time unless the excess of outlays  
106 over receipts is financed exclusively by debt issued in strict  
107 conformity with this article.

108 "SECTION 2. Outstanding debt shall not exceed authorized  
109 debt, which initially shall be an amount equal to 105 percent of  
110 the outstanding debt on the effective date of this article.  
111 Authorized debt shall not be increased above its aforesaid  
112 initial amount unless such increase is first approved by the  
113 legislatures of the several states as provided in Section 3.

114 "SECTION 3. From time to time, Congress may increase  
115 authorized debt to an amount in excess of its initial amount set  
116 by Section 2 only if it first publicly refers to the

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 117 legislatures of the several states an unconditional, single  
 118 subject measure proposing the amount of such increase, in such  
 119 form as provided by law, and the measure is thereafter publicly  
 120 and unconditionally approved by a simple majority of the  
 121 legislatures of the several states, in such form as provided  
 122 respectively by state law; provided that no inducement requiring  
 123 an expenditure or tax levy shall be demanded, offered, or  
 124 accepted as a quid pro quo for such approval. If such approval  
 125 is not obtained within 60 calendar days after referral, then the  
 126 measure shall be deemed disapproved and the authorized debt  
 127 shall thereby remain unchanged.

128 "SECTION 4. Whenever the outstanding debt exceeds 98  
 129 percent of the debt limit set by Section 2, the President shall  
 130 enforce said limit by publicly designating specific expenditures  
 131 for impoundment in an amount sufficient to ensure outstanding  
 132 debt shall not exceed the authorized debt. Said impoundment  
 133 shall become effective 30 days thereafter, unless Congress first  
 134 designates an alternate impoundment of the same or greater  
 135 amount by concurrent resolution, which shall become immediately  
 136 effective. The failure of the President to designate or enforce  
 137 the required impoundment is an impeachable misdemeanor. Any  
 138 purported issuance or incurrence of any debt in excess of the  
 139 debt limit set by Section 2 is void.

140 "SECTION 5. No bill that provides for a new or increased  
 141 general revenue tax shall become law unless approved by a two-  
 142 thirds roll call vote of the whole number of each House of  
 143 Congress. However, this requirement shall not apply to any bill  
 144 that provides for a new end user sales tax which would  
 145 completely replace every existing income tax levied by the

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 146 government of the United States; or for the reduction or  
 147 elimination of an exemption, deduction, or credit allowed under  
 148 an existing general revenue tax.

149 "SECTION 6. For purposes of this article, "debt" means any  
 150 obligation backed by the full faith and credit of the government  
 151 of the United States; "outstanding debt" means all debt held in  
 152 any account and by any entity at a given point in time;  
 153 "authorized debt" means the maximum total amount of debt that  
 154 may be lawfully issued and outstanding at any single point in  
 155 time under this article; "total outlays of the government of the  
 156 United States" means all expenditures of the government of the  
 157 United States from any source; "total receipts of the government  
 158 of the United States" means all tax receipts and other income of  
 159 the government of the United States, excluding proceeds from its  
 160 issuance or incurrence of debt or any type of liability;  
 161 "impoundment" means a proposal not to spend all or part of a sum  
 162 of money appropriated by Congress; and "general revenue tax"  
 163 means any income tax, sales tax, or value-added tax levied by  
 164 the government of the United States excluding imposts and  
 165 duties.

166 "SECTION 7. This article is immediately operative upon  
 167 ratification, self-enforcing, and Congress may enact conforming  
 168 legislation to facilitate enforcement."

## ARTICLE III

## COMPACT MEMBERSHIP AND WITHDRAWAL

171 Section 1. This Compact governs each Member State to the  
 172 fullest extent permitted by its respective constitution,  
 173 superseding and repealing any conflicting or contrary law.

174 Section 2. By becoming a Member State, each such State

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175 offers, promises, and agrees to perform and comply strictly in  
 176 accordance with the terms and conditions of this Compact, and  
 177 has made such offer, promise, and agreement in anticipation and  
 178 consideration of, and in substantial reliance upon, such mutual  
 179 and reciprocal performance and compliance by each other current  
 180 and future Member State, if any. Accordingly, in addition to  
 181 having the force of law in each Member State upon its respective  
 182 effective date, this Compact and each of its Articles shall also  
 183 be construed as contractually binding each Member State when:

184 (a) At least one other State has likewise become a Member  
 185 State by enacting substantively identical legislation adopting  
 186 and agreeing to be bound by this Compact; and

187 (b) Notice of such State's Member State status is or has  
 188 been seasonably received by the Compact Administrator, if any,  
 189 or otherwise by the chief executive officer of each other Member  
 190 State.

191 Section 3. For purposes of determining Member State status  
 192 under this Compact, as long as all other provisions of the  
 193 Compact remain identical and operative on the same terms,  
 194 legislation enacting, adopting, and agreeing to be bound by this  
 195 Compact shall be deemed and regarded as "substantively  
 196 identical" with respect to such other legislation enacted by  
 197 another State, notwithstanding:

198 (a) Any difference in Section 2 of Article IV with specific  
 199 regard to the respectively enacting State's own method of  
 200 appointing its member to the Commission;

201 (b) Any difference in Section 5 of Article IV with specific  
 202 regard to the respectively enacting State's own obligation to  
 203 fund the Commission;

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204 (c) Any difference in Sections 1 and 2 of Article VI with  
 205 specific regard to the number and identity of each delegate  
 206 respectively appointed on behalf of the enacting State, provided  
 207 that no more than three delegates may attend and participate in  
 208 the Convention on behalf of any State; or

209 (d) Any difference in Section 7 of Article X with specific  
 210 regard to the respectively enacting State as to whether Section  
 211 1 of Article V of this Compact shall survive termination of the  
 212 Compact, and thereafter become a continuing resolution of the  
 213 Legislature of such State applying to Congress for the calling  
 214 of a Convention of the States under Article V of the  
 215 Constitution of the United States, under such terms and  
 216 limitations as may be specified by such State.

217 Section 4. When fewer than three-fourths of the States are  
 218 Member States, any Member State may withdraw from this Compact  
 219 by enacting appropriate legislation, as determined by state law,  
 220 and giving notice of such withdrawal to the Compact  
 221 Administrator, if any, or otherwise to the chief executive  
 222 officer of each other Member State. A withdrawal shall not  
 223 affect the validity or applicability of the Compact with respect  
 224 to remaining Member States, provided that there remain at least  
 225 two such States. However, once at least three-fourths of the  
 226 States are Member States, then no Member State may withdraw from  
 227 the Compact prior to its termination absent unanimous consent of  
 228 all Member States.

229 ARTICLE IV

230 COMPACT COMMISSION AND COMPACT ADMINISTRATOR

231 Section 1. Nature of the Compact Commission.—The Compact  
 232 Commission ("Commission") is hereby established. It has the

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233 power and duty:234 (a) To appoint and oversee a Compact Administrator;235 (b) To encourage States to join the Compact and Congress to  
236 call the Convention in accordance with this Compact;237 (c) To coordinate the performance of obligations under the  
238 Compact;239 (d) To oversee the Convention's logistical operations as  
240 appropriate to ensure this Compact governs its proceedings;241 (e) To oversee the defense and enforcement of the Compact  
242 in appropriate legal venues;243 (f) To request funds and to disburse those funds to support  
244 the operations of the Commission, Compact Administrator, and  
245 Convention; and246 (g) To cooperate with any entity that shares a common  
247 interest with the Commission and engages in policy research,  
248 public interest litigation, or lobbying in support of the  
249 purposes of the Compact.250  
251 The Commission shall only have such implied powers as are  
252 essential to carrying out these express powers and duties. It  
253 shall take no action that contravenes or is inconsistent with  
254 this Compact or any law of any State that is not superseded by  
255 this Compact. It may adopt and publish corresponding bylaws and  
256 policies.257 Section 2. Commission Membership.—The Commission initially  
258 consists of three unpaid members. Each Member State may appoint  
259 one member to the Commission through an appointment process to  
260 be determined by its respective chief executive officer until  
261 all positions on the Commission are filled. Positions shall be

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262 assigned to appointees in the order in which their respective  
263 appointing States became Member States. The bylaws of the  
264 Commission may expand its membership to include representatives  
265 of additional Member States and to allow for modest salaries and  
266 reimbursement of expenses if adequate funding exists.267 Section 3. Commission Action.—Each Commission member is  
268 entitled to one vote. The Commission shall not act unless a  
269 majority of its appointed membership is present, and no action  
270 shall be binding unless approved by a majority of the  
271 Commission's appointed membership. The Commission shall meet at  
272 least once a year, and may meet more frequently.273 Section 4. First Order of Business.—The Commission shall at  
274 the earliest possible time elect from among its membership a  
275 Chair, determine a primary place of doing business, and appoint  
276 a Compact Administrator.277 Section 5. Funding.—The Commission and the Compact  
278 Administrator's activities shall be funded exclusively by each  
279 Member State, as determined by its respective state law, or by  
280 voluntary donations.281 Section 6. Compact Administrator.—The Compact Administrator  
282 has the power and duty:283 (a) To timely notify the States of the date, time, and  
284 location of the Convention;285 (b) To organize and direct the logistical operations of the  
286 Convention;287 (c) To maintain an accurate list of all Member States and  
288 their appointed delegates, including contact information; and289 (d) To formulate, transmit, and maintain all official  
290 notices, records, and communications relating to this Compact.

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291  
292 The Compact Administrator shall only have such implied powers as  
293 are essential to carrying out these express powers and duties  
294 and shall take no action that contravenes or is inconsistent  
295 with this Compact or any law of any State that is not superseded  
296 by this Compact. The Compact Administrator serves at the  
297 pleasure of the Commission and must keep the Commission  
298 seasonably apprised of the performance or nonperformance of the  
299 terms and conditions of this Compact. Any notice sent by a  
300 Member State to the Compact Administrator concerning this  
301 Compact shall be adequate notice to each other Member State  
302 provided that a copy of said notice is seasonably delivered by  
303 the Compact Administrator to each other Member State's  
304 respective chief executive officer.

305 Section 7. Notice of Key Events.—Upon the occurrence of  
306 each of the following described events, or otherwise as soon as  
307 possible, the Compact Administrator shall immediately send the  
308 following notices to all Compact Notice Recipients, together  
309 with certified conforming copies of the chaptered version of  
310 this Compact as maintained in the statutes of each Member State:

311 (a) Whenever any State becomes a Member State, notice of  
312 that fact shall be given;

313 (b) Once at least three-fourths of the States are Member  
314 States, notice of that fact shall be given together with a  
315 statement declaring that the Legislatures of at least two-thirds  
316 of the several States have applied for a Convention for  
317 proposing amendments under Article V of the Constitution of the  
318 United States, petitioning Congress to call the Convention  
319 contemplated by this Compact, and further requesting cooperation

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320 in organizing the same in accordance with this Compact;

321 (c) Once Congress has called the Convention contemplated by  
322 this Compact, and whenever the date, time, and location of the  
323 Convention has been determined, notice of that fact shall be  
324 given together with the date, time, and location of the  
325 Convention and other essential logistical matters;

326 (d) Upon approval of the Balanced Budget Amendment by the  
327 Convention, notice of that fact shall be given together with the  
328 transmission of certified copies of such approved proposed  
329 amendment and a statement requesting Congress to refer the same  
330 for ratification by three-fourths of the Legislatures of the  
331 several States under Article V of the Constitution of the United  
332 States; however, in no event shall any proposed amendment other  
333 than the Balanced Budget Amendment be transmitted; and

334 (e) When any Article of this Compact prospectively  
335 ratifying the Balanced Budget Amendment becomes effective in any  
336 Member State, notice of the same shall be given together with a  
337 statement declaring such ratification and further requesting  
338 cooperation in ensuring that the official record confirms and  
339 reflects the effective corresponding amendment to the  
340 Constitution of the United States.

341  
342 However, whenever any Member State enacts appropriate  
343 legislation, as determined by the laws of the respective state,  
344 withdrawing from this Compact, the Compact Administrator shall  
345 immediately send certified conforming copies of the chaptered  
346 version of such withdrawal legislation as maintained in the  
347 statutes of each such withdrawing Member State, solely to each  
348 chief executive officer of each remaining Member State, giving

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349 notice of such withdrawal.

350 Section 8. Cooperation.—The Commission, Member States, and  
 351 Compact Administrator shall cooperate with each other and give  
 352 each other mutual assistance in enforcing this Compact and shall  
 353 give the chief law enforcement officer of each other Member  
 354 State any information or documents that are reasonably necessary  
 355 to facilitate the enforcement of this Compact.

356 Section 9. Effective Date of Article.—This Article does not  
 357 take effect until there are at least two Member States.

#### ARTICLE V

##### RESOLUTION APPLYING FOR CONVENTION

360 Section 1. Be it resolved, as provided for in Article V of  
 361 the Constitution of the United States, the Legislature of each  
 362 Member State herewith applies to Congress for the calling of a  
 363 convention for proposing amendments limited to the subject  
 364 matter of proposing for ratification the Balanced Budget  
 365 Amendment.

366 Section 2. Congress is further petitioned to refer the  
 367 Balanced Budget Amendment to the States for ratification by  
 368 three-fourths of their respective Legislatures.

369 Section 3. This Article does not take effect until at least  
 370 three-fourths of the several States are Member States.

#### ARTICLE VI

##### DELEGATE APPOINTMENT, LIMITATIONS, AND INSTRUCTIONS

373 Section 1. Number of Delegates.—Each Member State shall be  
 374 entitled to delegates as the sole and exclusive representatives  
 375 at the Convention as set forth in this Article.

376 Section 2. Identity of Delegates.—The then serving  
 377 President of the Senate, or his or her designee, and the then

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378 serving Speaker of the House of Representatives, or his or her  
 379 designee, are appointed to represent Florida as its sole and  
 380 exclusive delegates.

381 Section 3. Replacement or Recall of Delegates.—A delegate  
 382 appointed hereunder may be replaced or recalled by the  
 383 Legislature of his or her respective State at any time for good  
 384 cause, such as criminal misconduct or the violation of this  
 385 Compact. If replaced or recalled, any delegate previously  
 386 appointed hereunder must immediately vacate the Convention and  
 387 return to his or her respective State's capitol.

388 Section 4. Oath.—The power and authority of a delegate  
 389 under this Article may only be exercised after the Convention is  
 390 first called by Congress in accordance with this Compact and  
 391 such appointment is duly accepted by such appointee publicly  
 392 taking the following oath or affirmation: "I do solemnly swear  
 393 (or affirm) that I accept this appointment and will act strictly  
 394 in accordance with the terms and conditions of the Compact for a  
 395 Balanced Budget, the Constitution of the State I represent, and  
 396 the Constitution of the United States. I understand that  
 397 violating this oath (or affirmation) forfeits my appointment and  
 398 may subject me to other penalties as provided by law."

399 Section 5. Term.—The term of a delegate then serving as the  
 400 President of the Senate or the Speaker of the House of  
 401 Representatives, or their designees, commences upon acceptance  
 402 of appointment and terminates upon the permanent adjournment of  
 403 the Convention, unless shortened by recall, replacement, or  
 404 forfeiture under this Article. Upon expiration of such term, any  
 405 person formerly serving as a delegate must immediately withdraw  
 406 from and cease participation at the Convention, if any is

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407 proceeding.

408 Section 6. Delegate Authority.—The power and authority of  
409 any delegate appointed hereunder is strictly limited:

410 (a) To introducing, debating, voting upon, proposing, and  
411 enforcing the Convention Rules specified in this Compact, as  
412 needed to ensure those rules govern the Convention; and

413 (b) To introducing, debating, voting upon, and rejecting or  
414 proposing for ratification the Balanced Budget Amendment.

415

416 All actions taken by any delegate in violation of this section  
417 are void ab initio.

418 Section 7. Delegate Authority.—No delegate of any Member  
419 State may introduce, debate, vote upon, reject, or propose for  
420 ratification any constitutional amendment at the Convention  
421 unless:

422 (a) The Convention Rules specified in this Compact govern  
423 the Convention and its actions; and

424 (b) The constitutional amendment is the Balanced Budget  
425 Amendment.

426 Section 8. Delegate Authority.—The power and authority of  
427 any delegate at the Convention does not include any power or  
428 authority associated with any other public office held by the  
429 delegate. Any person appointed to serve as a delegate shall take  
430 a temporary leave of absence, or otherwise shall be deemed  
431 temporarily disabled, from any other public office held by the  
432 delegate while attending the Convention, and may not exercise  
433 any power or authority associated with any other public office  
434 held by the delegate, while attending the Convention. All  
435 actions taken by any delegate in violation of this section are

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436 void ab initio.

437 Section 9. Order of Business.—Before introducing, debating,  
438 voting upon, rejecting, or proposing for ratification any  
439 constitutional amendment at the Convention, each delegate of  
440 every Member State must first ensure the Convention Rules in  
441 this Compact govern the Convention and its actions. Every  
442 delegate and each Member State must immediately vacate the  
443 Convention and notify the Compact Administrator by the most  
444 effective and expeditious means if the Convention Rules in this  
445 Compact are not adopted to govern the Convention and its  
446 actions.

447 Section 10. Forfeiture of Appointment.—If any Member State  
448 or delegate violates any provision of this Compact, then every  
449 delegate of that Member State immediately forfeits his or her  
450 appointment, and shall immediately cease participation at the  
451 Convention, vacate the Convention, and return to his or her  
452 respective State's capitol.

453 Section 11. Expenses.—A delegate appointed hereunder is  
454 entitled to reimbursement of reasonable expenses for attending  
455 the Convention from his or her respective Member State. No  
456 delegate may accept any other form of remuneration or  
457 compensation for service under this Compact.

#### ARTICLE VII

##### CONVENTION RULES

460 Section 1. Nature of the Convention.—The Convention shall  
461 be organized, construed, and conducted as a body exclusively  
462 representing and constituted by the several States.

463 Section 2. Agenda of the Convention.—The agenda of the  
464 Convention shall be entirely focused upon and exclusively

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465 limited to introducing, debating, voting upon, and rejecting or  
 466 proposing for ratification the Balanced Budget Amendment under  
 467 the Convention Rules specified in this Article and in accordance  
 468 with the Compact. It shall not be in order for the Convention to  
 469 consider any matter that is outside the scope of this agenda.

470 Section 3. Delegate Identity and Procedure.—States shall be  
 471 represented at the Convention through duly appointed delegates.  
 472 The number, identity, and authority of delegates assigned to  
 473 each State shall be determined by this Compact in the case of  
 474 Member States or, in the case of States that are not Member  
 475 States, by their respective state laws. However, to prevent  
 476 disruption of proceedings, no more than three delegates may  
 477 attend and participate in the Convention on behalf of any State.  
 478 A certified chaptered conforming copy of this Compact, together  
 479 with government-issued photographic proof of identification,  
 480 shall suffice as credentials for delegates of Member States. Any  
 481 commission for delegates of States that are not Member States  
 482 shall be based on its respective state laws, but it shall  
 483 furnish credentials that are at least as reliable as those  
 484 required of Member States.

485 Section 4. Voting.—Each State represented at the Convention  
 486 shall have one vote, exercised by the vote of that State's  
 487 delegate in the case of States represented by one delegate, or,  
 488 in the case of any State that is represented by more than one  
 489 delegate, by the majority vote of that State's respective  
 490 delegates.

491 Section 5. Quorum.—A majority of the several States of the  
 492 United States, each present through its respective delegate in  
 493 the case of any State that is represented by one delegate, or

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494 through a majority of its respective delegates, in the case of  
 495 any State that is represented by more than one delegate, shall  
 496 constitute a quorum for the transaction of any business on  
 497 behalf of the Convention.

498 Section 6. Action by the Convention.—The Convention shall  
 499 only act as a committee of the whole, chaired by the delegate  
 500 representing the first State to have become a Member State, if  
 501 that State is represented by one delegate, or otherwise by the  
 502 delegate chosen by the majority vote of that State's respective  
 503 delegates. The transaction of any business on behalf of the  
 504 Convention, including the designation of a Secretary, the  
 505 adoption of parliamentary procedures, and the rejection or  
 506 proposal of any constitutional amendment, requires a quorum to  
 507 be present and a majority affirmative vote of those States  
 508 constituting the quorum.

509 Section 7. Emergency Suspension and Relocation of the  
 510 Convention.—In the event that the Chair of the Convention  
 511 declares an emergency due to disorder or an imminent threat to  
 512 public health and safety prior to the completion of the business  
 513 on the Agenda, and a majority of the States present at the  
 514 Convention do not object to such declaration, further Convention  
 515 proceedings shall be temporarily suspended and the Commission  
 516 shall subsequently relocate or reschedule the Convention to  
 517 resume proceedings in an orderly fashion in accordance with the  
 518 terms and conditions of this Compact with prior notice given to  
 519 the Compact Notice Recipients.

520 Section 8. Parliamentary Procedure.—In adopting, applying,  
 521 and formulating parliamentary procedure, the Convention shall  
 522 exclusively adopt, apply, or appropriately adapt provisions of

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523 the most recent editions of Robert's Rules of Order and the  
 524 American Institute of Parliamentarians Standard Code of  
 525 Parliamentary Procedure. In adopting, applying, or adapting  
 526 parliamentary procedure, the Convention shall exclusively  
 527 consider analogous precedent arising within the jurisdiction of  
 528 the United States. Parliamentary procedures adopted, applied, or  
 529 adapted pursuant to this section shall not obstruct, override,  
 530 or otherwise conflict with this Compact.

531 Section 9. Transmittal.—Upon approval of the Balanced  
 532 Budget Amendment by the Convention to propose for ratification,  
 533 the Chair of the Convention shall immediately transmit certified  
 534 copies of such approved proposed amendment to the Compact  
 535 Administrator and all Compact Notice Recipients, notifying them  
 536 respectively of such approval and requesting Congress to refer  
 537 the same for ratification by the States under Article V of the  
 538 Constitution of the United States. However, in no event shall  
 539 any proposed amendment other than the Balanced Budget Amendment  
 540 be transmitted as aforesaid.

541 Section 10. Transparency.—Records of the Convention,  
 542 including the identities of all attendees and detailed minutes  
 543 of all proceedings, shall be kept by the Chair of the Convention  
 544 or Secretary designated by the Convention. All proceedings and  
 545 records of the Convention shall be open to the public upon  
 546 request subject to reasonable regulations adopted by the  
 547 Convention that are closely tailored to preventing disruption of  
 548 proceedings under this Article.

549 Section 11. Adjournment of the Convention.—The Convention  
 550 shall permanently adjourn upon the earlier of twenty-four (24)  
 551 hours after commencing proceedings under this Article or the

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552 completion of the business on its Agenda.

553 ARTICLE VIII  
 554 PROHIBITION ON ULTRA VIRES CONVENTION

555 Section 1. Member States shall not participate in the  
 556 Convention unless:

557 (a) Congress first calls the Convention in accordance with  
 558 this Compact; and

559 (b) The Convention Rules of this Compact are adopted by the  
 560 Convention as its first order of business.

561 Section 2. Any proposal or action of the Convention is void  
 562 ab initio and issued by a body that is conducting itself in an  
 563 unlawful and ultra vires fashion if that proposal or action:

564 (a) Violates or was approved in violation of the Convention  
 565 Rules or the delegate instructions and limitations on delegate  
 566 authority specified in this Compact;

567 (b) Purports to propose or effectuate a mode of  
 568 ratification that is not specified in Article V of the  
 569 Constitution of the United States; or

570 (c) Purports to propose or effectuate the formation of a  
 571 new government.

572 All Member States are prohibited from advancing or assisting in  
 573 the advancement of any such proposal or action.

574 Section 3. Member States shall not ratify or otherwise  
 575 approve any proposed amendment, alteration, or revision to the  
 576 Constitution of the United States, which originates from the  
 577 Convention, other than the Balanced Budget Amendment.

578 ARTICLE IX  
 579 RESOLUTION PROSPECTIVELY RATIFYING THE BALANCED BUDGET AMENDMENT  
 580

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581 Section 1. Each Member State, by and through its respective  
 582 Legislature, hereby adopts and ratifies the Balanced Budget  
 583 Amendment.

584 Section 2. This Article does not take effect until Congress  
 585 effectively refers the Balanced Budget Amendment to the States  
 586 for ratification by three-fourths of the Legislatures of the  
 587 several States under Article V of the Constitution of the United  
 588 States.

#### ARTICLE X

##### CONSTRUCTION, ENFORCEMENT, VENUE, AND SEVERABILITY

591 Section 1. Construction of Compact.-To the extent that the  
 592 effectiveness of this Compact or any of its Articles or  
 593 provisions requires the alteration of local legislative rules,  
 594 drafting policies, or procedures to be effective, the enactment  
 595 of legislation enacting, adopting, and agreeing to be bound by  
 596 this Compact shall be deemed to waive, repeal, supersede, or  
 597 otherwise amend and conform all such rules, policies, or  
 598 procedures to allow for the effectiveness of this Compact to the  
 599 fullest extent permitted by the constitution of any affected  
 600 Member State.

601 Section 2. Date and Location of the Convention.-Unless  
 602 otherwise specified by Congress in its call, the Convention  
 603 shall be held in Dallas, Texas, and commence proceedings at 9  
 604 a.m. Central Standard Time on the sixth Wednesday after the  
 605 latter of the effective date of Article V of this Compact or the  
 606 enactment date of the Congressional resolution calling the  
 607 Convention.

608 Section 3. Defense of the Compact.-In addition to all other  
 609 powers and duties conferred by state law which are consistent

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610 with the terms and conditions of this Compact, the chief law  
 611 enforcement officer of each Member State is empowered to defend  
 612 the Compact from any legal challenge, as well as to seek civil  
 613 mandatory and prohibitory injunctive relief to enforce this  
 614 Compact, and shall take such action whenever the Compact is  
 615 challenged or violated.

616 Section 4. Venue.-The exclusive venue for all actions in  
 617 any way arising under this Compact shall be in the United States  
 618 District Court for the Northern District of Texas or the courts  
 619 of the State of Texas within the jurisdictional boundaries of  
 620 the foregoing district court. Each Member State shall submit to  
 621 the jurisdiction of said courts with respect to such actions.  
 622 However, upon written request by the chief law enforcement  
 623 officer of any Member State, the Commission may elect to waive  
 624 this provision for the purpose of ensuring an action proceeds in  
 625 the venue that allows for the most convenient and effective  
 626 enforcement or defense of this Compact. Any such waiver shall be  
 627 limited to the particular action to which it is applied and not  
 628 construed or relied upon as a general waiver of this provision.  
 629 The waiver decisions of the Commission under this provision  
 630 shall be final and binding on each Member State.

631 Section 5. Effective Date.-The effective date of this  
 632 Compact and any of its Articles is the latter of:

633 (a) The date of any event rendering the same effective  
 634 according to its respective terms and conditions; or

635 (b) The earliest date otherwise permitted by law.

636 Section 6. Severability and Invalidity.-Article VIII of  
 637 this Compact is hereby deemed nonseverable prior to termination  
 638 of the Compact. However, if any other phrase, clause, sentence,

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639 or provision of this Compact, or the applicability of any other  
640 phrase, clause, sentence, or provision of this Compact to any  
641 government, agency, person, or circumstance, is declared in a  
642 final judgment to be contrary to the Constitution of the United  
643 States, contrary to the state constitution of any Member State,  
644 or is otherwise held invalid by a court of competent  
645 jurisdiction, such phrase, clause, sentence, or provision shall  
646 be severed and held for naught, and the validity of the  
647 remainder of this Compact and the applicability of the remainder  
648 of this Compact to any government, agency, person, or  
649 circumstance shall not be affected. Furthermore, if this Compact  
650 is declared in a final judgment by a court of competent  
651 jurisdiction to be entirely contrary to the state constitution  
652 of any Member State or otherwise entirely invalid as to any  
653 Member State, such Member State shall be deemed to have  
654 withdrawn from the Compact, and the Compact shall remain in full  
655 force and effect as to any remaining Member State. Finally, if  
656 this Compact is declared in a final judgment by a court of  
657 competent jurisdiction to be wholly or substantially in  
658 violation of Article I, Section 10, of the Constitution of the  
659 United States, then it shall be construed and enforced solely as  
660 reciprocal legislation enacted by the affected Member State(s).  
661 Section 7. Termination.—This Compact shall terminate and be  
662 held for naught when the Compact is fully performed and the  
663 Constitution of the United States is amended by the Balanced  
664 Budget Amendment. However, notwithstanding anything to the  
665 contrary set forth in this Compact, in the event such amendment  
666 does not occur within 7 years after the first State passes  
667 legislation enacting, adopting, and agreeing to be bound to this

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668 Compact, the Compact shall terminate as follows:  
669 (a) The Commission shall dissolve and wind up its  
670 operations within 90 days thereafter, with the Compact  
671 Administrator giving notice of such dissolution and the  
672 operative effect of this section to the Compact Notice  
673 Recipients; and  
674 (b) Upon the completed dissolution of the Commission, this  
675 Compact shall be deemed terminated, repealed, void ab initio,  
676 and held for naught.  
677 Section 2. This act shall take effect upon becoming a law.

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# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

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

**JOINT COMMITTEE:**  
Joint Select Committee on Collective Bargaining, *Alternating Chair*

**SENATOR ALAN HAYS**  
11th District

## MEMORANDUM

**To:** Senator Dorothy L. Hukill, Chair  
Finance & Tax Committee  
**CC:** Jose Diez-Arguelles, Staff Director  
Lynn Wells, Committee Administrative Assistant

**From:** Senator D. Alan Hays

**Subject:** Request to agenda SB 1242 – Interstate Compacts

**Date:** March 31, 2015

---

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

Sincerely,

A handwritten signature in black ink that reads "D. Alan Hays" with a stylized flourish at the end.

D. Alan Hays, DMD  
State Senator, District 11

**REPLY TO:**

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

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

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore



**THE FLORIDA SENATE**

Tallahassee, Florida 32399-1100

**COMMITTEES:**

Finance and Tax, *Vice Chair*  
Appropriations Subcommittee on Health and Human Services  
Communications, Energy, and Public Utilities  
Fiscal Policy  
Regulated Industries  
Community Affairs

**JOINT COMMITTEE:**

Joint Legislative Auditing Committee, *Chair*

**SENATOR JOSEPH ABRUZZO**

Minority Whip  
25th District

April 13<sup>th</sup>, 2015

The Honorable Dorothy Hukill  
Senate Committee on Finance & Tax  
207 The Capitol  
404 S. Monroe Street  
Tallahassee, FL 32399

Dear Chairwoman Hukill,

Regrettably, I am unable to attend today's meeting of the Senate Committee on Finance and Tax due to the unexpected cancellation of my flight late last evening. Unfortunately, the airline was only able to secure my departure for late this evening. I respectfully request that you excuse my absence from the Committee meeting today; I apologize for any inconvenience.

Please let me know if you require further information regarding this request.

Sincerely,

Senator Joseph Abruzzo

Cc: Staff Director Jose Diez-Arguelles

**REPLY TO:**

- 12300 Forest Hill Boulevard, Suite 200, Wellington, Florida 33414-5785 (561) 791-4774 FAX: (888) 284-6495
- 110 Dr. Martin Luther King, Jr. Boulevard, Belle Glade, Florida 33430-3900 (561) 829-1410
- 222 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

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

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

# 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

April 9, 2015

The Honorable Dorothy Hukill, Chair  
Senate Committee on Finance & Tax  
207 The Capitol  
404 South Monroe Street  
Tallahassee, FL 32399

Dear Madame Chair Hukill:

I respectfully request an excused absence for the Committee on Finance & Tax meeting on Monday, April 13, 2015 at 4:00 pm. Please contact me or my Legislative Assistants Rick Kendust or Devon West if you have any questions.

Thank you for your consideration.

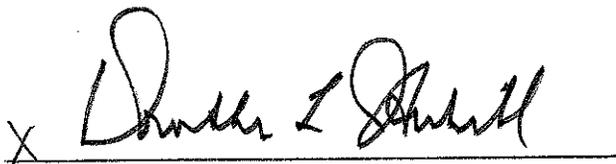
Sincerely,



Thad Altman

Cc: Jose Diez-Arguelles, Staff Director, 207 The Capitol  
Lynn Wells, Administrative Assistant, 207 The Capitol

TA/rk



## REPLY TO:

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

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

ANDY GARDINER  
President of the Senate

GARRETT RICHTER  
President Pro Tempore

# CourtSmart Tag Report

Room: SB 401

Case:

Type:

Caption: Senate Finance and Tax Committee Judge:

Started: 4/13/2015 4:05:45 PM

Ends: 4/13/2015 4:36:49 PM

Length: 00:31:05

4:05:48 PM Sen. Hukill (Chair)  
4:06:27 PM SB 1242  
4:06:34 PM Sen. Hays  
4:07:42 PM Sen. Hukill  
4:08:20 PM CS/SB 1102  
4:08:31 PM Jim Browne, Sen. Legg's Legislative Assistant  
4:10:12 PM Sen. Soto  
4:10:22 PM J. Browne  
4:10:40 PM Am 366138  
4:10:49 PM Sen. Soto  
4:11:55 PM Sen. Margolis  
4:12:08 PM Sen. Soto  
4:12:38 PM Sen. Margolis  
4:12:57 PM Sen. Soto  
4:13:11 PM Sen. Margolis  
4:13:23 PM J. Browne  
4:13:44 PM Sen. Margolis  
4:13:56 PM J. Browne  
4:14:39 PM Sen. Margolis  
4:15:04 PM J.W. Howard, Morgan Stanley  
4:16:14 PM Sen. Margolis  
4:16:37 PM J.W. Howard  
4:17:04 PM Sen. Simpson  
4:17:08 PM J. Browne  
4:17:23 PM Bill Peeples, Toho Water Authority  
4:19:07 PM Sen. Hukill  
4:19:22 PM B. Peeples  
4:19:33 PM Sen. Margolis  
4:19:51 PM B. Peeples  
4:20:07 PM Sen. Hukill  
4:20:34 PM Lee Killinger, American Water Works Association  
4:20:51 PM Kevin Dempsey, Citigroup  
4:21:18 PM Sen. Soto  
4:21:48 PM K. Dempsey  
4:21:51 PM Sen. Soto  
4:22:12 PM K. Dempsey  
4:23:16 PM J.W. Howard  
4:24:46 PM Sen. Soto  
4:25:23 PM J.W. Howard  
4:26:45 PM Sen. Soto  
4:27:02 PM J.W. Howard  
4:27:06 PM Sen. Hukill  
4:27:22 PM Sen. Flores  
4:28:19 PM Sen. Margolis  
4:28:55 PM Sen. Hukill  
4:29:01 PM Sen. Soto  
4:29:32 PM Sen. Hukill  
4:29:44 PM Mike Harrell, Florida Governmental Utility Authority (FGUA)  
4:30:48 PM Kevin Dempsey, Citigroup (waives in support)  
4:31:02 PM J.W. Howard, Morgan Stanley (waives in support)  
4:31:13 PM Sen. Hukill  
4:31:25 PM J. Browne

**4:31:54 PM** Sen. Hukill  
**4:32:18 PM** CS/SB 532  
**4:32:25 PM** Sen. Grimsley  
**4:32:59 PM** Sen. Hukill  
**4:33:02 PM** Am. 520414  
**4:33:10 PM** Sen. Grimsley  
**4:33:22 PM** Sen. Hukill  
**4:33:45 PM** Sen. Soto  
**4:33:55 PM** Sen. Grimsley  
**4:34:07 PM** Chris Nuland, Florida Chapter, American College of Physicians (waives in support)  
**4:34:20 PM** Martha DeCastro, Florida Hospital Association (waives in support)  
**4:34:29 PM** Melody Selis, Florida Health Care Association (waives in support)  
**4:34:35 PM** Michael Anway, Florida Chamber of Commerce (waives in support)  
**4:34:43 PM** Zayne Smith, AARP (waives in support)  
**4:34:49 PM** Lori Killinger, Florida Association of Nurse Anesthetists (waives in support)  
**4:34:58 PM** Chris Floyd, Florida Association of Nurse Practitioners (waives in support)  
**4:35:14 PM** Sen. Hukill  
**4:35:52 PM** Sen. Diaz de la Portilla  
**4:36:20 PM** Sen. Hukill  
**4:36:24 PM** Sen. Soto  
**4:36:33 PM** Meeting adjourned