

SB 184 by **Evers (CO-INTRODUCERS) Gaetz**; (Identical to H 0109) Federal Write-in Absentee Ballot

CS/SB 172 by **GO, Bradley, Ring (CO-INTRODUCERS) Gaetz**; (Similar to CS/H 0341) Local Government Pension Reform

CS/CS/SB 224 by **JU, GO, Simpson (CO-INTRODUCERS) Margolis, Gibson, Hays, Latvala, Lee**; (Similar to CS/CS/H 0163) Public Records/Public Agency Contracts

643090	A	S	L	WD	FP, Hays	Delete L.109 - 111:	03/26 11:53 AM
750274	A	S	L	WD	FP, Hays	Delete L.100 - 111:	03/26 12:22 PM

CS/SB 260 by **FT, Bradley**; (Similar to CS/1ST ENG/H 0489) Value Adjustment Board Proceedings

SB 590 by **Altman (CO-INTRODUCERS) Bradley, Hays**; (Identical to H 0225) Flags

SB 694 by **Ring**; (Identical to H 0719) Florida State Employees' Charitable Campaign

CS/SB 1060 by **BI, Simmons**; (Compare to CS/H 1013) Legislative Ratification

CS/SB 1246 by **CM, Detert**; (Similar to H 7099) Individuals with Disabilities

897622	PCS	S	RCS	FP, ATD			03/26 12:45 PM
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SB 7014 by **FT**; (Similar to H 7009) Corporate Income Tax

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

FISCAL POLICY
Senator Flores, Chair
Senator Bradley, Vice Chair

MEETING DATE: Thursday, March 26, 2015
TIME: 9:00 —11:00 a.m.
PLACE: Pat Thomas Committee Room, 412 Knott Building

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

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 184 Evers (Identical H 109, Compare H 1161)	Federal Write-in Absentee Ballot; Authorizing absent uniformed services voters and overseas voters to use the federal write-in absentee ballot in any state or local election; prohibiting the supervisor of elections from canvassing federal write-in absentee ballots from overseas voters in certain elections until 10 days after the date of the election; revising minimum requirements for Department of State rules used to determine what constitutes a valid vote on a federal write-in absentee ballot, etc. EE 03/10/2015 Favorable MS 03/17/2015 Favorable FP 03/26/2015 Favorable	Favorable Yeas 8 Nays 0
2	CS/SB 172 Governmental Oversight and Accountability / Bradley / Ring (Similar CS/H 341)	Local Government Pension Reform; Requiring that firefighter and police officer pension plans meet the requirements of ch. 175 and 185, F.S., in order to receive certain insurance premium tax revenues; revising the method of creating and maintaining firefighters' and police officers' retirement trust funds; providing that the use of premium tax revenues may deviate from the requirements of ch. 175 and ch. 185, F.S., under certain circumstances, etc. GO 01/21/2015 Fav/CS CA 02/17/2015 Favorable FP 03/26/2015 Favorable	Favorable Yeas 8 Nays 0
3	CS/CS/SB 224 Judiciary / Governmental Oversight and Accountability / Simpson (Similar CS/CS/H 163)	Public Records/Public Agency Contracts; Requiring that a public agency contract for services include a statement providing the contact information of the public agency's custodian of records; revising required provisions in a public agency contract for services regarding a contractor's compliance with public records laws; specifying applicable penalties for a contractor who fails to provide requested records; specifying circumstances under which a court may assess and award reasonable costs of enforcement against a public agency or contractor, etc. GO 02/03/2015 Fav/CS JU 03/10/2015 Fav/CS FP 03/26/2015 Favorable	Favorable Yeas 8 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Fiscal Policy

Thursday, March 26, 2015, 9:00 —11:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	CS/SB 260 Finance and Tax / Bradley (Similar CS/H 489)	Value Adjustment Board Proceedings; Requiring the clerk of the value adjustment board to have available and distribute specified forms; authorizing the owner of multiple tangible personal property accounts to file a single joint petition with the value adjustment board under certain circumstances; providing that only a single filing fee may be charged for specified petitions to the value adjustment board with respect to real property or tangible personal property accounts, etc. CA 02/03/2015 Favorable FT 02/16/2015 FT 03/02/2015 FT 03/16/2015 Fav/CS FP 03/26/2015 Favorable	Favorable Yeas 8 Nays 0
5	SB 590 Altman (Identical H 225)	Flags; Citing this act as the "All-American Flag Act"; requiring a United States flag or a state flag that is purchased on or after a specified date by the state, a county, or a municipality for public use to be made in the United States, etc. CA 02/17/2015 Favorable GO 03/04/2015 Favorable FP 03/26/2015 Favorable	Favorable Yeas 8 Nays 0
6	SB 694 Ring (Identical H 719)	Florida State Employees' Charitable Campaign; Providing an exception to the requirement that state officers and employees designate a charitable organization to receive their contributions from the Florida State Employees' Charitable Campaign; requiring the fiscal agent selected by the Department of Management Services to distribute undesignated funds in a specified manner, etc. GO 03/04/2015 Favorable AGG 03/17/2015 Favorable FP 03/26/2015 Favorable	Favorable Yeas 8 Nays 0
With subcommittee recommendation - General Government Appropriations			
7	CS/SB 1060 Banking and Insurance / Simmons (Compare CS/H 1013)	Legislative Ratification; Providing that the maximum reimbursement allowances and manuals approved by a three-member panel for purposes of the Workers' Compensation Law are exempt from legislative ratification under the Administrative Procedure Act if the adverse impact or regulatory costs of such allowances or manuals exceed specified criteria, etc. BI 03/10/2015 Fav/CS FP 03/26/2015 Favorable	Favorable Yeas 8 Nays 0

A proposed committee substitute for the following bill (CS/SB 1246) is available:

COMMITTEE MEETING EXPANDED AGENDA

Fiscal Policy

Thursday, March 26, 2015, 9:00 —11:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	CS/SB 1246 Commerce and Tourism / Detert (Similar H 7099)	Individuals with Disabilities; Requiring the Department of Economic Opportunity, in consultation with other organizations, to create the Florida Unique Abilities Partner program; requiring the department, in consultation with the disability community, to develop a logo for business entities designated as Florida Unique Abilities Program Partners; prohibiting the use of a logo if a business entity does not have a current designation; requiring the department to maintain a website with specified information; requiring the department to identify employment opportunities posted by employers that receive the Florida Unique Abilities Partner designation on the workforce information system, etc. CM 03/10/2015 Fav/CS ATD 03/19/2015 Fav/CS FP 03/26/2015 Fav/CS	Fav/CS Yeas 8 Nays 0
With subcommittee recommendation - Transportation and Economic Development Appropriations			

9	SB 7014 Finance and Tax (Similar H 7009)	Corporate Income Tax; Adopting the 2015 version of the Internal Revenue Code; incorporating a reference to a recent federal act into state law for the purpose of defining the term "adjusted federal income"; revising the treatment by this state of certain depreciation and expensing of assets that are allowed for federal income tax purposes, etc. FP 03/26/2015 Favorable	Favorable Yeas 8 Nays 0
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Other Related Meeting Documents

An electronic copy of the Appearance Request form is available to download from any Senate Committee page on the Senate's website, www.flsenate.gov.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 184

INTRODUCER: Senators Evers and Gaetz

SUBJECT: Federal Write-in Absentee Ballot

DATE: March 25, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Fox</u>	<u>Roberts</u>	<u>EE</u>	Favorable
2.	<u>Sanders</u>	<u>Ryon</u>	<u>MS</u>	Favorable
3.	<u>Jones</u>	<u>Hrdlicka</u>	<u>FP</u>	Favorable

I. Summary:

SB 184 eliminates the restriction that a Federal Write-In Absentee Ballot (FWAB) can only be used for state and local elections involving two or more candidates. This allows absent uniformed services and overseas voters to use a FWAB as a “back-up” ballot for all federal, state, and local elections.

The bill also delays the canvassing of a FWAB until 10 days after the presidential preference primary or general election. This will allow the voter’s official absentee ballot to be canvassed (in lieu of a FWAB) if it is received during that 10-day window.

II. Present Situation:

The Uniformed and Overseas Citizen Absentee Voting Act

In 1986 Congress passed the Uniformed and Overseas Citizen Absentee Voting Act (Act) pertaining to absentee voting for overseas citizens, and active-duty military members, merchant marines, and their families.¹ The Act required the creation of a Federal Write-In Absentee Ballot (FWAB), which is a “back-up” ballot for voters under the Act, who have made a timely application for, but do not receive, an official absentee ballot. The FWAB can be used in all federal elections.²

¹ The U.S. Department of Justice, Civil Rights Division, *The Uniformed and Overseas Citizen Absentee Voting Act*, available at http://www.justice.gov/crt/about/vot/misc/activ_uoc.php (last visited March 20, 2015).

² *Id.* In 2010, the federal Military and Overseas Voter Empowerment Act expanded the required use of the FWAB to all federal elections, including primaries. *See also* 42 U.S.C. s 1973ff-2(a).

The Use of the FWAB in Florida

The Act only requires states and territories to accept a FWAB for federal elections. In 2011, Florida allowed for the use of a FWAB for absent uniformed services and overseas voters (voter) in all state and local elections involving two or more candidates.³

Section 101.6952, F.S., specifies the accepted methods a voter can use when selecting candidates on a FWAB. For federal elections, a voter may designate a candidate by writing the name of the candidate on the ballot or by writing the name of a political party on the ballot. The later method is not accepted in primary or special election and otherwise will be counted as a vote for the candidate of that party if there is one in that race.⁴

In a state or local election a voter can use the section of the FWAB designated for nonfederal races. A voter can vote for a candidate by writing the title of each office and the name of the candidate for which here or she is voting. Alternatively, a voter may designate a candidate by writing the name of a political party on the ballot. This method is not accepted in a primary, special primary, or nonpartisan election.⁵

Any abbreviation, misspelling, or other minor variation of in the form of the name of an office, candidate, or political party does not affect the validity of the ballot.⁶ Section 102.166(4)(a), F.S., requires that a vote for a candidate or ballot measure must be counted if there is a “clear indication on the ballot that the voter had made a definite choice.” The Department of State is required to make rules regarding FWABs and for prescribing what constitutes a “clear indication on the ballot that the voter had made a definite choice.”⁷ The rules have to address a multitude of issues including the:

- Appropriate lines or spaces for designating a candidate and, for state and local, the office; and
- Use of marks, symbols, or language, such as arrows, quotation marks, or the word “same” or “ditto” to indicate that the same political party designation applies to all listed offices.⁸

If a voter uses a FWAB and then later receives an official absentee ballot, he or she may submit the official absentee ballot. However, the voter must make every reasonable effort to inform the supervisor of elections that he or she submitted more than one ballot.⁹

FWABs are not allowed to be canvassed (inspected and ballot validity determined) until 7 p.m. on the day of the election. All FWABs received by 7 p.m. on Election Day must be canvassed unless a supervisor of elections receives both the FWAB and the official absentee ballot by 7 p.m. on Election Day, in which case the FWAB is considered invalid and the official absentee ballot is canvassed.¹⁰

³ Chapter 2011-162, L.O.F.

⁴ Section 101.6952(2)(b)1., F.S.

⁵ Section 101.6952(2)(b)2., F.S.

⁶ Section 101.6952(2)(e), F.S.

⁷ Section 102.166(4)(b), F.S.

⁸ Section 102.166(4)(c), F.S.

⁹ Section 101.6952(3)(a), F.S.

¹⁰ Section 101.6952(3)(b), F.S.

However, an absentee ballot from a voter in any presidential preference primary or general election is treated differently. Such an absentee ballots that is postmarked or dated no later than the day of the election and received not later than 10 days after the election by the supervisor of elections is counted as long as the absentee ballot is otherwise proper.¹¹

III. Effect of Proposed Changes:

SB 184 eliminates the restriction that FWAB's can only be used for state and local elections involving two or more candidates. This allows absent uniformed services and overseas voters (voter) to use a FWAB as a "back-up" ballot for all federal, state, and local elections.

The bill allows a voter in a state or local election to vote on any ballot measure in the election by identifying the ballot measure on which he or she wants to vote and specifying his or her vote on the measure. The bill specifies that a vote cast in judicial retention elections be treated in the same manner as ballot measures requiring a "yes" or "no" vote.

The bill also provides that any abbreviation, misspelling, or other minor variation in a ballot measure does not affect the validity of the ballot. The bill requires the Department of State to adopt rules to specify the:

- Appropriate lines or spaces for ballot measures; and
- Use of marks, symbols or language, such as arrows, quotation marks, or the word "same" or "ditto" to indicate the voter's approval or disapproval of all listed ballot measures.

The bill delays the canvassing of a FWAB until 10 days after the presidential preference primary or general election, so that the voter's official absentee ballot can be canvassed (in lieu of the FWAB) if it is received during that 10-day window. This should allow for the canvassing board to better determine the voter's intent and more accurately canvass the votes.

The bill is effective on July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹¹ Section 101.6952(5), F.S. The voter's FWAB still counts because it was the only ballot received by the supervisor of elections on Election Day.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill authorizes the Department of State to adopt rules for the FWABs to include ballot measures.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 101.6952 and 102.166.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By Senator Evers

2-00189A-15

2015184__

1 A bill to be entitled
 2 An act relating to the federal write-in absentee
 3 ballot; amending s. 101.6952, F.S.; authorizing absent
 4 uniformed services voters and overseas voters to use
 5 the federal write-in absentee ballot in any state or
 6 local election; authorizing an elector to vote on any
 7 ballot measure in an election using the federal write-
 8 in absentee ballot under certain circumstances;
 9 specifying that a vote cast in a judicial merit
 10 retention election is treated in the same manner as a
 11 vote on certain ballot measures; allowing for
 12 abbreviations, misspellings, and other minor
 13 variations in the name of a ballot measure;
 14 prohibiting the supervisor of elections from
 15 canvassing federal write-in absentee ballots from
 16 overseas voters in certain elections until 10 days
 17 after the date of the election; making technical
 18 changes; amending s. 102.166, F.S.; revising minimum
 19 requirements for Department of State rules used to
 20 determine what constitutes a valid vote on a federal
 21 write-in absentee ballot; providing an effective date.

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

23
 24
 25 Section 1. Subsection (2) and paragraph (b) of subsection
 26 (3) of section 101.6952, Florida Statutes, are amended, and
 27 subsection (5) of that section is republished, to read:

28 101.6952 Absentee ballots for absent uniformed services and
 29 overseas voters.—

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30 (2) (a) An absent uniformed services voter or an overseas
 31 voter who makes timely application for but does not receive an
 32 official absentee ballot may use the federal write-in absentee
 33 ballot to vote in any federal, election and any state, or local
 34 election ~~involving two or more candidates.~~

35 (b)1. In an election for federal office, an elector may
 36 designate a candidate by writing the name of a candidate on the
 37 ballot. Except for a primary or special primary election, the
 38 elector may alternatively designate a candidate by writing the
 39 name of a political party on the ballot. A written designation
 40 of the political party shall be counted as a vote for the
 41 candidate of that party if there is such a party candidate in
 42 the race.

43 2. ~~In an election for a state or local election office,~~ an
 44 elector may vote in the section of the federal write-in absentee
 45 ballot designated for nonfederal races by writing on the ballot
 46 the title of each office and by writing on the ballot the name
 47 of the candidate for whom the elector is voting. Except for a
 48 primary, special primary, or nonpartisan election, the elector
 49 may alternatively designate a candidate by writing the name of a
 50 political party on the ballot. A written designation of the
 51 political party shall be counted as a vote for the candidate of
 52 that party if there is such a party candidate in the race. In
 53 addition, the elector may vote on any ballot measure presented
 54 in such election by identifying the ballot measure on which he
 55 or she desires to vote and specifying his or her vote on the
 56 measure. For purposes of this section, a vote cast in a judicial
 57 merit retention election shall be treated in the same manner as
 58 a ballot measure in which the only allowable responses are "Yes"

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59 or "NO."

60 (c) In the case of a joint candidacy, such as for the
61 offices of President/Vice President or Governor/Lieutenant
62 Governor, a valid vote for one or both qualified candidates on
63 the same ticket shall constitute a vote for the joint candidacy.

64 (d) For purposes of this subsection and except when where
65 the context clearly indicates otherwise, such as when where a
66 candidate in the election is affiliated with a political party
67 whose name includes the word "Independent," "Independence," or a
68 similar term, a voter designation of "No Party Affiliation" or
69 "Independent," or any minor variation, misspelling, or
70 abbreviation thereof, shall be considered a designation for the
71 candidate, other than a write-in candidate, who qualified to run
72 in the race with no party affiliation. If more than one
73 candidate qualifies to run as a candidate with no party
74 affiliation, the designation may shall not count for any
75 candidate unless there is a valid, additional designation of the
76 candidate's name.

77 (e) Any abbreviation, misspelling, or other minor variation
78 in the form of the name of an office, the name of a candidate,
79 the ballot measure, or the name of a political party must be
80 disregarded in determining the validity of the ballot.

81 (3)

82 (b) A federal write-in absentee ballot may not be canvassed
83 until 7 p.m. on the day of the election. A federal write-in
84 absentee ballot from an overseas voter in a presidential
85 preference primary or general election may not be canvassed
86 until the conclusion of the 10-day period specified in
87 subsection (5). Each federal write-in absentee ballot received

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88 by 7 p.m. on the day of the election shall be canvassed pursuant
89 to ss. 101.5614(5) and 101.68, unless the elector's official
90 absentee ballot is received by 7 p.m. on election day. Each
91 federal write-in absentee ballot from an overseas voter in a
92 presidential preference primary or general election received by
93 10 days after the date of the election shall be canvassed
94 pursuant to ss. 101.5614(5) and 101.68, unless the overseas
95 voter's official absentee ballot is received by 10 days after
96 the date of the election. If the elector's official absentee
97 ballot is received by 7 p.m. on election day, or, for an
98 overseas voter in a presidential preference primary or general
99 election, no later than 10 days after the date of the election,
100 the federal write-in absentee ballot is invalid and the official
101 absentee ballot shall be canvassed. The time shall be regulated
102 by the customary time in standard use in the county seat of the
103 locality.

104 (5) An absentee ballot from an overseas voter in any
105 presidential preference primary or general election which is
106 postmarked or dated no later than the date of the election and
107 is received by the supervisor of elections of the county in
108 which the overseas voter is registered no later than 10 days
109 after the date of the election shall be counted as long as the
110 absentee ballot is otherwise proper.

111 Section 2. Subsection (4) of section 102.166, Florida
112 Statutes, is amended to read:

113 102.166 Manual recounts of overvotes and undervotes.—

114 (4) (a) A vote for a candidate or ballot measure shall be
115 counted if there is a clear indication on the ballot that the
116 voter has made a definite choice.

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117 (b) The Department of State shall adopt specific rules for
 118 the federal write-in absentee ballot and for each certified
 119 voting system prescribing what constitutes a "clear indication
 120 on the ballot that the voter has made a definite choice." The
 121 rules shall be consistent, to the extent practicable, and may
 122 not:

123 1. Exclusively provide that the voter must properly mark or
 124 designate his or her choice on the ballot; or

125 2. Contain a catch-all provision that fails to identify
 126 specific standards, such as "any other mark or indication
 127 clearly indicating that the voter has made a definite choice."

128 (c) The rule for the federal write-in absentee ballot must
 129 address, at a minimum, the following issues:

130 1. The appropriate lines or spaces for designating a
 131 candidate choice and, for state and local races, the office or
 132 ballot measure to be voted, including the proximity of each to
 133 the other and the effect of intervening blank lines.

134 2. The sufficiency of designating a candidate's first or
 135 last name when no other candidate in the race has the same or a
 136 similar name.

137 3. The sufficiency of designating a candidate's first or
 138 last name when an opposing candidate has the same or a similar
 139 name, notwithstanding generational suffixes and titles such as
 140 "Jr.," "Sr.," or "III." The rule should contemplate the
 141 sufficiency of additional first names and first initials, middle
 142 names and middle initials, generational suffixes and titles,
 143 nicknames, and, in general elections, the name or abbreviation
 144 of a political party.

145 4. Candidate designations containing both a qualified

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146 candidate's name and a political party, including those in which
 147 ~~where~~ the party designated is the candidate's party, is not the
 148 candidate's party, has an opposing candidate in the race, or
 149 does not have an opposing candidate in the race.

150 5. Situations where the abbreviation or name of a candidate
 151 is the same as the abbreviation or name of a political party to
 152 which the candidate does not belong, including those in which
 153 ~~where~~ the party designated has another candidate in the race or
 154 does not have a candidate in the race.

155 6. The use of marks, symbols, or language, such as arrows,
 156 quotation marks, or the word "same" or "ditto," to indicate that
 157 the same political party designation applies to all listed
 158 offices or the elector's approval or disapproval of all listed
 159 ballot measures.

160 7. Situations in which ~~where~~ an elector designates the name
 161 of a qualified candidate for an incorrect office.

162 8. Situations in which ~~where~~ an elector designates an
 163 otherwise correct office name that includes an incorrect
 164 district number.

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



The Florida Senate

Committee Agenda Request

To: Senator Flores
Chair, Fiscal Policy

Subject: Committee Agenda Request

Date: March 17, 2015

I respectfully request that **Senate Bill #184** relating to Federal Write-in Absentee Ballots, be placed on the:

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

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

Senator Greg Evers
Florida Senate, District 2



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Criminal Justice, *Chair*
Appropriations Subcommittee on Criminal and
Civil Justice
Communications, Energy, and Public Utilities
Environmental Preservation and Conservation
Military and Veterans Affairs, Space, and
Domestic Security
Transportation

SENATOR GREG EVERS

2nd District

March 23, 2015

Dear Chair Flores,

Senator Evers must be in Transportation Committee on Thursday, March 26, during the Fiscal Policy Committee meeting, so his legislative assistant, Dave Murzin, will present SB 184 on his behalf, with your kind permission.

Thank you.

Sharon Brooks
Legislative Assistant

Greg Evers

REPLY TO:

- 209 East Zaragoza Street, Pensacola, Florida 32502-6048 (850) 595-0213 FAX: (888) 263-0013
- 308 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5002
- 5234 Willing Street, Milton, FL 32570 (850) 564-1026 FAX: (850) 564-1170

Senate's Website: 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.)

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

BILL: CS/SB 172

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Bradley and others

SUBJECT: Local Government Pension Reform

DATE: March 25, 2015 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McVaney</u>	<u>McVaney</u>	<u>GO</u>	Fav/CS
2.	<u>White</u>	<u>Yeatman</u>	<u>CA</u>	Favorable
3.	<u>Pace</u>	<u>Hrdlicka</u>	<u>FP</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 172 substantially amends provisions specifying how insurance premium tax revenues must be used in police and firefighter pension plans. Historically, insurance premium tax revenues equal to the amount received in 1997 by a particular plan were used to fund the minimum benefits specified in chs. 175 or 185, F.S., and other retirement benefits. Any insurance premium tax revenues received by a plan in excess of the 1997 threshold were to fund minimum benefits, additional retirement benefits, and defined contribution plans under certain specified situations. The bill authorizes deviation from the historical use of insurance premium tax revenues, including accumulations of additional tax revenues which have not been applied to fund benefits in excess of the defined minimum benefits, by mutual consent of collective bargaining representatives or majority consent of plan members and consent of the municipality or special fire control district.

The bill increases the minimum annual benefit accrual rate from 2.0 percent to 2.75 percent, subject to certain exceptions.

The bill grandfathers changes to a plan that are based on that particular plan's reliance on an interpretation by the Department of Management Services (DMS) of the existing statute, as evidenced by correspondence with the DMS between August 14, 2012, and March 3, 2015.

The bill also clarifies that a maximum of 300 hours of overtime may be included for purposes of calculating municipal police pension plan benefits.

The overall costs or savings from the bill are indeterminate. The impact of the bill will vary depending upon the level of benefits currently offered by those plans, the amount of revenue received from the insurance premium tax by the plan sponsor, the service accrual rate under each plan, and the terms of any collective bargaining agreement between the plan sponsor and the affected police or firefighter collective bargaining unit. The bill has no fiscal impact on state revenues or expenditures.

II. Present Situation:

Background

The Marvin B. Clayton Firefighters' and Police Officers' Pension Trust Fund Acts¹ declare a legitimate state purpose of providing a uniform retirement system for the benefit of firefighters and police officers. All municipal and special district firefighters and all municipal police officers retirement trust fund systems or plans established pursuant to chs. 175 or 185, F.S., must be managed, administered, operated, and funded to maximize the protection of firefighters' and police officers' pension trust funds.²

In 1939, the Legislature enacted ch. 175, F.S., to encourage cities to establish firefighter retirement plans by providing cities with the incentive of access to insurance premium tax revenues.³ Fourteen years later, the Legislature enacted ch. 185, F.S., to provide a similar funding mechanism for municipal police officers retirement plans. Special fire control districts became eligible to participate under ch. 175, F.S., in 1993.⁴

The Division of Retirement (division) within the DMS administers benefits to police officers and firefighters under two types of plans: a chapter plan or a local plan. A chapter plan is a plan that adopts the provisions of either chs. 175 or 185, F.S., by reference.⁵ A local plan is a plan that is created by a special act of the Legislature, or by a local ordinance or resolution that meets the minimum statutory requirements.⁶ The division is responsible for overseeing and monitoring these plans, but day-to-day operational control rests with local boards of trustees subject to the regulatory authority of the division.⁷ If the division deems that a firefighter or police pension plan created pursuant to chs. 175 or 185, F.S., is not in compliance with those chapters, the sponsoring municipality could be denied its distribution of insurance premium tax revenues.⁸

¹ See chs. 175 and 185, F.S.

² See ss. 175.021(1) and 185.01(1), F.S.

³ The insurance premium tax is tax imposed on insurance premiums and paid by insurance companies. Insurance premium tax revenue is distributed to Municipal Firefighters' Pension Fund and the Municipal Police Officers' Retirement Fund, the Insurance Regulatory Trust Fund, and General Revenue.

⁴ See Department of Management Services, Overview, History of Chapter 175/185 Program, available at, http://www.dms.myflorida.com/workforce_operations/retirement/local_retirement_plans/municipal_police_and_fire_plans/overview (last visited March 21, 2015).

⁵ Sections 175.032(2) and 185.02(3), F.S.

⁶ Sections 175.032(11) and 185.02(10), F.S.

⁷ The division is responsible for administrative oversight of funds, including monitoring for actuarial soundness; see ss. 175.341(1) and 185.23(1), F.S.

⁸ Sections 175.341(1) and 185.23(1), F.S.

Funding

Four sources provide funding for these police officer and firefighter pension plans:

- The net proceeds from an excise tax levied by a city upon property and casualty insurance companies (known as the “premium tax”);
- Employee contributions;
- Other revenue sources (fines, gifts, and interest earnings); and
- Mandatory payments by the city of the normal cost of the plan.⁹

An excise tax of 1.85 percent imposed on the gross premiums of property insurance covering property within boundaries of the municipality or special fire control district funds the Firefighters’ Pension Trust Fund of each participating municipality or special fire control district.¹⁰ The insurers pay the tax to the Department of Revenue (DOR), and the net proceeds are transferred to the appropriate fund at the division.¹¹ In 2013, insurance premium tax distributions to municipalities and special fire districts from the Firefighters’ Pension Trust Fund amounted to \$74.7 million.¹²

An excise tax of 0.85 percent imposed on the gross premiums on casualty insurance policies covering property within the boundaries of a municipality funds the Police Officers’ Retirement Trust Fund.¹³ Similar to the Firefighters’ Pension Trust Fund, insurers pay the excise tax to the DOR, which transfers the net proceeds to the appropriate fund at the division.¹⁴ In 2013, insurance premium tax distributions to municipalities from the Police Officers’ Retirement Trust Fund amounted to \$64.9 million.¹⁵

The table below shows the aggregate amount of insurance premium taxes distributed to the firefighter and police pension plans during the last 17 years.¹⁶

Year	Premium Taxes Distributed to Chapter 175 Plans (Firefighter)	Premium Taxes Distributed to Chapter 185 Plans (Police)
1997	\$26,841,000	\$41,030,000
1998	\$29,469,000	\$41,218,000
1999	\$30,116,000	\$42,104,000
2000	\$30,902,000	\$43,600,000
2001	\$34,765,000	\$48,652,000
2002	\$40,044,000	\$54,556,000
2003	\$44,731,000	\$61,545,000

⁹ Sections 175.091(1)(a)-(g) and 185.07(1)(a)-(g), F.S.

¹⁰ Section 175.101(1), F.S.

¹¹ See s. 175.121(1), F.S.

¹² Department of Management Services, *Firefighters' 2013 Insurance premium tax Distribution Calculation*, available online at: https://www.rol.frs.state.fl.us/forms/Fire_2013.pdf (last visited March 21, 2015).

¹³ See s. 185.08(1)(a), F.S.

¹⁴ See s. 185.10(1), F.S.

¹⁵ Department of Management Services, *Police Officers' 2013 Insurance premium tax Distribution Calculations*, available online at: https://www.rol.frs.state.fl.us/forms/Police_2013.pdf (last visited March 21, 2015).

¹⁶ Department of Management Services, *Data & Graph of Distribution Amounts*, available online at: https://www.rol.frs.state.fl.us/forms/Aggregate_Data.pdf (last visited March 21, 2015).

2004	\$48,515,000	\$62,224,000
2005	\$53,460,000	\$64,326,000
2006	\$60,500,000	\$65,619,000
2007	\$69,982,000	\$65,308,000
2008	\$67,152,000	\$63,961,000
2009	\$70,530,000	\$59,426,000
2010	\$70,122,000	\$57,469,000
2011	\$71,744,000	\$59,615,000
2012	\$72,471,000	\$62,608,000
2013	\$74,705,000	\$64,869,000

Minimum Benefit Levels

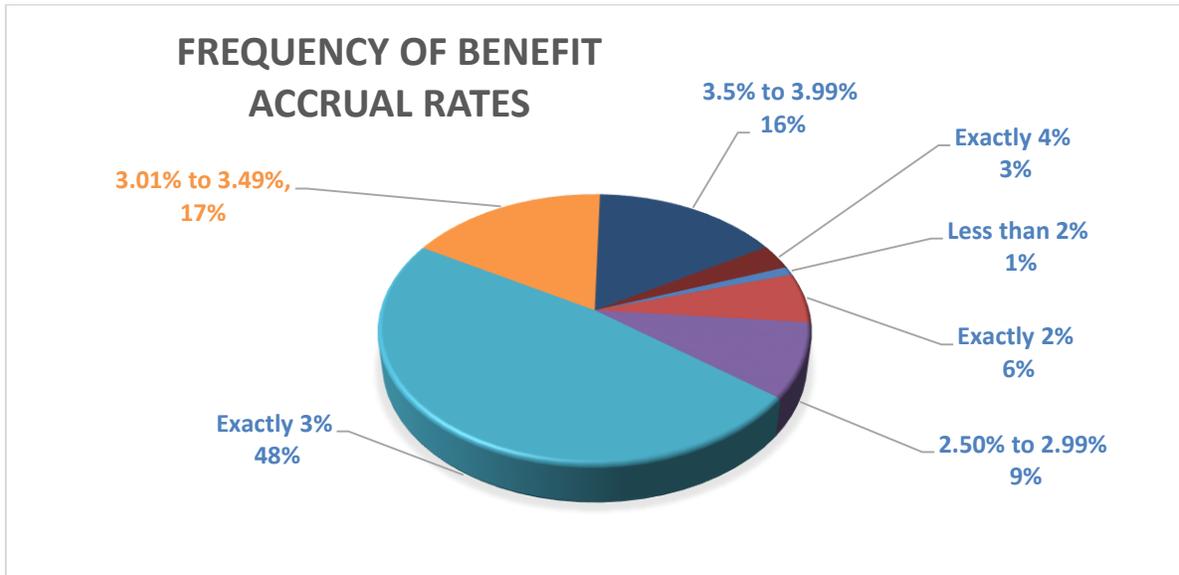
Chapters 175 and 185, F.S., specify certain “minimum benefits” that must be provided in firefighter and police plans,¹⁷ summarized in relevant part below:

Benefit	Description of minimum level
Retirement Benefit	2 percent x average final compensation x years of creditable service.
Average Final Compensation (AFC)	Average annual compensation of highest 5 years of last 10 years of service.
Vesting	10 years.
Normal Retirement Age	Age 55 with 10 years of creditable service or Age 52 with 25 years of service.
Early Retirement	Age 50 with 10 years of service. Retirement benefit is reduced 3 percent for each year prior to reaching normal retirement age.
Earnings	Police = total cash remuneration. Fire = fixed monthly compensation.
Death Benefits	Prior to vesting - beneficiary receives employee contributions without interest earnings. Vested - beneficiary receives benefit based on early or normal retirement benefits, whichever are applicable. Post-retirement - beneficiary receives benefit based on retirement benefit option selected by member at time of retirement.
Disability Benefits	Eligibility - no service requirement for in line of duty disability; 10 years of service for non-service-related disability. Benefits - no less than 25 percent of average monthly earnings if non service-related; no less than 42 percent of average monthly earnings if service related.

The chapter law plans adopt the statutory minimum benefits for their plans. The local law plans have broad discretion to establish the benefit levels, including benefit accrual rates. The chart below shows the frequency of the benefit accrual rates used by the various firefighter and police

¹⁷ Sections 175.032, 175.162, 175.191, 185.02, 185.16, and 185.18, F.S.

pension plans.¹⁸ A 3 percent annual accrual rate is by far the most frequently used rate – similar to the benefit accrual rate used by the Florida Retirement System for the Special Risk Class membership.



Historical Interpretation of the Law

In 1999, the Legislature passed legislation¹⁹ that made virtually all provisions of chs. 175 and 185, F.S., expressly applicable to all participating police officer and firefighter pension plans, except the local law plans established by special act of legislation before May 27, 1939 (the cities of Jacksonville, Coral Gables, Miami, and Miami Beach).²⁰ That legislation required all pension plans operating pursuant to these chapters to meet the specific “minimum benefit” standards and to use the insurance premium tax revenues for certain purposes. A plan was authorized to use on an annual basis the amount of insurance premium tax revenues received by the plan in 1997 to meet the costs of minimum benefits in effect on March 12, 1999.²¹ Each plan was required to use the insurance premium tax revenues received above the 1997 threshold to meet the costs of any statutory minimum benefits that were not funded as of March 12, 1999, or to fund “extra benefits.” The term “extra benefits” means benefits in addition to or greater than those provided to general employees of the municipality, and in addition to those in existence for firefighters and police officers on March 12, 1999.²²

Until August 2012, the division consistently interpreted the law to require that insurance premium tax revenues be used first to meet any minimum benefit requirements and those other pension benefits that were in place on March 12, 1999. Once the plan was in compliance with the

¹⁸ Department of Management Services, *Benefit Accrual Rate Chart (2013)*, available online at: https://www.rol.frs.state.fl.us/forms/Benefit_Accrual.pdf (last visited on March 21, 2015).

¹⁹ Chapter 99-1, L.O.F.

²⁰ Sections 175.351(3) and 185.35(3), F.S.

²¹ The division adopted a rule in 2003 establishing a prohibition against the use of premium tax revenues to fund extra benefits unless the extra benefits were adopted after March 12, 1999. The law was amended in 2004 to adopt the 2003 interpretation. House of Representatives Staff Analysis HB 251, March 8, 2004.

²² See ss. 175.351(2)(b) and 185.35(2)(b), F.S.

minimum benefits requirements, any additional insurance premium tax revenues had to be used to provide “extra benefits.” Plans were not permitted to reduce pension benefits below the minimum benefits level or the level of pension benefits in effect on March 12, 1999, if greater.

Re-interpretation of the Law

In response to a letter from the City of Naples in August 2012, the division advised that its historical interpretation of s. 185.35(2), F.S., “appears inaccurate.” The division was asked, in essence, whether a city that negotiated and mutually agreed with its police officers to reduce benefits below levels in place on March 12, 1999, would jeopardize its insurance premium tax revenues. In its response, the division advised that for local law plans in effect on October 1, 1998, the law compels the plan to provide minimum benefits only to the extent that those benefits can be funded with “additional insurance premium tax revenues.” Thus, for local law plans in effect on October 1, 1998, the division’s re-interpretation of the law requires chapter minimum benefits to be provided only to the extent that those benefits can be funded with insurance premium tax revenues received in excess of the amount received for calendar year 1997.²³

Under the new interpretation, it appears the division will allow the following actions to occur without impacting the distribution of insurance premium tax revenues:

- A plan sponsor may redirect, at its discretion, its 1997 level insurance premium tax revenues from funding minimum benefits to funding other non-pension retirement benefits;
- A plan sponsor may reduce plan pension benefits to the level that can be funded solely by those additional insurance premium tax revenues received in excess of the 1997 level;
- A plan sponsor may reduce its mandatory contribution that it was previously making to the plan to fund minimum benefits and to redirect those monies to other municipal purposes; and
- A plan sponsor may use its insurance premium tax revenues in excess of the 1997 threshold (previously restricted to fund “extra benefits” only) to fund any minimum benefits.

The division has subsequently provided this new interpretation to other inquiring cities. DMS has not adopted its original interpretation of the law nor its recent interpretation of the exact same statutory language as a rule.

Definition of Salary in Municipal Police Pension Plans

In 2011, the Legislature imposed a 300 hour cap on the amount of overtime hours to be included in the calculation of retirement benefits in ss. 112.66, 175.032, and 185.02, F.S.²⁴ The provisions for general public retirement systems (ch. 112, F.S.) and firefighter pensions (ch. 175, F.S.) did not have existing stipulations allowing any overtime hours to be included in the calculation of

²³ Department of Management Services, *Letter to The Honorable John F. Sorey III*, August 14, 2012 (on file with the Senate Fiscal Policy Committee).

²⁴ Chapter 2011-216, L.O.F.

retirement benefits. Section 185.02(4), F.S., had the following definition before the 2011 amendment:

“Compensation” or “salary” means the total cash remuneration including “overtime” paid by the primary employer to a police officer for services rendered, but not including any payments for extra duty or a special detail work performed on behalf of a second party employer. However, a local law plan may limit the amount of overtime payments which can be used for retirement benefit calculation purposes, but in no event shall such overtime limit be less than 300 hours per officer per calendar year.

As amended by ch. 2011-216, L.O.F., the section reads as follows:

“Compensation” or “salary” means, for noncollectively bargained service earned before July 1, 2011, or for service earned under collective bargaining agreements in place before July 1, 2011, the total cash remuneration including “overtime” paid by the primary employer to a police officer for services rendered, but not including any payments for extra duty or special detail work performed on behalf of a second party employer. A local law plan may limit the amount of overtime payments which can be used for retirement benefit calculation purposes; however, such overtime limit may not be less than 300 hours per officer per calendar year. For noncollectively bargained service earned on or after July 1, 2011, or for service earned under collective bargaining agreements entered into on or after July 1, 2011, the term has the same meaning except that when calculating retirement benefits, up to 300 hours per year in overtime compensation may be included as specified in the plan or collective bargaining agreement, but payments for accrued unused sick or annual leave may not be included.

The pre-2011 provision set the limit at no less than 300 hours, effectively acting as a floor or minimum of 300 hours. The current language has been interpreted to mean that after July 1, 2011, the 300 hour floor has been replaced by a 300 hour cap. After the effective date of ch. 2011-216, L.O.F., the division appeared to take the position that the law did not *replace* the floor with a cap, but supplemented the 300 hour floor with a 300 hour cap. In other words, the employer would have had to include at least 300 hours of overtime in the calculation, but could not include more than 300 hours. Subsequently, however, the division has taken the position that the amount of overtime hours that may be included when calculating retirement benefits may be anywhere from 0 to 300 hours.²⁵

III. Effect of Proposed Changes:

The bill substantially changes how insurance premium tax revenues must be used in the funding of police and firefighter pension plans in chs. 175 and 185, F.S.

²⁵ Letter from the DMS Division of Retirement to City of Largo, dated April 4, 2012 (on file with the Committee on Governmental Oversight and Accountability).

Definitions

(Sections 2 and 8)

The bill defines several new terms for purposes of chs. 175 and 185, F.S. The most relevant terms are “additional insurance premium tax revenues,” “base insurance premium tax revenues,” and “minimum benefits.” Additional insurance premium tax revenues mean insurance premium tax revenues received by a municipality (or special fire control district) which exceed base insurance premium tax revenues. Base insurance premium tax revenues are those insurance premium taxes received by a municipality (or special fire control district) for calendar year 1997. Minimum benefits are the benefits set forth in specified sections of ch. 175, F.S., (for firefighters and, if included in the plan, police officers) and ch. 185, F.S., (for police officers and, if included in the plan, firefighters).

Change of the Minimum Benefit Accrual Rate

(Sections 5 and 11)

The bill increases the minimum benefit accrual rate from 2.0 percent to 2.75 percent. Plans are permitted to deviate from this minimum benefit accrual rate if the plan is otherwise in compliance with the minimum benefits and minimum standards but provides a benefit accrual rate of less than 2.75 percent. In that instance, the plan must maintain, at a minimum, the benefit accrual rate that was in effect on July 1, 2015. If the plan subsequently increases the benefit accrual rate to 2.75 percent or greater, the plan may not later reduce the rate below 2.75 percent.

Use of Insurance premium tax revenues

(Sections 6 and 12)

The bill amends parallel provisions in chs. 175 and 185, F.S., and specifies that in order to receive insurance premium tax revenues, those revenues must be used as follows:

- Base insurance premium tax revenues must be used to fund minimum benefits or other retirement benefits in excess of the minimum benefits.
- Of the additional insurance premium tax revenues received in excess of the amount received in calendar year 2012, 50 percent must be used to fund minimum benefits or other retirement benefits in excess of the minimum benefits, as determined by the municipality (or special fire control district) and 50 percent must be placed in a defined contribution plan to fund special benefits.²⁶
- Additional insurance premium tax revenues not required to be distributed to fund minimum benefits, retirement benefits in excess of minimum benefits, or special benefits must be used to fund benefits **not** included in the minimum benefits. If the additional insurance premium tax revenues required to be distributed to fund minimum benefits, additional retirement benefits, and special benefits exceed the full cost of benefits provided through a retirement plan:
 - 50 percent of any excess must be used to fund minimum benefits or other retirement benefits; and
 - 50 percent must be placed in a defined contribution plan.

²⁶ Sections 2 and 8 define “special benefits” as benefits provided in a defined contribution plan.

- Of any accumulations of additional insurance premium tax revenues which have not been applied to fund benefits in excess of minimum benefits:
 - 50 percent of the accumulation must be used to fund special benefits; and
 - 50 percent must be used to fund any unfunded actuarial liabilities of the plan, provided that any amount of accumulations in excess of amount required to fund unfunded actuarial liabilities must be used to fund special benefits.
- For plans created after March 1, 2015, 50 percent of the insurance premium tax revenues must be used to fund defined benefit plan component benefits and the remainder must be used to fund defined contribution plan component benefits.
- If a plan offers benefits in excess of the minimum benefits, excluding supplemental plan benefits in effect as of September 30, 2014, those plan benefits may be reduced if the plan continues to meet the minimum benefits and minimum standards in chs. 175 and 185, F.S., respectively. The amount of insurance premium tax revenues previously used to fund benefits in excess of minimum benefits, excluding supplemental benefits in effect as of September 30, 2014, before the reduction must be used to fund minimum benefits or other retirement benefits (50 percent) and a defined contribution plan (50 percent). However, benefits may not be reduced if the plan does not have a minimum accrual rate of 2.75 percent, or greater, of the average final compensation of a full-time firefighter or police officer.

Notwithstanding those provisions of the bill, the use of insurance premium tax revenues, including additional tax revenues which have not been applied to fund benefits in excess of the minimum benefits, may deviate from the requirements of the bill by mutual consent of the members' collective bargaining representative or, if there is none, by majority consent of the plan members' of the fund and consent of the municipality (or special fire control district), provided the plan continues to meet the minimum benefits and the minimum standards of chs. 175 or 185, F.S. However, a plan that does not meet a minimum benefit as of October 1, 2012, may continue to provide the benefit not meeting the minimum benefit at the same level, but not less than that level as was provided on October 1, 2012, and all other benefits must continue to meet the minimum benefits. A mutually agreed deviation must continue until modified or revoked by subsequent mutual consent of the members' collective bargaining representative (or a majority of the members of the fund) and the municipality (or special fire control district). A special act plan or a plan within a supplemental plan municipality are considered to have mutually agreed to such deviation as of July 1, 2015, regarding the existing agreement on the use of insurance premium tax revenues.

The bill also requires plan sponsors to create defined contribution plan components within their plans by October 1, 2015, for noncollectively bargained services, upon entering into a collectively bargaining agreement on or after July 1, 2015, or upon the creation date of a new participating plan. Depending upon the use of insurance premium tax revenues as otherwise provided in the bill, a defined contribution component may or may not receive funding.

The bill explicitly allows plans to use the insurance premium tax revenues and offer benefits below the statutorily required levels in certain instances. The plan must have relied upon the interpretation of the statute by the DMS to reduce the level of benefits or use the insurance premium tax revenues, and such reliance must be evidenced by certain documentation. The plan may continue to offer these reduced benefits and/or use the insurance premium tax revenues in

this manner until the earlier of October 1, 2018, or the time when another collective bargaining agreement is negotiated addressing the benefits or use of revenues.

300 Hour Cap of Overtime for Benefit Purposes

(Section 8)

The bill amends the definition of “compensation” or “salary” in s. 185.02(4), F.S., relating to police officer retirement plans, to:

- Repeal the sentence that states: “A local law plan may limit the amount of overtime payments which can be used for retirement benefit calculation purposes; however, such overtime limit may not be less than 300 hours per officer per calendar year.” Repealing this sentence should clarify that the definition has a maximum cap of 300 hours, with no required minimum, consistent with a recent interpretation by the division, as it applies to the inclusion of overtime hours in the calculation of police retirement benefits.
- Provide that overtime may be limited prior to July 1, 2011, in a local law plan by the plan provisions. Local law plans are retirement plans, which include a defined benefit plan component and a defined contribution plan component, for police officers (and firefighters, if included) established by municipal ordinance or special act of the Legislature.

Conforming Changes

(Sections 1, 3, 4, 7, 9 and 10)

The bill amends ss. 175.021, 175.071, 175.091, 185.01, 185.06, and 185.07, F.S., to make conforming changes.

Important State Interest

(Section 13)

The bill provides that the Legislature determines that the bill fulfills an important state interest as related to public pension plans.

Effective Date

(Section 14)

The bill takes effect July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

To the extent this bill requires a local government to expend funds to comply with its terms, the provisions of art. VII, s. 18(a) of the Florida Constitution, may apply. If those provisions do apply, in order for the law to be binding upon the cities and counties, the

Legislature must find that the law fulfills an important state interest (included in section 13 of the bill), and one of the following relevant exceptions must be met:

- The expenditure is required to comply with a law that applies to all persons similarly situated; or
- The law must be approved by two-thirds of the membership of each house of the Legislature.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The overall costs or savings to local government from this bill are indeterminate, because approximately 350 plans are affected by the bill. The impact of the bill will vary depending upon the level of benefits currently offered by those plans, the amount of revenue received from the insurance premium tax by the plan sponsor, the service accrual rate under each plan, and the terms of any collective bargaining agreement reached between the plan sponsor and the affected police or firefighter collective bargaining unit.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 175.021, 175.032, 175.071, 175.091, 175.162, 175.351, 185.01, 185.02, 185.06, 185.07, 185.16, and 185.35.

IX. Additional Information:

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

CS by Governmental Oversight and Accountability on January 21, 2015:
CS/SB 172 makes several technical changes to add clarity to the language and correct several scriveners' errors.

- B. **Amendments:**

None.

By the Committee on Governmental Oversight and Accountability;
and Senators Bradley and Ring

585-01007-15

2015172c1

1 A bill to be entitled
2 An act relating to local government pension reform;
3 amending s. 175.021, F.S.; requiring that firefighter
4 pension plans meet the requirements of ch. 175, F.S.,
5 in order to receive certain insurance premium tax
6 revenues; amending s. 175.032, F.S.; revising
7 definitions to conform to changes made by the act and
8 providing new definitions; amending s. 175.071, F.S.;
9 conforming a cross-reference; amending s. 175.091,
10 F.S.; revising the method of creating and maintaining
11 a firefighters' pension trust fund; amending s.
12 175.162, F.S.; deleting a provision basing the
13 availability of additional benefits in a firefighter
14 pension plan upon state funding; revising the
15 calculation of monthly retirement income for a full-
16 time firefighter; specifying the minimum benefits that
17 must be maintained by certain firefighter pension
18 plans after a specified date; amending s. 175.351,
19 F.S.; exempting certain firefighter pension plans of a
20 municipality or special fire control district from
21 meeting certain minimum benefits in order to
22 participate in the distribution of a premium tax;
23 redesignating the term "pension plan" as "retirement
24 plan"; revising criteria governing the use of revenues
25 of the premium tax; authorizing a pension plan to
26 reduce certain excess benefits if the plan continues
27 to meet certain minimum benefits and standards;
28 providing that the use of premium tax revenues may
29 deviate from the requirements of ch. 175, F.S., under

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30 certain circumstances; revising the conditions for
31 proposing the adoption of a pension plan or an
32 amendment to a pension plan; requiring plan sponsors
33 to have a defined contribution plan component in place
34 by a certain date; authorizing a municipality or
35 special fire control district to implement certain
36 changes to a local law plan which are contrary to ch.
37 175, F.S., for a limited time, under certain
38 circumstances; amending s. 185.01, F.S.; requiring
39 that police officer pension plans meet the
40 requirements of ch. 185, F.S., in order to receive
41 certain insurance premium tax revenues; amending s.
42 185.02, F.S.; revising definitions to conform to
43 changes made by the act and providing new definitions;
44 revising applicability of the limitation on the amount
45 of overtime payments which may be used for pension
46 benefit calculations; amending s. 185.06, F.S.;
47 conforming a cross-reference; amending s. 185.07,
48 F.S.; revising the method of creating and maintaining
49 a police officers' retirement trust fund; amending s.
50 185.16, F.S.; deleting a provision basing the
51 availability of additional benefits in a police
52 officer pension plan upon state funding; revising the
53 calculation of monthly retirement income for a police
54 officer; specifying the minimum benefits that must be
55 maintained by certain police officer pension plans
56 after a specified date; amending s. 185.35, F.S.;
57 exempting certain municipal police officer pension
58 plans from meeting certain minimum benefits in order

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59 to participate in the distribution of a premium tax;
 60 redesignating the term "pension plan" as "retirement
 61 plan"; revising criteria governing the use of revenues
 62 from the premium tax; authorizing a plan to reduce
 63 certain excess benefits if the plan continues to meet
 64 certain minimum benefits and minimum standards;
 65 providing that the use of premium tax revenues may
 66 deviate from the requirements of ch. 185, F.S., under
 67 specified circumstances; revising the conditions for
 68 proposing the adoption of a pension plan or amendment
 69 to a pension plan; conforming a cross-reference;
 70 requiring plan sponsors to have a defined contribution
 71 plan component in place by a certain date; authorizing
 72 a municipality to implement certain changes to a local
 73 law plan which are contrary to ch. 185, F.S., for a
 74 limited time; providing a declaration of important
 75 state interest; providing an effective date.

76
 77 Be It Enacted by the Legislature of the State of Florida:

78
 79 Section 1. Subsection (2) of section 175.021, Florida
 80 Statutes, is amended to read:

81 175.021 Legislative declaration.—

82 (2) This chapter hereby establishes, for all municipal and
 83 special district pension plans existing ~~now or hereafter~~ under
 84 this chapter, including chapter plans and local law plans,
 85 minimum benefits and minimum standards for the operation and
 86 funding of such plans, hereinafter referred to as firefighters'
 87 pension trust funds, which must be met as conditions precedent

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88 to the plan or plan sponsor receiving a distribution of
 89 insurance premium tax revenues under s. 175.121. ~~The Minimum~~
 90 ~~benefits and minimum standards for each plan set forth in this~~
 91 ~~chapter~~ may not be diminished by local charter, ordinance, or
 92 resolution or by special act of the Legislature and may not, ~~nor~~
 93 ~~may the minimum benefits or minimum standards~~ be reduced or
 94 offset by any other local, state, or federal law that includes
 95 ~~may include~~ firefighters in its operation, except as provided
 96 under s. 112.65.

97 Section 2. Section 175.032, Florida Statutes, is amended to
 98 read:

99 175.032 Definitions.—For any municipality, special fire
 100 control district, chapter plan, local law municipality, local
 101 law special fire control district, or local law plan under this
 102 chapter, the term following words and phrases have the following
 103 meanings:

104 (1) "Additional premium tax revenues" means revenues
 105 received by a municipality or special fire control district
 106 pursuant to s. 175.121 which exceed base premium tax revenues.

107 (2) ~~(1) (a)~~ "Average final compensation" for:

108 (a) A full-time firefighter means one-twelfth of the
 109 average annual compensation of the 5 best years of the last 10
 110 years of creditable service ~~before~~ prior to retirement,
 111 termination, or death, or the career average as a full-time
 112 firefighter since July 1, 1953, whichever is greater. A year is
 113 ~~shall be~~ 12 consecutive months or such other consecutive period
 114 of time as is used and consistently applied.

115 (b) ~~"Average final compensation" for~~ A volunteer
 116 firefighter means the average salary of the 5 best years of the

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117 last 10 best contributing years before ~~prior to~~ change in status
 118 to a permanent full-time firefighter or retirement as a
 119 volunteer firefighter or the career average of a volunteer
 120 firefighter, since July 1, 1953, whichever is greater.

121 (3) "Base premium tax revenues" means:

122 (a) For a local law plan in effect on October 1, 1998, the
 123 revenues received by a municipality or special fire control
 124 district pursuant to s. 175.121 for the 1997 calendar year.

125 (b) For a local law plan created between October 1, 1998,
 126 and March 1, 2015, inclusive, the revenues received by a
 127 municipality or special fire control district pursuant to s.
 128 175.121 based upon the tax collections during the second
 129 calendar year of participation.

130 (4)(2) "Chapter plan" means a separate defined benefit
 131 pension plan for firefighters which incorporates by reference
 132 the provisions of this chapter and has been adopted by the
 133 governing body of a municipality or special district. Except as
 134 may be specifically authorized in this chapter, the provisions
 135 of a chapter plan may not differ from the plan provisions set
 136 forth in ss. 175.021-175.341 and ss. 175.361-175.401. Actuarial
 137 valuations of chapter plans shall be conducted by the division
 138 as provided by s. 175.261(1).

139 (5)(3) "Compensation" or "salary" means, for
 140 noncollectively bargained service earned before July 1, 2011, or
 141 for service earned under collective bargaining agreements in
 142 place before July 1, 2011, the fixed monthly remuneration paid a
 143 firefighter. If remuneration is based on actual services
 144 rendered, as in the case of a volunteer firefighter, the term
 145 means the total cash remuneration received yearly for such

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146 services, prorated on a monthly basis. For noncollectively
 147 bargained service earned on or after July 1, 2011, or for
 148 service earned under collective bargaining agreements entered
 149 into on or after July 1, 2011, the term has the same meaning
 150 except that when calculating retirement benefits, up to 300
 151 hours per year in overtime compensation may be included as
 152 specified in the plan or collective bargaining agreement, but
 153 payments for accrued unused sick or annual leave may not be
 154 included.

155 (a) Any retirement trust fund or plan that meets the
 156 requirements of this chapter does not, solely by virtue of this
 157 subsection, reduce or diminish the monthly retirement income
 158 otherwise payable to each firefighter covered by the retirement
 159 trust fund or plan.

160 (b) The member's compensation or salary contributed as
 161 employee-elective salary reductions or deferrals to any salary
 162 reduction, deferred compensation, or tax-sheltered annuity
 163 program authorized under the Internal Revenue Code shall be
 164 deemed to be the compensation or salary the member would receive
 165 if he or she were not participating in such program and shall be
 166 treated as compensation for retirement purposes under this
 167 chapter.

168 (c) For any person who first becomes a member in any plan
 169 year beginning on or after January 1, 1996, compensation for
 170 that plan year may not include any amounts in excess of the
 171 Internal Revenue Code s. 401(a)(17) limitation, as amended by
 172 the Omnibus Budget Reconciliation Act of 1993, which limitation
 173 of \$150,000 shall be adjusted as required by federal law for
 174 qualified government plans and ~~shall be~~ further adjusted for

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175 changes in the cost of living in the manner provided by Internal
 176 Revenue Code s. 401(a)(17)(B). For any person who first became a
 177 member before the first plan year beginning on or after January
 178 1, 1996, the limitation on compensation may not be less than the
 179 maximum compensation amount that was allowed to be taken into
 180 account under the plan in effect on July 1, 1993, which
 181 limitation shall be adjusted for changes in the cost of living
 182 since 1989 in the manner provided by Internal Revenue Code s.
 183 401(a)(17)(1991).

184 (6)(4) "Creditable service" or "credited service" means the
 185 aggregate number of years of service, and fractional parts of
 186 years of service, of any firefighter, omitting intervening years
 187 and fractional parts of years when such firefighter may not have
 188 been employed by the municipality or special fire control
 189 district, subject to the following conditions:

190 (a) A ~~No~~ firefighter may not will receive credit for years
 191 or fractional parts of years of service if he or she has
 192 withdrawn his or her contributions to the fund for those years
 193 or fractional parts of years of service, unless the firefighter
 194 repays into the fund the amount he or she has withdrawn, plus
 195 interest determined by the board. The member has ~~shall have~~ at
 196 least 90 days after his or her reemployment to make repayment.

197 (b) A firefighter may voluntarily leave his or her
 198 contributions in the fund for ~~a period of~~ 5 years after leaving
 199 the employ of the fire department, pending the possibility of
 200 being rehired by the same department, without losing credit for
 201 the time he or she has participated actively as a firefighter.
 202 If the firefighter is not reemployed as a firefighter, with the
 203 same department, within 5 years, his or her contributions shall

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204 be returned without interest.

205 (c) Credited service under this chapter shall be provided
 206 only for service as a firefighter, ~~as defined in subsection (8),~~
 207 or for military service and does not include credit for any
 208 other type of service. A municipality ~~may~~, by local ordinance,
 209 or a special fire control district ~~may~~, by resolution, may
 210 provide for the purchase of credit for military service prior to
 211 employment as well as for prior service as a firefighter for
 212 some other employer as long as a firefighter is not entitled to
 213 receive a benefit for such prior service ~~as a firefighter~~. For
 214 purposes of determining credit for prior service as a
 215 firefighter, in addition to service as a firefighter in this
 216 state, credit may be given for federal, other state, or county
 217 service if the prior service is recognized by the Division of
 218 State Fire Marshal as provided in ~~under~~ chapter 633, or the
 219 firefighter provides proof to the board of trustees that his or
 220 her service is equivalent to the service required to meet the
 221 definition of a firefighter ~~under subsection (8)~~.

222 (d) In determining the creditable service of any
 223 firefighter, credit for up to 5 years of the time spent in the
 224 military service of the Armed Forces of the United States shall
 225 be added to the years of actual service if:

226 1. The firefighter is in the active employ of an employer
 227 immediately before ~~prior to~~ such service and leaves a position,
 228 other than a temporary position, for the purpose of voluntary or
 229 involuntary service in the Armed Forces of the United States.

230 2. The firefighter is entitled to reemployment under ~~the~~
 231 ~~provisions of~~ the Uniformed Services Employment and Reemployment
 232 Rights Act.

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233 3. The firefighter returns to his or her employment as a
234 firefighter of the municipality or special fire control district
235 within 1 year after ~~from~~ the date of release from such active
236 service.

237 ~~(7)(5)~~ "Deferred Retirement Option Plan" or "DROP" means a
238 local law plan retirement option in which a firefighter may
239 elect to participate. A firefighter may retire for all purposes
240 of the plan and defer receipt of retirement benefits into a DROP
241 account while continuing employment with his or her employer.
242 However, a firefighter who enters the DROP and who is otherwise
243 eligible to participate may ~~shall~~ not ~~thereby~~ be precluded from
244 participation or continued participation participating, or
245 continuing to participate, in a supplemental plan in existence
246 on, or created after, March 12, 1999 ~~the effective date of this~~
247 ~~aet.~~

248 (8) "Defined contribution plan" means the component of a
249 local law plan, as provided in s. 175.351(1), to which deposits,
250 if any, are made to provide benefits for firefighters, or for
251 firefighters and police officers if both are included. Such
252 component is an element of a local law plan and exists in
253 conjunction with the defined benefit plan component that meets
254 minimum benefits and minimum standards. The retirement benefits,
255 if any, of the defined contribution plan component shall be
256 provided through individual member accounts in accordance with
257 the applicable provisions of the Internal Revenue Code and
258 related regulations and are limited to the contributions, if
259 any, made into each member's account and the actual accumulated
260 earnings, net of expenses, earned on the member's account.

261 ~~(9)(6)~~ "Division" means the Division of Retirement of the

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262 Department of Management Services.

263 ~~(10)(7)~~ "Enrolled actuary" means an actuary who is enrolled
264 under Subtitle C of Title III of the Employee Retirement Income
265 Security Act of 1974 and who is a member of the Society of
266 Actuaries or the American Academy of Actuaries.

267 ~~(11)(a)(8)(a)~~ "Firefighter" means a person employed solely
268 by a constituted fire department of any municipality or special
269 fire control district who is certified as a firefighter as a
270 condition of employment in accordance with s. 633.408 and whose
271 duty it is to extinguish fires, to protect life, or to protect
272 property. The term includes all certified, supervisory, and
273 command personnel whose duties include, in whole or in part, the
274 supervision, training, guidance, and management responsibilities
275 of full-time firefighters, part-time firefighters, or auxiliary
276 firefighters but does not include part-time firefighters or
277 auxiliary firefighters. However, for purposes of this chapter
278 only, the term also includes public safety officers who are
279 responsible for performing both police and fire services, who
280 are certified as police officers or firefighters, and who are
281 certified by their employers to the Chief Financial Officer as
282 participating in this chapter before October 1, 1979. Effective
283 October 1, 1979, public safety officers who have not been
284 certified as participating in this chapter are considered police
285 officers for retirement purposes and are eligible to participate
286 in chapter 185. Any plan may provide that the fire chief has an
287 option to participate, ~~or not,~~ in that plan.

288 (b) "Volunteer firefighter" means any person whose name is
289 carried on the active membership roll of a constituted volunteer
290 fire department or a combination of a paid and volunteer fire

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291 department of any municipality or special fire control district
 292 and whose duty it is to extinguish fires, to protect life, and
 293 to protect property. Compensation for services rendered by a
 294 volunteer firefighter ~~does shall~~ not disqualify him or her as a
 295 volunteer. A person ~~may shall~~ not be disqualified as a volunteer
 296 firefighter solely because he or she has other gainful
 297 employment. Any person who volunteers assistance at a fire but
 298 is not an active member of a department described herein is not
 299 a volunteer firefighter within the meaning of this paragraph.

300 (12)(9) "Firefighters' Pension Trust Fund" means a trust
 301 fund, by whatever name known, as provided under s. 175.041, for
 302 the purpose of assisting municipalities and special fire control
 303 districts in establishing and maintaining a retirement plan for
 304 firefighters.

305 (13)(10) "Local law municipality" means ~~is~~ any municipality
 306 in which ~~there exists~~ a local law plan exists.

307 (14)(11) "Local law plan" means a retirement defined
 308 benefit pension plan which includes both a defined benefit plan
 309 component and a defined contribution plan component for
 310 firefighters, or for firefighters and ~~or~~ police officers if both
 311 are where included, as described in s. 175.351, established by
 312 municipal ordinance, special district resolution, or special act
 313 of the Legislature, which enactment sets forth all plan
 314 provisions. Local law plan provisions may vary from the
 315 provisions of this chapter ~~if, provided that required~~ minimum
 316 benefits and minimum standards are met. However, any such
 317 variance ~~must shall~~ provide a greater benefit for firefighters.
 318 Actuarial valuations of local law plans shall be conducted by an
 319 enrolled actuary as provided in s. 175.261(2).

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320 (15)(12) "Local law special fire control district" means ~~is~~
 321 any special fire control district in which ~~there exists~~ a local
 322 law plan exists.

323 (16) "Minimum benefits" means the benefits specified in ss.
 324 175.021-175.341 and ss. 175.361-175.401.

325 (17) "Minimum standards" means the standards specified in
 326 ss. 175.021-175.401.

327 (18)(13) "Property insurance" means property insurance as
 328 defined in s. 624.604 and covers real and personal property
 329 within the corporate limits of a ~~any~~ municipality, or within the
 330 boundaries of a ~~any~~ special fire control district, within the
 331 state. The term "multiple peril" means a combination or package
 332 policy that includes both property and casualty coverage for a
 333 single premium.

334 (19)(14) "Retiree" or "retired firefighter" means a
 335 firefighter who has entered retirement status. For the purposes
 336 of a plan that includes a Deferred Retirement Option Plan
 337 (DROP), a firefighter who enters the DROP ~~is shall be~~ considered
 338 a retiree for all purposes of the plan. However, a firefighter
 339 who enters the DROP and who is otherwise eligible to participate
 340 ~~may shall not thereby~~ be precluded from participation or
 341 continued participation participating, or continuing to
 342 participate, in a supplemental plan in existence on, or created
 343 after, March 12, 1999 ~~the effective date of this act~~.

344 (20)(15) "Retirement" means a firefighter's separation from
 345 municipal city or fire district employment as a firefighter with
 346 immediate eligibility for ~~receipt of~~ benefits under the plan.
 347 For purposes of a plan that includes a Deferred Retirement
 348 Option Plan (DROP), "retirement" means the date a firefighter

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349 enters the DROP.

350 (21) "Special act plan" means a plan subject to the
 351 provisions of this chapter which was created by an act of the
 352 Legislature and continues to require an act of the Legislature
 353 to alter plan benefits.

354 (22) "Special benefits" means benefits provided in a
 355 defined contribution plan for firefighters.

356 (23)~~(16)~~ "Special fire control district" means a special
 357 district, as defined in s. 189.012, established for the purposes
 358 of extinguishing fires, protecting life, and protecting property
 359 within the incorporated or unincorporated portions of a a ~~any~~
 360 county or combination of counties, or within any combination of
 361 incorporated and unincorporated portions of a a ~~any~~ county or
 362 combination of counties. The term does not include any dependent
 363 or independent special district, as those terms are defined in
 364 s. 189.012, the employees of which are members of the Florida
 365 Retirement System pursuant to s. 121.051(1) or (2).

366 (24)~~(17)~~ "Supplemental plan" means a plan to which deposits
 367 are made to provide special ~~extra~~ benefits for firefighters, or
 368 for firefighters and police officers if both are ~~where~~ included
 369 ~~under this chapter~~. Such a plan is an element of a local law
 370 plan and exists in conjunction with a defined benefit plan
 371 component that meets ~~the~~ minimum benefits and minimum standards
 372 ~~of this chapter~~. Any supplemental plan in existence on March 1,
 373 2015, shall be deemed to be a defined contribution plan in
 374 compliance with s. 175.351(6).

375 (25)~~(18)~~ "Supplemental plan municipality" means a ~~any~~ local
 376 law municipality in which any ~~there existed a~~ supplemental plan
 377 ~~existed, of any type or nature,~~ as of December 1, 2000.

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378 Section 3. Subsection (7) of section 175.071, Florida
 379 Statutes, is amended to read:

380 175.071 General powers and duties of board of trustees.—For
 381 any municipality, special fire control district, chapter plan,
 382 local law municipality, local law special fire control district,
 383 or local law plan under this chapter:

384 (7) To assist the board in meeting its responsibilities
 385 under this chapter, the board, if it so elects, may:

386 (a) Employ independent legal counsel at the pension fund's
 387 expense.

388 (b) Employ an independent enrolled actuary, as defined in
 389 s. 175.032~~(7)~~, at the pension fund's expense.

390 (c) Employ such independent professional, technical, or
 391 other advisers as it deems necessary at the pension fund's
 392 expense.

393
 394 If the board chooses to use the municipality's or special
 395 district's legal counsel or actuary, or chooses to use any of
 396 the municipality's or special district's other professional,
 397 technical, or other advisers, it must do so only under terms and
 398 conditions acceptable to the board.

399 Section 4. Paragraph (d) of subsection (1) of section
 400 175.091, Florida Statutes, is amended to read:

401 175.091 Creation and maintenance of fund.—For any
 402 municipality, special fire control district, chapter plan, local
 403 law municipality, local law special fire control district, or
 404 local law plan under this chapter:

405 (1) The firefighters' pension trust fund in each
 406 municipality and in each special fire control district shall be

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407 created and maintained in the following manner:

408 (d) By mandatory payment by the municipality or special
 409 fire control district of a sum equal to the normal cost of and
 410 the amount required to fund any actuarial deficiency shown by an
 411 actuarial valuation conducted under as provided in part VII of
 412 chapter 112 after taking into account the amounts described in
 413 paragraphs (b), (c), (e), (f), and (g) and the tax proceeds
 414 described in paragraph (a) which are used to fund benefits in a
 415 defined benefit plan component.

416
 417 Nothing in this section shall be construed to require adjustment
 418 of member contribution rates in effect on the date this act
 419 becomes a law, including rates that exceed 5 percent of salary,
 420 provided that such rates are at least one-half of 1 percent of
 421 salary.

422 Section 5. Paragraph (a) of subsection (2) of section
 423 175.162, Florida Statutes, is amended to read:

424 175.162 Requirements for retirement.—For any municipality,
 425 special fire control district, chapter plan, local law
 426 municipality, local law special fire control district, or local
 427 law plan under this chapter, any firefighter who completes 10 or
 428 more years of creditable service as a firefighter and attains
 429 age 55, or completes 25 years of creditable service as a
 430 firefighter and attains age 52, and who for such minimum period
 431 has been a member of the firefighters' pension trust fund
 432 operating under a chapter plan or local law plan, is eligible
 433 for normal retirement benefits. Normal retirement under the plan
 434 is retirement from the service of the municipality or special
 435 fire control district on or after the normal retirement date. In

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436 such event, payment of retirement income will be governed by the
 437 following provisions of this section:

438 (2)(a)1. The amount of monthly retirement income payable to
 439 a full-time firefighter who retires on or after his or her
 440 normal retirement date shall be an amount equal to the number of
 441 his or her years of credited service multiplied by 2.75 ~~2~~
 442 percent of his or her average final compensation as a full-time
 443 firefighter. ~~However, if current state contributions pursuant to~~
 444 ~~this chapter are not adequate to fund the additional benefits to~~
 445 ~~meet the minimum requirements in this chapter, only such~~
 446 ~~incremental increases shall be required as state moneys are~~
 447 ~~adequate to provide. Such increments shall be provided as state~~
 448 ~~moneys become available.~~

449 2. Effective July 1, 2015, a plan that is in compliance
 450 with this chapter except that the plan provides a benefit that
 451 is less than 2.75 percent of the average final compensation of a
 452 full-time firefighter for all years of credited service or
 453 provides an effective benefit that is less than 2.75 percent as
 454 a result of a maximum benefit limitation:

455 a. Must maintain, at a minimum, the percentage amount or
 456 maximum benefit limitation in effect on July 1, 2015, and is not
 457 required to increase the benefit to 2.75 percent of the average
 458 final compensation of a full-time firefighter for all years of
 459 credited service; or

460 b. If the plan changes the percentage amount or maximum
 461 benefit limitation to 2.75 percent, or more, of the average
 462 final compensation of a full-time firefighter for all years of
 463 credited service, the plan may not thereafter decrease the
 464 percentage amount or maximum benefit limitation to less than

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465 2.75 percent of the average final compensation of a full-time
 466 firefighter for all years of credited service.

467 Section 6. Section 175.351, Florida Statutes, is amended to
 468 read:

469 175.351 Municipalities and special fire control districts
 470 ~~that have having~~ their own retirement pension plans for
 471 firefighters. ~~For any municipality, special fire control~~
 472 ~~district, local law municipality, local law special fire control~~
 473 ~~district, or local law plan under this chapter,~~ In order for a
 474 municipality or municipalities and special fire control district
 475 that has its districts with their own retirement plan pension
 476 plans for firefighters, or for firefighters and police officers
 477 if both are included, to participate in the distribution of the
 478 tax fund established under pursuant to s. 175.101, a local law
 479 plan plans must meet the minimum benefits and minimum standards,
 480 except as provided in the mutual consent provisions in paragraph
 481 (1) (g) with respect to the minimum benefits not met as of
 482 October 1, 2012 set forth in this chapter.

483 (1) If a municipality has a retirement pension plan for
 484 firefighters, or a ~~pension plan~~ for firefighters and police
 485 officers if both are included, which in the opinion of the
 486 division meets the minimum benefits and minimum standards ~~set~~
 487 ~~forth in this chapter,~~ the board of trustees of the retirement
 488 plan plans must, ~~as approved by a majority of firefighters of~~
 489 ~~the municipality, may:~~

490 ~~(a)~~ place the income from the premium tax in s. 175.101 in
 491 such ~~pension~~ plan for the sole and exclusive use of its
 492 firefighters, or for firefighters and police officers if both
 493 are included, where it shall become an integral part of that

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494 ~~pension~~ plan and ~~shall~~ be used to fund benefits as provided
 495 herein. Effective October 1, 2015, for noncollectively bargained
 496 service or upon entering into a collective bargaining agreement
 497 on or after July 1, 2015:

498 (a) The base premium tax revenues must be used to fund
 499 minimum benefits or other retirement benefits in excess of the
 500 minimum benefits as determined by the municipality or special
 501 fire control district.

502 (b) Of the additional premium tax revenues received that
 503 are in excess of the amount received for the 2012 calendar year,
 504 50 percent must be used to fund minimum benefits or other
 505 retirement benefits in excess of the minimum benefits as
 506 determined by the municipality or special fire control district,
 507 and 50 percent must be placed in a defined contribution plan to
 508 fund special benefits.

509 (c) Additional premium tax revenues not described in
 510 paragraph (b) must be used to fund benefits that are not
 511 included in the minimum benefits. If the additional premium tax
 512 revenues subject to this paragraph exceed the full annual cost
 513 of benefits provided through the plan which are in excess of the
 514 minimum benefits, any amount in excess of the full annual cost
 515 must be used as provided in paragraph (b).

516 (d) Of any accumulations of additional premium tax revenues
 517 which have not been allocated to fund benefits in excess of the
 518 minimum benefits, 50 percent of the amount of the accumulations
 519 must be used to fund special benefits, and 50 percent must be
 520 applied to fund any unfunded actuarial liabilities of the plan;
 521 provided that any amount of accumulations in excess of the
 522 amount required to fund the unfunded actuarial liabilities must

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523 ~~be used to fund special benefits to pay extra benefits to the~~
 524 ~~firefighters included in that pension plan; or~~

525 ~~(b) Place the income from the premium tax in s. 175.101 in~~
 526 ~~a separate supplemental plan to pay extra benefits to~~
 527 ~~firefighters, or to firefighters and police officers if~~
 528 ~~included, participating in such separate supplemental plan.~~

529 (e) For a plan created after March 1, 2015, 50 percent of
 530 the insurance premium tax revenues must be used to fund defined
 531 benefit plan component benefits, with the remainder used to fund
 532 defined contribution plan component benefits.

533 (f) If a plan offers benefits in excess of the minimum
 534 benefits, such benefits, excluding supplemental plan benefits in
 535 effect as of September 30, 2014, may be reduced if the plan
 536 continues to meet minimum benefits and minimum standards. The
 537 amount of insurance premium tax revenues previously used to fund
 538 benefits in excess of minimum benefits before the reduction,
 539 excluding the amount of any additional premium tax revenues
 540 distributed to a supplemental plan for the 2012 calendar year,
 541 must be used as provided in paragraph (b). However, benefits in
 542 excess of minimum benefits may not be reduced if a plan does not
 543 meet the minimum percentage amount of 2.75 percent of the
 544 average final compensation of a full-time firefighter, as
 545 required by s. 175.162(2)(a)1., or provides an effective benefit
 546 that is below 2.75 percent as a result of a maximum benefit
 547 limitation as described in s. 175.162(2)(a)2.

548 (g) Notwithstanding paragraphs (a)-(f), the use of premium
 549 tax revenues, including any accumulations of additional premium
 550 tax revenues which have not been allocated to fund benefits in
 551 excess of minimum benefits, may deviate from the provisions of

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552 this subsection by mutual consent of the members' collective
 553 bargaining representative or, if there is no representative, by
 554 a majority of the firefighter members of the fund, and by
 555 consent of the municipality or special fire control district,
 556 provided that the plan continues to meet minimum benefits and
 557 minimum standards; however, a plan that operates pursuant to
 558 this paragraph and does not meet minimum benefits as of October
 559 1, 2012, may continue to provide the benefits that do not meet
 560 the minimum benefits at the same level as was provided as of
 561 October 1, 2012, and all other benefit levels must continue to
 562 meet the minimum benefits. Such mutually agreed deviation must
 563 continue until modified or revoked by subsequent mutual consent
 564 of the members' collective bargaining representative or, if
 565 none, by a majority of the firefighter members of the fund, and
 566 the municipality or special fire control district. An existing
 567 arrangement for the use of premium tax revenues contained within
 568 a special act plan or a plan within a supplemental plan
 569 municipality is considered, as of July 1, 2015, to be a
 570 deviation for which mutual consent has been granted.

571 (2) The premium tax provided by this chapter must ~~shall in~~
 572 all cases be used in its entirety to provide retirement ~~extra~~
 573 benefits to firefighters, or to firefighters and police officers
 574 if both are included. However, local law plans in effect on
 575 October 1, 1998, must comply with the minimum benefit provisions
 576 of this chapter only to the extent that additional premium tax
 577 revenues become available to incrementally fund the cost of such
 578 compliance as provided in s. 175.162(2)(a). If a plan is in
 579 compliance with such minimum benefit provisions, as subsequent
 580 additional premium tax revenues become available, they must be

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581 ~~used to provide extra benefits.~~ Local law plans created by
 582 special act before May 27, 1939, are deemed to comply with this
 583 chapter. ~~For the purpose of this chapter, the term:~~

584 ~~(a) "Additional premium tax revenues" means revenues~~
 585 ~~received by a municipality or special fire control district~~
 586 ~~pursuant to s. 175.121 which exceed that amount received for~~
 587 ~~calendar year 1997.~~

588 ~~(b) "Extra benefits" means benefits in addition to or~~
 589 ~~greater than those provided to general employees of the~~
 590 ~~municipality and in addition to those in existence for~~
 591 ~~firefighters on March 12, 1999.~~

592 (3) A retirement plan or amendment to a retirement plan may
 593 not be proposed for adoption unless the proposed plan or
 594 amendment contains an actuarial estimate of the costs involved.
 595 Such proposed plan or proposed plan change may not be adopted
 596 without the approval of the municipality, special fire control
 597 district, or, where required permitted, the Legislature. Copies
 598 of the proposed plan or proposed plan change and the actuarial
 599 impact statement of the proposed plan or proposed plan change
 600 shall be furnished to the division before the last public
 601 hearing on the proposal is held thereon. Such statement must
 602 also indicate whether the proposed plan or proposed plan change
 603 is in compliance with s. 14, Art. X of the State Constitution
 604 and those provisions of part VII of chapter 112 which are not
 605 expressly provided in this chapter. Notwithstanding any other
 606 provision, only those local law plans created by special act of
 607 legislation before May 27, 1939, are deemed to meet ~~the~~ minimum
 608 benefits and minimum standards ~~only in this chapter~~.

609 (4) Notwithstanding any other provision, with respect to

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610 any supplemental plan municipality:

611 (a) A local law plan and a supplemental plan may continue
 612 to use their definition of compensation or salary in existence
 613 on March 12, 1999.

614 (b) Section 175.061(1)(b) does not apply, and a local law
 615 plan and a supplemental plan shall continue to be administered
 616 by a board or boards of trustees numbered, constituted, and
 617 selected as the board or boards were numbered, constituted, and
 618 selected on December 1, 2000.

619 ~~(c) The election set forth in paragraph (1)(b) is deemed to~~
 620 ~~have been made.~~

621 (5) The retirement plan setting forth the benefits and the
 622 trust agreement, if any, covering the duties and
 623 responsibilities of the trustees and the regulations of the
 624 investment of funds must be in writing, and copies made
 625 available to the participants and to the general public.

626 (6) In addition to the defined benefit plan component of
 627 the local law plan, each plan sponsor must have a defined
 628 contribution plan component within the local law plan by October
 629 1, 2015, for noncollectively bargained service, upon entering
 630 into a collective bargaining agreement on or after July 1, 2015,
 631 or upon the creation date of a new participating plan. Depending
 632 upon the application of subsection (1), a defined contribution
 633 plan component may or may not receive any funding.

634 (7) Notwithstanding any other provision of this chapter, a
 635 municipality or special fire control district that has
 636 implemented or proposed changes to a local law plan based on the
 637 municipality's or district's reliance on an interpretation of
 638 this chapter by the Department of Management Services on or

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 639 after August 14, 2012, and before March 3, 2015, may continue
 640 the implemented changes or continue to implement proposed
 641 changes. Such reliance must be evidenced by a written collective
 642 bargaining proposal or agreement, or formal correspondence
 643 between the municipality or district and the Department of
 644 Management Services which describes the specific changes to the
 645 local law plan, with the initial proposal, agreement, or
 646 correspondence from the municipality or district dated before
 647 March 3, 2015. Changes to the local law plan which are otherwise
 648 contrary to minimum benefits and minimum standards may continue
 649 in effect until the earlier of October 1, 2018, or the effective
 650 date of a collective bargaining agreement that is contrary to
 651 the changes to the local law plan.

652 Section 7. Subsection (2) of section 185.01, Florida
 653 Statutes, is amended to read:

654 185.01 Legislative declaration.—

655 (2) This chapter hereby establishes, for all municipal
 656 pension plans ~~now or hereinafter~~ provided for under this
 657 chapter, including chapter plans and local law plans, minimum
 658 benefits and minimum standards for the operation and funding of
 659 such plans, hereinafter referred to as municipal police
 660 officers' retirement trust funds, which must be met as
 661 conditions precedent to the plan or plan sponsor receiving a
 662 distribution of insurance premium tax revenues under s. 185.10.
 663 ~~The Minimum benefits and minimum standards for each plan set~~
 664 ~~forth in this chapter~~ may not be diminished by local ordinance
 665 or by special act of the Legislature and may not, ~~nor may the~~
 666 ~~minimum benefits or minimum standards~~ be reduced or offset by
 667 any other local, state, or federal plan that includes ~~may~~

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 668 ~~include~~ police officers in its operation, except as provided
 669 under s. 112.65.
 670 Section 8. Section 185.02, Florida Statutes, is amended to
 671 read:
 672 185.02 Definitions.—For any municipality, chapter plan,
 673 local law municipality, or local law plan under this chapter,
 674 ~~the term following words and phrases as used in this chapter~~
 675 ~~shall have the following meanings, unless a different meaning is~~
 676 ~~plainly required by the context:~~
 677 (1) "Additional premium tax revenues" means revenues
 678 received by a municipality pursuant to s. 185.10 which exceed
 679 base premium tax revenues.
 680 (2) ~~(1)~~ "Average final compensation" means one-twelfth of
 681 the average annual compensation of the 5 best years of the last
 682 10 years of creditable service before ~~prior to~~ retirement,
 683 termination, or death.
 684 (3) "Base premium tax revenues" means:
 685 (a) For a local law plan in effect on October 1, 1998, the
 686 revenues received by a municipality pursuant to s. 185.10 for
 687 the 1997 calendar year.
 688 (b) For a local law plan created between October 1, 1998,
 689 and March 1, 2015, inclusive, the revenues received by a
 690 municipality pursuant to s. 185.10 based upon the tax
 691 collections during the second calendar year of participation.
 692 (4) ~~(2)~~ "Casualty insurance" means automobile public
 693 liability and property damage insurance to be applied at the
 694 place of residence of the owner, or if the subject is a
 695 commercial vehicle, to be applied at the place of business of
 696 the owner; automobile collision insurance; fidelity bonds;

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697 burglary and theft insurance; and plate glass insurance. The
 698 term "multiple peril" means a combination or package policy that
 699 includes both property coverage and casualty coverage for a
 700 single premium.

701 ~~(5)(3)~~ "Chapter plan" means a separate defined benefit
 702 pension plan for police officers which incorporates by reference
 703 the provisions of this chapter and has been adopted by the
 704 governing body of a municipality as provided in s. 185.08.
 705 Except as ~~may be~~ specifically authorized in this chapter, the
 706 provisions of a chapter plan may not differ from the plan
 707 provisions set forth in ss. 185.01-185.341 and ss. 185.37-
 708 185.39. Actuarial valuations of chapter plans shall be conducted
 709 by the division as provided by s. 185.221(1)(b).

710 ~~(6)(4)~~ "Compensation" or "salary" means, for
 711 noncollectively bargained service earned before July 1, 2011, or
 712 for service earned under collective bargaining agreements in
 713 place before July 1, 2011, the total cash remuneration including
 714 "overtime" paid by the primary employer to a police officer for
 715 services rendered, but not including any payments for extra duty
 716 or special detail work performed on behalf of a second party
 717 employer. Overtime may be limited before July 1, 2011, in a
 718 local law plan by the plan provisions ~~A local law plan may limit~~
 719 ~~the amount of overtime payments which can be used for retirement~~
 720 ~~benefit calculation purposes; however, such overtime limit may~~
 721 ~~not be less than 300 hours per officer per calendar year.~~ For
 722 noncollectively bargained service earned on or after July 1,
 723 2011, or for service earned under collective bargaining
 724 agreements entered into on or after July 1, 2011, the term has
 725 the same meaning except that when calculating retirement

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726 benefits, up to 300 hours per year in overtime compensation may
 727 be included as specified in the plan or collective bargaining
 728 agreement, but payments for accrued unused sick or annual leave
 729 may not be included.

730 (a) Any retirement trust fund or plan that meets the
 731 requirements of this chapter does not, solely by virtue of this
 732 subsection, reduce or diminish the monthly retirement income
 733 otherwise payable to each police officer covered by the
 734 retirement trust fund or plan.

735 (b) The member's compensation or salary contributed as
 736 employee-elective salary reductions or deferrals to any salary
 737 reduction, deferred compensation, or tax-sheltered annuity
 738 program authorized under the Internal Revenue Code shall be
 739 deemed to be the compensation or salary the member would receive
 740 if he or she were not participating in such program and shall be
 741 treated as compensation for retirement purposes under this
 742 chapter.

743 (c) For any person who first becomes a member in any plan
 744 year beginning on or after January 1, 1996, compensation for
 745 that plan year may not include any amounts in excess of the
 746 Internal Revenue Code s. 401(a)(17) limitation, as amended by
 747 the Omnibus Budget Reconciliation Act of 1993, which limitation
 748 of \$150,000 shall be adjusted as required by federal law for
 749 qualified government plans and ~~shall be~~ further adjusted for
 750 changes in the cost of living in the manner provided by Internal
 751 Revenue Code s. 401(a)(17)(B). For any person who first became a
 752 member before the first plan year beginning on or after January
 753 1, 1996, the limitation on compensation may not be less than the
 754 maximum compensation amount that was allowed to be taken into

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755 account under the plan ~~as~~ in effect on July 1, 1993, which
 756 limitation shall be adjusted for changes in the cost of living
 757 since 1989 in the manner provided by Internal Revenue Code s.
 758 401(a)(17)(1991).

759 ~~(7)(5)~~ "Creditable service" or "credited service" means the
 760 aggregate number of years of service and fractional parts of
 761 years of service of any police officer, omitting intervening
 762 years and fractional parts of years when such police officer may
 763 not have been employed by the municipality subject to the
 764 following conditions:

765 (a) ~~A~~ No police officer may not ~~will~~ receive credit for
 766 years or fractional parts of years of service if he or she has
 767 withdrawn his or her contributions to the fund for those years
 768 or fractional parts of years of service, unless the police
 769 officer repays into the fund the amount he or she has withdrawn,
 770 plus interest as determined by the board. The member has ~~shall~~
 771 ~~have~~ at least 90 days after his or her reemployment to make
 772 repayment.

773 (b) A police officer may voluntarily leave his or her
 774 contributions in the fund for ~~a period of~~ 5 years after leaving
 775 the employ of the police department, pending the possibility of
 776 his or her being rehired by the same department, without losing
 777 credit for the time he or she has participated actively as a
 778 police officer. If he or she is not reemployed as a police
 779 officer with the same department within 5 years, his or her
 780 contributions shall be returned ~~to him or her~~ without interest.

781 (c) Credited service under this chapter shall be provided
 782 only for service as a police officer, ~~as defined in subsection~~
 783 ~~(11)~~, or for military service and may not include credit for any

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784 other type of service. A municipality ~~may~~, by local ordinance,
 785 may provide for the purchase of credit for military service
 786 occurring before employment as well as prior service as a police
 787 officer for some other employer as long as the police officer is
 788 not entitled to receive a benefit for such ~~other~~ prior service
 789 ~~as a police officer~~. For purposes of determining credit for
 790 prior service, in addition to service as a police officer in
 791 this state, credit may be given for federal, other state, or
 792 county service as long as such service is recognized by the
 793 Criminal Justice Standards and Training Commission within the
 794 Department of Law Enforcement as provided in under ~~in~~ chapter 943
 795 or the police officer provides proof to the board of trustees
 796 that such service is equivalent to the service required to meet
 797 the definition of a police officer ~~under subsection (11)~~.

798 (d) In determining the creditable service of a ~~any~~ police
 799 officer, credit for up to 5 years of the time spent in the
 800 military service of the Armed Forces of the United States shall
 801 be added to the years of actual service, if:

802 1. The police officer is in the active employ of the
 803 municipality before ~~prior to~~ such service and leaves a position,
 804 other than a temporary position, for the purpose of voluntary or
 805 involuntary service in the Armed Forces of the United States.

806 2. The police officer is entitled to reemployment under ~~the~~
 807 ~~provisions of~~ the Uniformed Services Employment and Reemployment
 808 Rights Act.

809 3. The police officer returns to his or her employment as a
 810 police officer of the municipality within 1 year after ~~from~~ the
 811 date of his or her release from such active service.

812 ~~(8)(6)~~ "Deferred Retirement Option Plan" or "DROP" means a

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813 local law plan retirement option in which a police officer may
 814 elect to participate. A police officer may retire for all
 815 purposes of the plan and defer receipt of retirement benefits
 816 into a DROP account while continuing employment with his or her
 817 employer. However, a police officer who enters the DROP and who
 818 is otherwise eligible to participate ~~may shall not thereby~~ be
 819 precluded from participation or continued participation
 820 ~~participating, or continuing to participate,~~ in a supplemental
 821 plan in existence on, or created after, March 12, 1999 the
 822 effective date of this act.

823 (9) "Defined contribution plan" means the component of a
 824 local law plan, as provided in s. 185.35(1), to which deposits,
 825 if any, are made to provide benefits for police officers, or for
 826 police officers and firefighters if both are included. Such
 827 component is an element of a local law plan and exists in
 828 conjunction with the defined benefit component that meets
 829 minimum benefits and minimum standards. The retirement benefits,
 830 if any, of the defined contribution plan shall be provided
 831 through individual member accounts in accordance with the
 832 applicable provisions of the Internal Revenue Code and related
 833 regulations and are limited to the contributions, if any, made
 834 into each member's account and the actual accumulated earnings,
 835 net of expenses, earned on the member's account.

836 ~~(10)(7)~~ "Division" means the Division of Retirement of the
 837 Department of Management Services.

838 ~~(11)(8)~~ "Enrolled actuary" means an actuary who is enrolled
 839 under Subtitle C of Title III of the Employee Retirement Income
 840 Security Act of 1974 and who is a member of the Society of
 841 Actuaries or the American Academy of Actuaries.

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842 ~~(12)(9)~~ "Local law municipality" means is any municipality
 843 in which ~~there exists~~ a local law plan exists.

844 ~~(13)(10)~~ "Local law plan" means a retirement defined
 845 ~~benefit pension plan that includes both a defined benefit plan~~
 846 component and a defined contribution plan component for police
 847 officers, or for police officers and firefighters if both are,
 848 ~~where~~ included, as described in s. 185.35, established by
 849 municipal ordinance or special act of the Legislature, which
 850 ~~enactment~~ sets forth all plan provisions. Local law plan
 851 provisions may vary from the provisions of this chapter if,
 852 ~~provided that required~~ minimum benefits and minimum standards
 853 are met. However, any such variance must shall provide a greater
 854 benefit for police officers. Actuarial valuations of local law
 855 plans shall be conducted by an enrolled actuary as provided in
 856 s. 185.221(2)(b).

857 (14) "Minimum benefits" means the benefits specified in ss.
 858 185.01-185.341 and ss. 185.37-185.50.

859 (15) "Minimum standards" means the standards specified in
 860 ss. 185.01-185.50.

861 ~~(16)(11)~~ "Police officer" means any person who is elected,
 862 appointed, or employed full time by a any municipality, who is
 863 certified or required to be certified as a law enforcement
 864 officer in compliance with s. 943.1395, who is vested with
 865 authority to bear arms and make arrests, and whose primary
 866 responsibility is the prevention and detection of crime or the
 867 enforcement of the penal, criminal, traffic, or highway laws of
 868 the state. The term This definition includes all certified
 869 supervisory and command personnel whose duties include, in whole
 870 or in part, the supervision, training, guidance, and management

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871 responsibilities of full-time law enforcement officers, part-
 872 time law enforcement officers, or auxiliary law enforcement
 873 officers, but does not include part-time law enforcement
 874 officers or auxiliary law enforcement officers as those terms
 875 ~~the same~~ are defined in s. 943.10(6) and (8), respectively. For
 876 the purposes of this chapter only, the term also includes
 877 ~~"police officer"~~ also shall include a public safety officer who
 878 is responsible for performing both police and fire services. Any
 879 plan may provide that the police chief shall have an option to
 880 participate, ~~or not,~~ in that plan.

881 (17)(12) "Police Officers' Retirement Trust Fund" means a
 882 trust fund, by whatever name known, as provided under s. 185.03
 883 for the purpose of assisting municipalities in establishing and
 884 maintaining a retirement plan for police officers.

885 (18)(13) "Retiree" or "retired police officer" means a
 886 police officer who has entered retirement status. For the
 887 purposes of a plan that includes a Deferred Retirement Option
 888 Plan (DROP), a police officer who enters the DROP is shall be
 889 considered a retiree for all purposes of the plan. However, a
 890 police officer who enters the DROP and who is otherwise eligible
 891 to participate may shall not thereby be precluded from
 892 participation or continued participation participating, or
 893 continuing to participate, in a supplemental plan in existence
 894 on, or created after, March 12, 1999 ~~the effective date of this~~
 895 ~~act.~~

896 (19)(14) "Retirement" means a police officer's separation
 897 from municipal city employment as a police officer with
 898 immediate eligibility for ~~receipt of~~ benefits under the plan.
 899 For purposes of a plan that includes a Deferred Retirement

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900 Option Plan (DROP), "retirement" means the date a police officer
 901 enters the DROP.

902 (20) "Special act plan" means a plan subject to the
 903 provisions of this chapter which was created by an act of the
 904 Legislature and continues to require an act of the Legislature
 905 to alter plan benefits.

906 (21) "Special benefits" means benefits provided in a
 907 defined contribution plan component for police officers.

908 (22)(15) "Supplemental plan" means a plan to which deposits
 909 of the premium tax moneys as provided in s. 185.08 are made to
 910 provide special extra benefits to police officers, or police
 911 officers and firefighters if both are where included, ~~under this~~
 912 ~~chapter.~~ Such a plan is an element of a local law plan and
 913 exists in conjunction with a defined benefit plan component that
 914 ~~meets the~~ minimum benefits and minimum standards ~~of this~~
 915 ~~chapter.~~ Any supplemental plan in existence on March 1, 2015,
 916 shall be deemed to be a defined contribution plan in compliance
 917 with s. 185.35(6).

918 (23)(16) "Supplemental plan municipality" means a any local
 919 law municipality in which any there existed a supplemental plan
 920 existed as of December 1, 2000.

921 Section 9. Subsection (6) of section 185.06, Florida
 922 Statutes, is amended to read:

923 185.06 General powers and duties of board of trustees.—For
 924 any municipality, chapter plan, local law municipality, or local
 925 law plan under this chapter:

926 (6) To assist the board in meeting its responsibilities
 927 under this chapter, the board, if it so elects, may:

928 (a) Employ independent legal counsel at the pension fund's

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929 expense.

930 (b) Employ an independent enrolled actuary, as defined in
 931 s. 185.02~~(4)~~, at the pension fund's expense.

932 (c) Employ such independent professional, technical, or
 933 other advisers as it deems necessary at the pension fund's
 934 expense.

935

936 If the board chooses to use the municipality's or special
 937 district's legal counsel or actuary, or chooses to use any of
 938 the municipality's other professional, technical, or other
 939 advisers, it must do so only under terms and conditions
 940 acceptable to the board.

941 Section 10. Paragraph (d) of subsection (1) of section
 942 185.07, Florida Statutes, is amended to read:

943 185.07 Creation and maintenance of fund.—For any
 944 municipality, chapter plan, local law municipality, or local law
 945 plan under this chapter:

946 (1) The municipal police officers' retirement trust fund in
 947 each municipality described in s. 185.03 shall be created and
 948 maintained in the following manner:

949 (d) By payment by the municipality or other sources of a
 950 sum equal to the normal cost and the amount required to fund any
 951 actuarial deficiency shown by an actuarial valuation conducted
 952 under as provided in part VII of chapter 112 after taking into
 953 account the amounts described in paragraphs (b), (c), (e), (f),
 954 and (g) and the tax proceeds described in paragraph (a) which
 955 are used to fund benefits provided in a defined benefit plan
 956 component.

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958 Nothing in this section shall be construed to require adjustment
 959 of member contribution rates in effect on the date this act
 960 becomes a law, including rates that exceed 5 percent of salary,
 961 provided that such rates are at least one-half of 1 percent of
 962 salary.

963 Section 11. Subsection (2) of section 185.16, Florida
 964 Statutes, is amended to read:

965 185.16 Requirements for retirement.—For any municipality,
 966 chapter plan, local law municipality, or local law plan under
 967 this chapter, any police officer who completes 10 or more years
 968 of creditable service as a police officer and attains age 55, or
 969 completes 25 years of creditable service as a police officer and
 970 attains age 52, and for such period has been a member of the
 971 retirement fund is eligible for normal retirement benefits.
 972 Normal retirement under the plan is retirement from the service
 973 of the city on or after the normal retirement date. In such
 974 event, for chapter plans and local law plans, payment of
 975 retirement income will be governed by the following provisions
 976 of this section:

977 (2) (a) The amount of the monthly retirement income payable
 978 to a police officer who retires on or after his or her normal
 979 retirement date shall be an amount equal to the number of the
 980 police officer's years of credited service multiplied by 2.75 ~~2~~
 981 percent of his or her average final compensation. ~~However, if~~
 982 ~~current state contributions pursuant to this chapter are not~~
 983 ~~adequate to fund the additional benefits to meet the minimum~~
 984 ~~requirements in this chapter, only increment increases shall be~~
 985 ~~required as state moneys are adequate to provide. Such~~
 986 ~~increments shall be provided as state moneys become available.~~

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987 (b) Effective July 1, 2015, a plan that is in compliance
 988 with this chapter except that the plan provides a benefit that
 989 is less than 2.75 percent of the average final compensation of a
 990 police officer for all years of credited service or provides an
 991 effective benefit that is less than 2.75 percent as a result of
 992 a maximum benefit limitation:

993 1. Must maintain, at a minimum, the percentage amount or
 994 maximum benefit limitation in effect on July 1, 2015, and is not
 995 required to increase the benefit to 2.75 percent of the average
 996 final compensation of a police officer for all years of credited
 997 service; or

998 2. If the plan changes the percentage amount or maximum
 999 benefit limitation to 2.75 percent, or more, of the average
 1000 final compensation of a police officer for all years of credited
 1001 service, the plan may not thereafter decrease the percentage
 1002 amount or the maximum benefit limitation to less than 2.75
 1003 percent of the average final compensation of a police officer
 1004 for all years of credited service.

1005 Section 12. Section 185.35, Florida Statutes, is amended to
 1006 read:

1007 185.35 Municipalities ~~that have~~ having their own retirement
 1008 pension plans for police officers. ~~For any municipality, chapter~~
 1009 ~~plan, local law municipality, or local law plan under this~~
 1010 ~~chapter,~~ In order for a municipality that has its ~~municipalities~~
 1011 ~~with their own retirement plan pension plans~~ for police
 1012 officers, or for police officers and firefighters if both are
 1013 included, to participate in the distribution of the tax fund
 1014 established under pursuant to s. 185.08, a local law plan plans
 1015 must meet ~~the~~ minimum benefits and minimum standards, except as

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1016 provided in the mutual consent provisions in paragraph (1)(g)
 1017 with respect to the minimum benefits not met as of October 1,
 1018 2012. ~~set forth in this chapter.~~

1019 (1) If a municipality has a retirement pension plan for
 1020 police officers, or for police officers and firefighters if both
 1021 are included, which, in the opinion of the division, meets ~~the~~
 1022 minimum benefits and minimum standards ~~set forth in this~~
 1023 ~~chapter,~~ the board of trustees of the retirement pension plan
 1024 must, as approved by a majority of police officers of the
 1025 municipality, may:

1026 ~~(a)~~ place the income from the premium tax in s. 185.08 in
 1027 such ~~pension~~ plan for the sole and exclusive use of its police
 1028 officers, or its police officers and firefighters if both are
 1029 included, where it shall become an integral part of that ~~pension~~
 1030 plan and shall be used to fund benefits as provided herein.
 1031 Effective October 1, 2015, for noncollectively bargained service
 1032 or upon entering into a collective bargaining agreement on or
 1033 after July 1, 2015:

1034 (a) The base premium tax revenues must be used to fund
 1035 minimum benefits or other retirement benefits in excess of the
 1036 minimum benefits as determined by the municipality.

1037 (b) Of the additional premium tax revenues received that
 1038 are in excess of the amount received for the 2012 calendar year,
 1039 50 percent must be used to fund minimum benefits or other
 1040 retirement benefits in excess of the minimum benefits as
 1041 determined by the municipality, and 50 percent must be placed in
 1042 a defined contribution plan component to fund special benefits.

1043 (c) Additional premium tax revenues not described in
 1044 paragraph (b) must be used to fund benefits that are not

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1045 included in the minimum benefits. If the additional premium tax
 1046 revenues subject to this paragraph exceed the full annual cost
 1047 of benefits provided through the plan which are in excess of the
 1048 minimum benefits, any amount in excess of the full annual cost
 1049 must be used as provided in paragraph (b).

1050 (d) Of any accumulations of additional premium tax revenues
 1051 which have not been allocated to fund benefits in excess of the
 1052 minimum benefits, 50 percent of the amount of the accumulations
 1053 must be used to fund special benefits and 50 percent must be
 1054 applied to fund any unfunded actuarial liabilities of the plan;
 1055 provided that any amount of accumulations in excess of the
 1056 amount required to fund the unfunded actuarial liabilities must
 1057 be used to fund special benefits pay extra benefits to the
 1058 police officers included in that pension plan; or

1059 (b) May place the income from the premium tax in s. 185.08
 1060 in a separate supplemental plan to pay extra benefits to the
 1061 police officers, or police officers and firefighters if
 1062 included, participating in such separate supplemental plan.

1063 (e) For a plan created after March 1, 2015, 50 percent of
 1064 the insurance premium tax revenues must be used to fund defined
 1065 benefit plan component benefits, with the remainder used to fund
 1066 defined contribution plan component benefits.

1067 (f) If a plan offers benefits in excess of the minimum
 1068 benefits, such benefits, excluding supplemental plan benefits in
 1069 effect as of September 30, 2014, may be reduced if the plan
 1070 continues to meet minimum benefits and the minimum standards.
 1071 The amount of insurance premium tax revenues previously used to
 1072 fund benefits in excess of the minimum benefits before the
 1073 reduction, excluding the amount of any additional premium tax

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1074 revenues distributed to a supplemental plan for the 2012
 1075 calendar year, must be used as provided in paragraph (b).
 1076 However, benefits in excess of the minimum benefits may not be
 1077 reduced if a plan does not meet the minimum percentage amount of
 1078 2.75 percent of the average final compensation of a police
 1079 officer or provides an effective benefit that is less than 2.75
 1080 percent as a result of a maximum benefit limitation, as
 1081 described in s. 185.16(2) (b).

1082 (g) Notwithstanding paragraphs (a)-(f), the use of premium
 1083 tax revenues, including any accumulations of additional premium
 1084 tax revenues which have not been allocated to fund benefits in
 1085 excess of the minimum benefits, may deviate from the provisions
 1086 of this subsection by mutual consent of the members' collective
 1087 bargaining representative or, if none, by a majority of the
 1088 police officer members of the fund, and by consent of the
 1089 municipality, provided that the plan continues to meet minimum
 1090 benefits and minimum standards; however, a plan that operates
 1091 pursuant to this paragraph and does not meet the minimum
 1092 benefits as of October 1, 2012, may continue to provide the
 1093 benefits that do not meet the minimum benefits at the same level
 1094 as was provided as of October 1, 2012, and all other benefit
 1095 levels must continue to meet the minimum benefits. Such mutually
 1096 agreed deviation must continue until modified or revoked by
 1097 subsequent mutual consent of the members' collective bargaining
 1098 representative or, if none, by a majority of the police officer
 1099 members of the fund, and the municipality. An existing
 1100 arrangement for the use of premium tax revenues contained within
 1101 a special act plan or a plan within a supplemental plan
 1102 municipality is considered, as of July 1, 2015, to be a

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1103 deviation for which mutual consent has been granted.

1104 (2) The premium tax provided by this chapter ~~must shall in~~
 1105 ~~all cases~~ be used in its entirety to provide retirement extra
 1106 ~~benefits to police officers, or to police officers and~~
 1107 ~~firefighters if both are included. However, local law plans in~~
 1108 ~~effect on October 1, 1998, must comply with the minimum benefit~~
 1109 ~~provisions of this chapter only to the extent that additional~~
 1110 ~~premium tax revenues become available to incrementally fund the~~
 1111 ~~cost of such compliance as provided in s. 185.16(2). If a plan~~
 1112 ~~is in compliance with such minimum benefit provisions, as~~
 1113 ~~subsequent additional tax revenues become available, they shall~~
 1114 ~~be used to provide extra benefits. Local law plans created by~~
 1115 ~~special act before May 27, 1939, shall be deemed to comply with~~
 1116 ~~this chapter. For the purpose of this chapter, the term:~~

1117 (a) "Additional premium tax revenues" means revenues
 1118 received by a municipality pursuant to s. 185.10 which exceed
 1119 the amount received for calendar year 1997.

1120 (b) "Extra benefits" means benefits in addition to or
 1121 greater than those provided to general employees of the
 1122 municipality and in addition to those in existence for police
 1123 officers on March 12, 1999.

1124 (3) A retirement plan or amendment to a retirement plan may
 1125 not be proposed for adoption unless the proposed plan or
 1126 amendment contains an actuarial estimate of the costs involved.
 1127 Such proposed plan or proposed plan change may not be adopted
 1128 without the approval of the municipality or, where required
 1129 ~~permitted~~, the Legislature. Copies of the proposed plan or
 1130 proposed plan change and the actuarial impact statement of the
 1131 proposed plan or proposed plan change shall be furnished to the

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2015172c1

1132 division before the last public hearing on the proposal is held
 1133 ~~thereon~~. Such statement must also indicate whether the proposed
 1134 plan or proposed plan change is in compliance with s. 14, Art. X
 1135 of the State Constitution and those provisions of part VII of
 1136 chapter 112 which are not expressly provided in this chapter.
 1137 Notwithstanding any other provision, only those local law plans
 1138 created by special act of legislation before May 27, 1939, are
 1139 deemed to meet the minimum benefits and minimum standards only
 1140 in this chapter.

1141 (4) Notwithstanding any other provision, with respect to
 1142 any supplemental plan municipality:

1143 (a) Section 185.02(6)(a) ~~185.02(4)(a)~~ does not apply, and a
 1144 local law plan and a supplemental plan may continue to use their
 1145 definition of compensation or salary in existence on March 12,
 1146 1999.

1147 (b) A local law plan and a supplemental plan must continue
 1148 to be administered by a board or boards of trustees numbered,
 1149 constituted, and selected as the board or boards were numbered,
 1150 constituted, and selected on December 1, 2000.

1151 ~~(c) The election set forth in paragraph (1)(b) is deemed to~~
 1152 ~~have been made.~~

1153 (5) The retirement plan setting forth the benefits and the
 1154 trust agreement, if any, covering the duties and
 1155 responsibilities of the trustees and the regulations of the
 1156 investment of funds must be in writing and copies made available
 1157 to the participants and to the general public.

1158 (6) In addition to the defined benefit component of the
 1159 local law plan, each plan sponsor must have a defined
 1160 contribution plan component within the local law plan by October

585-01007-15

2015172c1

1161 1, 2015, for noncollectively bargained service, upon entering
 1162 into a collective bargaining agreement on or after July 1, 2015,
 1163 or upon the creation date of a new participating plan. Depending
 1164 upon the application of subsection (1), a defined contribution
 1165 component may or may not receive any funding.

1166 (7) Notwithstanding any other provision of this chapter, a
 1167 municipality that has implemented or proposed changes to a local
 1168 law plan based on the municipality's reliance on an
 1169 interpretation of this chapter by the Department of Management
 1170 Services on or after August 14, 2012, and before March 3, 2015,
 1171 may continue the implemented changes or continue to implement
 1172 proposed changes. Such reliance must be evidenced by a written
 1173 collective bargaining proposal or agreement, or formal
 1174 correspondence between the municipality and the Department of
 1175 Management Services which describes the specific changes to the
 1176 local law plan, with the initial proposal, agreement, or
 1177 correspondence from the municipality dated before March 3, 2015.
 1178 Changes to the local law plan which are otherwise contrary to
 1179 minimum benefits and minimum standards may continue in effect
 1180 until the earlier of October 1, 2018, or the effective date of a
 1181 collective bargaining agreement that is contrary to the changes
 1182 to the local law plan.

1183 Section 13. The Legislature finds that a proper and
 1184 legitimate state purpose is served when employees and retirees
 1185 of this state and its political subdivisions, and the
 1186 dependents, survivors, and beneficiaries of such employees and
 1187 retirees, are extended the basic protections afforded by
 1188 governmental retirement systems that provide fair and adequate
 1189 benefits and that are managed, administered, and funded in an

Page 41 of 42

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

585-01007-15

2015172c1

1190 actuarially sound manner as required under s. 14, Article X of
 1191 the State Constitution and part VII of chapter 112, Florida
 1192 Statutes. Therefore, the Legislature determines and declares
 1193 that this act fulfills an important state interest.

1194 Section 14. This act shall take effect July 1, 2015.

Page 42 of 42

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



The Florida Senate

Committee Agenda Request

To: Senator Anitere Flores
Committee on Fiscal Policy

Subject: Committee Agenda Request

Date: March 4, 2015

I respectfully request that **Senate Bill #172**, relating to Local Government Pension Reform, be placed on the:

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

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

Senator Jeremy Ring
Florida Senate, District 29

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date

172
Bill Number (if applicable)

Topic Pension (Police + Fire)

Amendment Barcode (if applicable)

Name Lisa Henning

Job Title Legislative Director

Address 242 Office Plaza Dr

Phone 850-716-8708

Street

Tallahassee FL 32304

City

State

Zip

Email foplegislative@aol.com

Speaking: For Against Information

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

Representing Fraternal Order of Police

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)

3/26/2015
Meeting Date

SB 172
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Kraig Conn

Job Title _____

Address 301 S. Brmough
Street
Tall FL 32301
City State Zip

Phone 222 9684

Email keonn@flcitics.com

Speaking: For Against Information

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

Representing Florida League of Citizens

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

3/20/2015
Meeting Date

172
Bill Number (if applicable)

Topic Local Pension Reform

Amendment Barcode (if applicable)

Name Mark Pickett

Job Title Lobbyist

Address 300 East Brevard Street

Phone 850-222-3329

Street

Jellicorse

City

FL

State

32301

Zip

Email N/A

Speaking: For Against Information

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

Representing Florida Police Benevolent Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/26/15
Meeting Date

172
Bill Number (if applicable)

Topic local pension reform - funding levels

Amendment Barcode (if applicable)

Name Morgan McLeod

Job Title _____

Address 106 N Bronaugh Street

Phone 850-212-5052

Street

Tallahassee
City

FL
State

32301
Zip

Email mplegan@florida taxwatch.org

Speaking: For Against Information

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

Representing FLORIDA TAXWATCH

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)

03-26-15
Meeting Date

0172
Bill Number (if applicable)

Topic LOCAL GOVERNMENT PENSIONAL REFORM

Amendment Barcode (if applicable)

Name SOE PETTRICK

Job Title CODE ENFORCEMENT OFFICER

Address 3362 COMMODORE CT
Street

Phone 561-345-2965

WEST PALM BEACH FL 33411
City State Zip

Email SOE.PETTRICK@VIA160.COM

Speaking: For Against Information

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

Representing SELF

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/26/15

Meeting Date

SB 0172

Bill Number (if applicable)

Topic Local Government Pension Reform

Amendment Barcode (if applicable)

Name John Hayes

Job Title Control Systems Tech II

Address 5528 Cedarwood Dr.

Phone 941-356-3803

Street

Sarasota

City

FL

State

34232

Zip

Email jhayes426@verizon.net

Speaking: For Against Information

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

Representing Teamster Local 173

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/26/15

Meeting Date

SB0172

Bill Number (if applicable)

Topic Local Government Pension Reform

Amendment Barcode (if applicable)

Name Susan Blake

Job Title Information Infrastructure Coordinator

Address 3517 Blechnum Fern Lane

Phone (941) 355-6342

Street

Sarasota

FL

34235

City

State

Zip

Email blakesonboard@aol.com

Speaking: For Against Information

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

Representing Teamsters Local 173

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)

3-26-15
Meeting Date

SB0172
Bill Number (if applicable)

Topic Local Government Pension Reform

Amendment Barcode (if applicable)

Name Warren Blake

Job Title Sign Tech II

Address 3517 Blechnum Fern Ln
Street

Phone (941) 355-6342

Sarasota FL 34235
City State Zip

Email _____

Speaking: For Against Information

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

Representing Teamsters Local 173

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

3/26/15
Meeting Date

172
Bill Number (if applicable)

Topic Municipal Retirement

Amendment Barcode (if applicable)

Name Rocco Salvatori

Job Title Firefighter

Address 345 W. Madison St

Phone 941-724-5914

Street

Tallahassee

FL

32301

Email rocco.salvatori@icloud.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Professional Firefighters

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/26/2015

Meeting Date

SB 172

Bill Number (if applicable)

Topic Local Government Pension Reform

Amendment Barcode (if applicable)

Name Melissa Fause Policy Analyst

Job Title 200 W. College Ave, Ste 113

Address _____

Phone 850-408-1218

Street

Tallahassee

City

FL

State

32301

Zip

Email mfause@alphq.org

Speaking: For Against Information

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

Representing Americans for Prosperity

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/24/15

Meeting Date

172

Bill Number (if applicable)

Topic Local pension reform

Amendment Barcode (if applicable)

Name Katie Kelly

Job Title _____

Address _____
Street

Phone _____

City

State

Zip

Email _____

Speaking: For Against Information

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

Representing FIA 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.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-26-15

Meeting Date

172

Bill Number (if applicable)

Topic Governmental Oversight + Accountability

Amendment Barcode (if applicable)

Name Connie Vanassche

Job Title Lobbyist

Address P.O. Box 35

Phone 561-572-0089

Street

Canal Point

FL

33438

Email basgouser@gmail.com

City

State

Zip

Speaking: For Against Information

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

Representing City of Bartow

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)

TAXPAYERS FOR SUSTAINABLE PENSIONS

Representative Janet Adkins
313 House Office Building
402 South Monroe Street
Tallahassee, FL 32399-1300

AMERICANS FOR PROSPERITY

January 20, 2015

ASSOCIATED INDUSTRIES OF FLORIDA

FLORIDA CHAMBER FOUNDATION

Dear Representative Adkins:

FLORIDA LEAGUE OF CITIES

Across the state of Florida, cities have amassed nearly \$11 billion in unfunded pension liabilities. Florida cities will be forced to pay off these debts by assessing and collecting additional taxes and fees from residents, or cutting city services, such as parks and recreation, trash collection, public works, community maintenance, or even public safety officer positions. This pension debt is directly affecting the quality of life in Florida communities, and unless reforms are undertaken quickly, the debt will continue to climb.

FLORIDA TAXWATCH

LEROY COLLINS INSTITUTE

NATIONAL FEDERATION OF
INDEPENDENT BUSINESS

The Taxpayers for Sustainable Pensions is a coalition of individual policy groups dedicated to municipal pension reform across the state. Coalition members are committed to researching solutions to Florida's municipal pension problems and working with key stakeholders to achieve responsible reform that accounts for employee security, long-term sustainability, transparency and accountability.

R STREET INSTITUTE

REASON FOUNDATION

Sustainable, affordable, and fair pensions for municipal police officers and firefighters can be achieved with comprehensive legislative reforms, to include:

- Clearly stating pension benefit levels, employee contributions and use of insurance premium tax revenues are subject to negotiations between cities and police and fire unions during collective bargaining;
- Removing legislative mandates on police and fire pension benefit levels, such as the "extra benefits" requirement;
- Removing legislative mandates on the composition and authority of police and fire pension boards of trustees;
- Providing options and incentives for cities to consider for placing police and fire in the Florida Retirement System; and
- Reforming disability presumptions for police and fire.

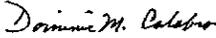
TAXPAYERS FOR SUSTAINABLE PENSIONS

We hope you will consider these reform options as you design a proposal to control costs in Florida's municipal pension plans, and ensure long-term sustainability and financial security for taxpayers and the public safety employees who dutifully serve the communities of the Sunshine State.

AMERICANS FOR PROSPERITY

Sincerely,

ASSOCIATED INDUSTRIES OF FLORIDA


Dominic M. Calabro
Florida TaxWatch

FLORIDA CHAMBER FOUNDATION

FLORIDA LEAGUE OF CITIES



FLORIDA TAXWATCH

Tony Carvajal
Florida Chamber Foundation

LEROY COLLINS INSTITUTE



NATIONAL FEDERATION OF
INDEPENDENT BUSINESS

Chris Hudson
Americans for Prosperity

R STREET INSTITUTE



REASON FOUNDATION

Tom Feeney
Associated Industries of Florida



Scott Dudley
Florida League of Cities



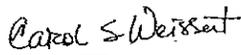
Bill Herrle
National Federation of Independent Business



Christian Camara
R Street Institute



Lance Christensen
Reason Foundation


Carol Weissert

LeRoy Collins Institute

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/CS/SB 224

INTRODUCER: Judiciary Committee; Governmental Oversight and Accountability Committee; and Senator Simpson and others

SUBJECT: Public Records/Public Agency Contracts

DATE: March 25, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kim</u>	<u>McVaney</u>	<u>GO</u>	<u>Fav/CS</u>
2.	<u>Brown</u>	<u>Cibula</u>	<u>JU</u>	<u>Fav/CS</u>
3.	<u>Pace</u>	<u>Hrdlicka</u>	<u>FP</u>	<u>Favorable</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 224 amends s. 119.0701, F.S., to revise procedures for obtaining records relating to a public agency's contract for services with a private contractor. Specifically, the bill requires:

- All public records requests regarding contracts for services must be made directly to the agency rather than to the contractor;
- Each public agency contract for services must include the contact information of the agency's public records custodian and a specific provision requiring the contractor to comply with public records laws; and
- The party requesting the public records must send written notice to the agency to be awarded costs and fees in a public records enforcement lawsuit.

The fiscal impact of the bill is indeterminate.

II. Present Situation:

Public Records and Open Meetings Requirements

The Florida Constitution provides every person the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or

employee of the state, or of persons acting on their behalf.¹ This includes the records of the legislative, executive, and judicial branches.² The Florida Constitution also requires all meetings of any collegial public body of the executive branch of state government or of any local government, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, to be open and noticed to the public.³ Florida law specifies conditions under which public access must be provided to government records and meetings. The Public Records Act⁴ guarantees every person's right to inspect and copy any state or local government public record⁵ at any reasonable time, under reasonable conditions, and under the supervision of the public records custodian.⁶ The Sunshine Law⁷ requires all meetings of any board or commission of any state or local agency or authority at which official acts are to be taken to be noticed and open to the public.⁸

Enforcing Public Records Laws and Attorney Fees

Article I, Section 24(c), Florida Constitution, authorizes the Legislature to enact laws governing the enforcement of public records requirements, including the "maintenance, control, destruction, disposal, and disposition of records made public by this section ..."

Section 119.11, F.S., provides that if a public agency fails to provide a public record, the person making the public records request may sue for enforcement. Whenever an action is filed to enforce the provisions of ch. 119, F.S., the court must set an immediate hearing, giving the case priority over other pending cases.⁹ If the court finds that the agency unlawfully refused access to a public record, the court will order the public agency to pay for the requestor's costs and attorney fees.¹⁰ A court will not consider as relevant intent by a records custodian to violate public records laws, incompetence,¹¹ or that the records custodian did not willfully refuse to provide a public record.¹²

Enforcement lawsuits are composed of two parts: the request for production of a record and the assessment of fees. The assessment of attorney fees is a legal consequence independent of the

¹ Article I, s. 24(a), FLA. CONST.

² *Id.*

³ Article I, s. 24(b), FLA. CONST.

⁴ Chapter 119, F.S.

⁵ Section 119.011(12), F.S., defines "public record" to mean "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency." Section 119.011(2), F.S., defines "agency" to mean "any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency." The Public Records Act does not apply to legislative or judicial records (*see Locke v. Hawkes*, 595 So.2d 32 (Fla. 1992)).

⁶ Section 119.07(1), F.S.

⁷ Section 286.011, F.S.

⁸ Section 286.011(1)-(2), F.S. The Sunshine Law does not apply to the Legislature; rather, open meetings requirements for the Legislature are set out in Article III, s. 4(e) of the Florida Constitution.

⁹ Section 119.11(1), F.S.

¹⁰ Section 119.12, F.S.

¹¹ *Barfield v. Town of Eatonville*, 675 So.2d 223, 225 (Fla. 5th DCA 1996).

¹² *Lilker v. Suwannee Valley Transit Authority*, 133 So.3d 654 (Fla. 1st DCA 2014).

public records request.¹³ Once an enforcement action has been filed, a public agency can be assessed attorney fees even after the agency has produced the records.¹⁴

The public policy behind awarding attorney fees is to encourage people to pursue their right to access government records after an initial denial.¹⁵ Granting attorney fees also makes it more likely that public agencies will comply with public records laws and deter improper denials of requests.¹⁶

Public Records and Private Contractors

Public agencies, including local and statewide governmental entities and municipal officers, are permitted to hire contractors to provide services or act on behalf of the public agency.¹⁷ Contractors can be individuals or business entities.¹⁸ Private contractors who act on behalf of a public agency are required by law and the terms of their contracts to comply with public records laws in the same manner as a public agency.¹⁹ These duties include keeping public records, providing the public an opportunity to inspect or copy a public record, and redacting exempt information.²⁰ A public agency is required to enforce the terms of its contract if a contractor fails to abide by public records laws.²¹

Contracts for services must include language that upon completion of the contract, the contractor will transfer all public records to the public agency at no cost. The contractor is not permitted to retain any public records that are confidential and exempt or exempt from public records disclosure. Records that are stored electronically must be transferred to the public agency in a format that is compatible with the public agency's information technology systems.

Although certain contractors are obligated to abide by Florida's public records laws, some contractors fail to do so. At times, contractors unlawfully place conditions on the release of records, refuse to provide public records, or unlawfully delay in providing records.

If a contractor fails to comply with a public records request, the requestor may sue the contractor to enforce his or her rights to have access to the records.²² If a court determines that the contractor unlawfully withheld public records, the court must order the contractor to pay for the cost of the enforcement lawsuit and the requestor's attorney fees in the same manner that a public agency would be liable.²³ Therefore, once a lawsuit is filed, a contractor may also be held

¹³ *Id.*

¹⁴ *Mazer v. Orange County*, 811 So.2d 857, 860 (Fla. 5th DCA 2002). *Barfield v. Town of Eatonville*, 675 So.2d 223, 224 (Fla. 5th DCA 1996). *Althouse v. Palm Beach County Sheriff's Office*, 92 So.3d 899, 902 (Fla. 4th DCA 2012).

¹⁵ *New York Times Co. v. PHH Mental Health Services, Inc.*, 616 So.2d 27, 29 (Fla. 1993).

¹⁶ *Id.*

¹⁷ Section 119.0701(1)(b), F.S. *News and Sun-Sentinel Co. v. Schwab, Twitty and Hanser Architectural Group, Inc.*, 596 So.2d 1029 (Fla. 1992). Op. Att'y Gen. Fla. Informal Opinion dated December 31, 2014.

¹⁸ Section 119.0701(1)(a), F.S.

¹⁹ Section 119.0701, F.S. *News and Sun-Sentinel Co. v. Schwab, Twitty and Hanser Architectural Group, Inc.*, 596 So.2d 1029 (Fla. 1992).

²⁰ Section 119.0701(2), F.S.

²¹ Section 119.0701(3), F.S.

²² *Supra note 15.*

²³ *Supra note 15.*

liable for attorney fees even after providing the requested records. The fees provision, however, “was not intended to force private entities to comply with the inspection requirements of [the Public Records Act] by threatening to award attorney’s fees against them.”²⁴

Recent Attorney General Opinion and Litigation

Attorney General Opinion (AGO)

On June 18, 2014, the Attorney General issued an opinion on whether a contractor who enters into a contract for services with an agency is automatically acting on behalf of the agency and subject to the public records law, or whether application of the public records law is determined by the nature and scope of the services provided by the contractor.²⁵ Section 119.0701(1)(a), F.S., defines a contractor as an “individual, partnership, corporation, or business entity that enters into a contract for services with a public agency and is acting on behalf of the public agency”

The AGO concludes that a court must additionally examine the nature and scope of services provided, citing in support *Parsons & Whittemore*, which held that a contract with a public agency alone is insufficient to trigger public records requirements.²⁶ In *Stanfield v. Salvation Army*, the Salvation Army contracted with the county to provide all of the county’s probation services. Here, the court held that the Salvation Army took the place of the agency in this regard, acted on behalf of the agency, and was therefore subject to the public records law.²⁷

Litigation

On December 1, 2014, a circuit court judge in Duval County denied relief to a plaintiff in a lawsuit to enforce a public records request and to assess attorney fees.²⁸ According to the court order, the plaintiff made two separate requests for public records to a nonprofit organization under contract to provide social services for the Department of Children and Families. The contract manager refused to provide a document because the contract manager believed that the document was not a public record. The court found that the manner in which the plaintiff (and his companions) made the request ensured that “they obtained exactly what they wanted, namely, an initial denial of an unreasonable and bogus request.”²⁹

The court found that the plaintiff’s method of requesting public records was an abuse of the public records laws and “nothing more than a scam.”³⁰ The Final Order stated that the plaintiff and his attorney, who had an arrangement to split his attorney fees with the plaintiff, had “a financial interest in assuring that his requests for public records [were] refused.”³¹ Generally, an attorney may not share his or her fees with someone who is not a lawyer.³² The court noted that

²⁴ *New York Times Co. v. PHH Mental Health Services, Inc.* 616 So.2d 27, 29 (Fla. 1993).

²⁵ AGO 2014-06 (June 18, 2014).

²⁶ *Parsons & Whittemore v. Metropolitan Dade County*, 429 So.2d 343, 346 (Fla. 3d DCA 1983).

²⁷ *Stanfield v. Salvation Army*, 695 So. 2d 501 (Fla. 5th DCA 1997).

²⁸ Final Order Denying Relief Under Public Records Act, *Jeffrey Marcus Gray v. Lutheran Social Services of Northeast Florida, Inc.*, No. 2014-CA-4647 (Fla. 4th Cir. Ct. 2014).

²⁹ *Id.* at 6.

³⁰ *Id.*

³¹ *Id.* at 4.

³² Florida State Bar Rule 4-5.4.

in 2014, the plaintiff had filed 18 public records lawsuits in Duval County, and the same attorney represented the plaintiff in approximately 13 of those cases.

The court further opined:

“If a private entity must pay an attorney’s fee every time an agent denies a needless request, the cost to the state to provide important services by contracting with private entities will increase; or private entities might discontinue bidding on these contracts. The chilling effect could be disastrous to the State. Further the [Public Records] Act was not designed to create a cottage industry for so-called “civil rights activists” or others who seek to abuse the Act for financial gain.”³³

The case is currently on appeal.³⁴

III. Effect of Proposed Changes:

The bill requires all public records requests relating to a contract for services to be made directly to a public agency. The agency must notify the contractor if the agency does not have the records. The contractor, in turn, must provide the records to the agency or allow inspection and copying within a reasonable time. A contractor who fails to produce the records within a reasonable time is subject to penalties under s. 119.10, F.S. For example, the contractor may be subject to a criminal charge of a first degree misdemeanor for failing to comply with a public records request within a reasonable time.

In addition, the bill requires each public agency contract for services to include the following provisions:

- The contact information of the agency’s public records custodian if the contractor has questions regarding the applicability of the public records law;
- The contractor must either provide the public agency a copy of the requested public records in the possession of the contractor, or allow records to be inspected or copied within a reasonable time;
- Public records that are exempt or confidential and exempt from public records disclosure cannot be disclosed by the contractor for the duration of the contract term and after completion of the contract if the contractor keeps the records; and
- The contractor has the option of transferring all public records to the public agency upon completion of the contract, or keeping and maintaining the records and complying with the public records law and requests.

If a person files a motion to compel the production of records, the court may assess and award reasonable costs, including attorney fees, against the public agency or contractor. To do so, the court must receive from the plaintiff written notice of the public records request, including a statement that the public agency has failed to comply with the request. At least 5 business days before filing the action, the plaintiff must send notice by certified mail to the public agency’s custodian of public records and must be provided to the contractor if the contractor is a defendant.

³³ *Supra* note 28, at 7.

³⁴ A Notice of Appeal was filed with the First District Court of Appeal in Case Number 1D14-5793 (December 19, 2014).

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require counties or municipalities to take an action requiring the significant expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, or reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

This bill substantially amends the public records law by shifting the burden to produce public records to the agency, even when records are not in the agency's possession.

The bill also makes it possible for former private contractors to become public records custodians even when the contractor is no longer acting on behalf of an agency.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The fiscal impact of the bill is indeterminate, but a fiscal impact may result from:

- The requirement that members of the public send certified letters before filing suit if they intend to recover attorney fees in a public records enforcement action; and
- The costs incurred by the former contractor if the contractor retains the public records after termination of a contract.

C. Government Sector Impact:

If the contractor keeps public records upon termination of a contract, an agency may have to rely on the former contractor to provide records upon request. An agency may be liable for attorney fees because the contractor failed to produce records in a timely manner.

VI. Technical Deficiencies:

None.

VII. Related Issues:

If a terminated contractor goes out of business, whether the contractor is required to deliver the public records to the agency is unknown.

VIII. Statutes Affected:

This bill substantially amends section 119.0701 of the Florida Statutes.

IX. Additional Information:

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

CS/CS/SB 224 by Judiciary on March 10, 2015:

The CS:

- Removes authority which appeared to place a duty on the custodian of public records to determine whether a contractor was subject to public records law.
- Clarifies that public records that are exempt or confidential and exempt from public records disclosure cannot be disclosed by the contractor for the duration of the contract term and after completion of the contract if the contractor keeps the records.
- Increases to 5 business days, the number of days required for notice to be provided by certified mail from a plaintiff in a motion to compel production action to the defendants in order to be eligible for costs and attorney fees.

CS/SB 224 by Governmental Oversight and Accountability on February 3, 2015:

The CS differs from the original bill in the following ways:

- The CS removes the definition of contractor and “acting on behalf of a public agency.”
- The CS alters statements and terms which must be placed in each contract.
- The CS shortens the notice requirement from five days to three days.
- Removes a bad faith or willful refusal element from enforcement cases.

- B. **Amendments:**

None.



643090

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/26/2015	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 109 - 111
and insert:
10 business days before filing the action, and must be provided
to the contractor if the contractor is a named party in the
action.

Section 2. A public agency has until October 1, 2015, to
amend a public agency contract for services, if needed, in order
to comply with the amendment made by this act to section
119.0701, Florida Statutes.



643090

12
13
14
15
16
17

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

And the title is amended as follows:

Between lines 19 and 20

insert:

providing for applicability;



750274

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/26/2015	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 100 - 111

and insert:

(4) CIVIL ACTION.-

(a) If a civil action is filed to compel production of public records relating to the public agency's contract for services, the court may assess and award against the contractor the reasonable costs of enforcement, including reasonable attorney fees, if the party filing the action provides written notice of the public records request, including a statement that



750274

12 the contractor has not complied with the request. The notice
13 must be sent by common carrier delivery service or by
14 registered, Global Express Guaranteed, or certified mail, with
15 postage or shipping paid by the sender and with evidence of
16 delivery, which may be in an electronic format, to the
17 contractor at least 10 business days before filing the action.

18 (b) An award of the reasonable costs of enforcement against
19 a public agency must be in accordance with s. 119.12.

20 Section 2. A public agency has until October 1, 2015, to
21 amend a public agency contract for services, if needed, in order
22 to comply with the amendment made by this act to section
23 119.0701, Florida Statutes.

24 Section 3. Section 119.0702, Florida Statutes is created to
25 read:

26 119.0702 Agency requirements for staff training and public
27 postings.—

28 (1) Each agency shall determine and provide the appropriate
29 amount of information or training on the requirements of this
30 chapter for each agency employee, taking into consideration
31 whether the employee's duties are performed in any office where
32 public records are routinely created, sent, received,
33 maintained, and requested.

34 (2) Each agency shall post the contact information for the
35 agency's custodian of public records in any office to which the
36 public has access in which public records are routinely created,
37 sent, received, maintained, and requested, and shall post the
38 contact information for the custodian of public records on the
39 agency's website if the agency has a website.

40 (3) A violation of this section does not form the basis of



750274

41 an independent cause of action and may not be used to recover
42 attorney fees under s. 119.12.

43 (4) If an agency provides information or training to agency
44 staff and publicly posts contact information in accordance with
45 the requirements of subsections (1) and (2), the agency is
46 deemed to be in compliance with this section.

47 Section 4. Section 119.12, Florida Statutes, is amended to
48 read:

49 119.12 Attorney ~~Attorney's~~ fees.—

50 (1) When ~~If~~ a civil action is filed against an agency to
51 enforce the provisions of this chapter, ~~and~~ if the court
52 determines that the agency was provided written notice of the
53 public records request to the agency's custodian of public
54 records, using contact information provided by the agency, at
55 least 2 business days before filing the action and that the
56 court determines that such agency unlawfully refused to permit a
57 public record to be inspected or copied, the court shall assess
58 and award, against the responsible agency ~~responsible~~, the
59 reasonable costs of enforcement. The complainant is not required
60 to provide written notice to the agency's custodian of public
61 records if the agency failed to post contact information for its
62 custodian of public records in accordance with s. 119.0702.

63 (2) The reasonable costs of enforcement include, but are
64 not limited to, ~~including~~ reasonable attorney ~~attorneys'~~ fees.

65
66 ===== T I T L E A M E N D M E N T =====

67 And the title is amended as follows:

68 Between lines 19 and 20

69 insert:



750274

70 providing for applicability; creating s. 119.0702,
71 F.S.; requiring each agency to provide training and
72 information on the requirements of ch. 119, F.S., to
73 agency employees; requiring each agency to publicly
74 post contact information for the custodian of public
75 records; specifying that a violation may not be used
76 as a basis for an independent cause of action or
77 recovering attorney fees; specifying that an agency is
78 in compliance if certain conditions are met; amending
79 s. 119.12, F.S.; requiring a court to determine if a
80 complainant provided certain written notice to an
81 agency's custodian of public records in order to
82 assess and award attorney fees in a civil action to
83 enforce ch. 119, F.S.; providing an exception;

By the Committees on Judiciary; and Governmental Oversight and Accountability; and Senators Simpson, Margolis, Gibson, Hays, Latvala, and Lee

590-02149-15

2015224c2

1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 119.0701, F.S.; requiring that a public agency
 4 contract for services include a statement providing
 5 the contact information of the public agency's
 6 custodian of records; prescribing the form of the
 7 statement; revising required provisions in a public
 8 agency contract for services regarding a contractor's
 9 compliance with public records laws; requiring that a
 10 public records request relating to records for a
 11 public agency's contract for services be made directly
 12 to the public agency; requiring a contractor to
 13 provide requested records to the public agency or
 14 allow inspection or copying of requested records under
 15 specified circumstances; specifying applicable
 16 penalties for a contractor who fails to provide
 17 requested records; specifying circumstances under
 18 which a court may assess and award reasonable costs of
 19 enforcement against a public agency or contractor;
 20 providing an effective date.
 21
 22 Be It Enacted by the Legislature of the State of Florida:
 23
 24 Section 1. Section 119.0701, Florida Statutes, is amended
 25 to read:
 26 119.0701 Contracts; public records.—
 27 (1) DEFINITIONS.—For purposes of this section, the term:
 28 (a) "Contractor" means an individual, partnership,
 29 corporation, or business entity that enters into a contract for

Page 1 of 4

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

590-02149-15

2015224c2

30 services with a public agency and is acting on behalf of the
 31 public agency as provided under s. 119.011(2).
 32 (b) "Public agency" means a state, county, district,
 33 authority, or municipal officer, or department, division, board,
 34 bureau, commission, or other separate unit of government created
 35 or established by law.
 36 (2) CONTRACT REQUIREMENTS.—In addition to other contract
 37 requirements provided by law, each public agency contract for
 38 services must include:
 39 (a) The following statement, in substantially the following
 40 form, identifying the contact information of the public agency's
 41 custodian of public records in at least 14-point boldfaced type:
 42
 43 IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF
 44 SECTION 119.0701, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO
 45 PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT
 46 ...(custodian of public records)... AT ...(telephone number, e-
 47 mail address, and mailing address)....
 48
 49 (b) A provision that requires the contractor to comply with
 50 public records laws, specifically to:
 51 1. (a) Keep and maintain public records that ordinarily and
 52 necessarily would be required by the public agency in order to
 53 perform the service.
 54 2. (b) Upon request from the public agency's custodian of
 55 public records, provide the public agency with a copy of the
 56 requested records or allow the access to public records to be
 57 inspected or copied within a reasonable time on the same terms
 58 and conditions that the public agency would provide the records

Page 2 of 4

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

590-02149-15

2015224c2

59 ~~and~~ at a cost that does not exceed the cost provided in this
60 chapter or as otherwise provided by law.

61 ~~3.(e)~~ Ensure that public records that are exempt or
62 confidential and exempt from public records disclosure
63 requirements are not disclosed except as authorized by law for
64 the duration of the contract term and following completion of
65 the contract if the contractor does not transfer the records to
66 the public agency.

67 ~~4.(d)~~ Upon completion of the contract, Meet all
68 ~~requirements for retaining public records and transfer, at no~~
69 ~~cost, to the public agency all public records in possession of~~
70 ~~the contractor or keep and maintain public records required by~~
71 ~~the public agency to perform the service. If the contractor~~
72 ~~transfers all public records to the public agency upon~~
73 ~~completion of the contract, the contractor shall upon~~
74 ~~termination of the contract and destroy any duplicate public~~
75 ~~records that are exempt or confidential and exempt from public~~
76 ~~records disclosure requirements. If the contractor keeps and~~
77 ~~maintains public records upon completion of the contract, the~~
78 ~~contractor shall meet all applicable requirements for retaining~~
79 ~~public records and provide requested records to a public agency~~
80 ~~pursuant to the requirements of this section. All records stored~~
81 ~~electronically must be provided to the public agency, upon~~
82 ~~request from the public agency's custodian of public records, in~~
83 ~~a format that is compatible with the information technology~~
84 ~~systems of the public agency.~~

85 (3) REQUEST FOR RECORDS; NONCOMPLIANCE.-

86 (a) A request to inspect or copy public records relating to
87 a public agency's contract for services must be made directly to

Page 3 of 4

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

590-02149-15

2015224c2

88 the public agency. If the public agency does not possess the
89 requested records, the public agency shall immediately notify
90 the contractor of the request, and the contractor must provide
91 the records to the public agency or allow the records to be
92 inspected or copied within a reasonable time.

93 (b) If a contractor does not comply with the public
94 agency's a public records request for records, the public agency
95 shall enforce the contract provisions in accordance with the
96 contract.

97 (c) A contractor who fails to provide the public records to
98 the public agency within a reasonable time may be subject to
99 penalties under s. 119.10.

100 (4) CIVIL ACTION.-If a civil action is filed to compel
101 production of public records relating to the public agency's
102 contract for services, the court may assess and award against
103 the responsible public agency or contractor the reasonable costs
104 of enforcement, including reasonable attorney fees, if the party
105 filing the action provides written notice of the public records
106 request, including a statement that the public agency has not
107 complied with the request. This notice must be sent by certified
108 mail to the public agency's custodian of public records at least
109 5 business days before filing the action, and must be provided
110 to the contractor if the contractor is a named party in the
111 action.

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

Page 4 of 4

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Community Affairs, *Chair*
Environmental Preservation and Conservation,
Vice Chair
Appropriations Subcommittee on General Government
Finance and Tax
Judiciary
Transportation

JOINT COMMITTEE:

Joint Legislative Auditing Committee

SENATOR WILTON SIMPSON
18th District

March 12, 2015

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

Chairwoman Flores,

Please place CS/SB 224 relating to public records and public agency contracts, on the next Committee on Fiscal Policy agenda.

Please contact my office with any questions. Thank you.

A handwritten signature in black ink, appearing to read "Wilton Simpson".

Wilton Simpson
Senator, 18th District

CC: Jennifer Hrdlicka, Staff Director

REPLY TO:

- 322 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5018
- Post Office Box 938, Brooksville, Florida 34605
- Post Office Box 787, New Port Richey, Florida 34656-0787 (727) 816-1120 FAX: (888) 263-4821

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/26/15

Meeting Date

224

Bill Number (if applicable)

750274

Amendment Barcode (if applicable)

Topic Public Records

Name Ryan Matthews

Job Title Assoc. Dir. Leg. Affairs

Address PO Box 1757

Street

Phone 222 9684

Tallahassee FL 32302

City

State

Zip

Email rmatthews@flitisa.com

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

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

Representing FL League of Cities

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

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

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3.26.15
Meeting Date

224
Bill Number (if applicable)

Topic Public Records

Amendment Barcode (if applicable)

Name Juliet Reilly

Job Title _____

Address 701 W RENOA COIA
Street

Phone 941 830 2422

Tallahassee FL 32301
City State Zip

Email jreilly@pacecenter.org

Speaking: For Against Information

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

Representing PACE Center for girls

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)

3-26-15

Meeting Date

224

Bill Number (if applicable)

Topic Public Records / Public Agency Contracts

Amendment Barcode (if applicable)

Name Jon Costello

Job Title

Address Street

Phone

City

State

Zip

Email

Speaking: For Against Information

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

Representing Associated Industries of FL

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)

3/26/15

Meeting Date

224

Bill Number (if applicable)

Topic Public Records / Public Agency

Contracts

Amendment Barcode (if applicable)

Name Keyna Comy

Job Title

Address Street

Phone

City

State

Zip

Email

Speaking: For Against Information

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

Representing National Waste and Recycling 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)

3/26/2015
Meeting Date

SB 224
Bill Number (if applicable)

Topic Public Records / Public Agency Contracts

Amendment Barcode (if applicable)

Name Melissa Fause

Job Title Policy Analyst

Address 200 W. College Ave, Ste. 113

Phone 850-408-1218

Tallahassee FL 32301
City State Zip

Email mfause@afp.hq.org

Speaking: For Against Information

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

Representing Americans for Prosperity

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 260

INTRODUCER: Finance and Tax Committee and Senator Bradley

SUBJECT: Value Adjustment Board Proceedings

DATE: March 25, 2015

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 260 allows taxpayers to file a single value adjustment board petition for multiple items of tangible personal property of a similar nature, requires that the clerk of the value adjustment board provide petition forms to petitioners, and deletes an obsolete statutory reference.

The Revenue Estimating Conference has not estimated the fiscal impact of the bill. Staff estimates that the bill will decrease value adjustment board filing fees by an insignificant amount.

II. Present Situation:

Value Adjustment Boards

Chapter 194, F.S., provides for administrative and judicial review of property tax assessments. Each county in Florida has a value adjustment board (VAB) composed of five members.¹ A property owner may petition the VAB to review the property appraiser's assessment of real or tangible personal property or the denial of an exemption or classification.²

¹ Section 194.015, F.S.

² See s. 194.011(3)(d), F.S.

Petition Process for VAB Hearing

A property owner initiates the VAB's review by filing a petition with the clerk³ of the VAB on an approved petition form.⁴ The property appraiser is required to make petition forms available to the public.⁵

The VAB may impose a petition filing fee of up to \$15.⁶ An owner of contiguous, undeveloped parcels of real property may consolidate all parcels into one joint petition if the property appraiser determines that the parcels are substantially similar in nature.⁷ In this case, the property owner is only subject to one filing fee, which is limited to \$5 per parcel.⁸

Property Record Cards

Property appraisers maintain records of assessment information for assessed properties. A property's record of information is referred to as the "property record card." On filing a petition to the VAB, a petitioner may elect to receive a copy of the property record card. Prior to 2013, the clerk of the VAB was required to provide a copy of the card when the petitioner made the election on the petition. Section 8 of ch. 2013-109, L.O.F., shifted this responsibility from the clerk of the VAB to the property appraiser; however, the law did not amend s. 194.011(4)(b), F.S., to conform.

III. Effect of Proposed Changes:

Section 1 amends s. 194.011, F.S., to allow a taxpayer to include multiple accounts of substantially similar tangible personal property, as determined by the property appraiser, on a single VAB petition. This section also requires the clerk of the VAB to make petition forms available to the public. Lastly, this section removes an obsolete reference to clerks of the VAB providing property record cards, which conforms s. 194.011(4)(b), F.S., to the change made by section 8 of ch. 2013-109, L.O.F.

Section 2 amends s. 194.013, F.S., to provide that VAB petitions that include multiple tangible personal property accounts are subject to a single filing fee, which is limited to \$5 per tangible personal property account.

Section 3 reenacts portions of s. 196.011, F.S., for the purpose of incorporating the amendments made to s. 194.011, F.S.

Section 4 provides an effective date of July 1, 2015.

³ The county clerk usually serves as the clerk of the value adjustment board. *See* s. 194.015, F.S.

⁴ Section 194.011(3), F.S.

⁵ Section 194.011(3)(a), F.S.

⁶ Section 194.013(1), F.S. However, a filing fee is not permitted for petitions appealing the denial of homestead exemption or tax deferral.

⁷ Section 194.011(3)(f), F.S.

⁸ Section 194.013(1), F.S.

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

While the bill reduces the authority that counties have to raise revenue, the bill appears to have an insignificant fiscal impact. As such, the bill is exempt from the provisions of Article VII, s. 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

The Revenue Estimating Conference has not estimated the impact of the bill. Staff estimates that the bill will reduce VAB filing fees by an insignificant amount.

B. Private Sector Impact:

By allowing the use of a single petition for multiple items of tangible personal property, the bill reduces the filing burdens for taxpayers who file tangible personal property petitions with VABs. The bill also will reduce VAB filing fees for taxpayers

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 194.011 and 194.013.

This bill reenacts section 196.011 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 Finance and Tax on March 16, 2015:

The CS provides that VAB petitions that include multiple tangible personal property accounts are subject to a single filing fee, which is limited to \$5 per account.

- B. **Amendments:**

None.

By the Committee on Finance and Tax; and Senator Bradley

593-02341-15

2015260c1

A bill to be entitled

An act relating to value adjustment board proceedings; amending s. 194.011, F.S.; requiring the clerk of the value adjustment board to have available and distribute specified forms; authorizing the owner of multiple tangible personal property accounts to file a single joint petition with the value adjustment board under certain circumstances; requiring the property appraiser to include the property record card in an evidence list for a value adjustment board hearing under certain circumstances; amending s. 194.013, F.S.; providing that only a single filing fee may be charged for specified petitions to the value adjustment board with respect to real property or tangible personal property accounts; reenacting s. 196.011(6)(a) and (8), F.S., relating to applications for certain tax exemptions, to incorporate the amendment made to s. 194.011, F.S., in references thereto; providing an effective date.

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

Section 1. Paragraph (a) of subsection (3) of section 194.011, Florida Statutes, is amended, present paragraph (g) of that subsection is redesignated as paragraph (h), a new paragraph (g) is added to that subsection, and paragraph (b) of subsection (4) of that section is amended, to read:

194.011 Assessment notice; objections to assessments.—
(3) A petition to the value adjustment board must be in

Page 1 of 5

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

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substantially the form prescribed by the department.

Notwithstanding s. 195.022, a county officer may not refuse to accept a form provided by the department for this purpose if the taxpayer chooses to use it. A petition to the value adjustment board shall describe the property by parcel number and shall be filed as follows:

(a) The clerk of the value adjustment board and the property appraiser shall have available and shall distribute forms prescribed by the Department of Revenue on which the petition shall be made. Such petition shall be sworn to by the petitioner.

(g) An owner of multiple tangible personal property accounts may file with the value adjustment board a single joint petition if the property appraiser determines that the tangible personal property accounts are substantially similar in nature.

(4)

(b) No later than 7 days before the hearing, if the petitioner has provided the information required under paragraph (a), and if requested in writing by the petitioner, the property appraiser shall provide to the petitioner a list of evidence to be presented at the hearing, together with copies of all documentation to be considered by the value adjustment board and a summary of evidence to be presented by witnesses. The evidence list must contain the property appraiser's property record card ~~if provided by the clerk~~. Failure of the property appraiser to timely comply with the requirements of this paragraph shall result in a rescheduling of the hearing.

Section 2. Subsection (1) of section 194.013, Florida Statutes, is amended to read:

Page 2 of 5

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59 194.013 Filing fees for petitions; disposition; waiver.—
 60 (1) If ~~se~~ required by resolution of the value adjustment
 61 board, a petition filed pursuant to s. 194.011 shall be
 62 accompanied by a filing fee to be paid to the clerk of the value
 63 adjustment board in an amount determined by the board not to
 64 exceed \$15 for each separate parcel of property, real or
 65 personal, covered by the petition and subject to appeal.
 66 However, ~~se~~ such filing fee may not be required with respect to
 67 an appeal from the disapproval of homestead exemption under s.
 68 196.151 or from the denial of tax deferral under s. 197.2425.
 69 Only a single filing fee shall be charged under this section as
 70 to any particular parcel of real property or tangible personal
 71 property account despite the existence of multiple issues and
 72 hearings pertaining to such parcel. For joint petitions filed
 73 pursuant to s. 194.011(3)(e), ~~or~~ (f), or (g), a single filing
 74 fee shall be charged. Such fee shall be calculated as the cost
 75 of the special magistrate for the time involved in hearing the
 76 joint petition and shall not exceed \$5 per parcel of real
 77 property or tangible property account. ~~Such said~~ fee is to be
 78 proportionately paid by affected parcel owners.

79 Section 3. For the purpose of incorporating the amendment
 80 made by this act to section 194.011, Florida Statutes, in
 81 references thereto, paragraph (a) of subsection (6) and
 82 subsection (8) of section 196.011, Florida Statutes, are
 83 reenacted to read:

84 196.011 Annual application required for exemption.—
 85 (6) (a) Once an original application for tax exemption has
 86 been granted, in each succeeding year on or before February 1,
 87 the property appraiser shall mail a renewal application to the

Page 3 of 5

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

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88 applicant, and the property appraiser shall accept from each
 89 such applicant a renewal application on a form prescribed by the
 90 Department of Revenue. Such renewal application shall be
 91 accepted as evidence of exemption by the property appraiser
 92 unless he or she denies the application. Upon denial, the
 93 property appraiser shall serve, on or before July 1 of each
 94 year, a notice setting forth the grounds for denial on the
 95 applicant by first-class mail. Any applicant objecting to such
 96 denial may file a petition as provided for in s. 194.011(3).
 97 (8) Any applicant who is qualified to receive any exemption
 98 under subsection (1) and who fails to file an application by
 99 March 1, must file an application for the exemption with the
 100 property appraiser on or before the 25th day following the
 101 mailing by the property appraiser of the notices required under
 102 s. 194.011(1). Upon receipt of sufficient evidence, as
 103 determined by the property appraiser, demonstrating the
 104 applicant was unable to apply for the exemption in a timely
 105 manner or otherwise demonstrating extenuating circumstances
 106 judged by the property appraiser to warrant granting the
 107 exemption, the property appraiser may grant the exemption. If
 108 the applicant fails to produce sufficient evidence demonstrating
 109 the applicant was unable to apply for the exemption in a timely
 110 manner or otherwise demonstrating extenuating circumstances as
 111 judged by the property appraiser, the applicant may file,
 112 pursuant to s. 194.011(3), a petition with the value adjustment
 113 board requesting that the exemption be granted. Such petition
 114 must be filed during the taxable year on or before the 25th day
 115 following the mailing of the notice by the property appraiser as
 116 provided in s. 194.011(1). Notwithstanding the provisions of s.

Page 4 of 5

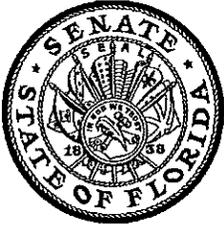
CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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2015260c1

117 194.013, such person must pay a nonrefundable fee of \$15 upon
118 filing the petition. Upon reviewing the petition, if the person
119 is qualified to receive the exemption and demonstrates
120 particular extenuating circumstances judged by the value
121 adjustment board to warrant granting the exemption, the value
122 adjustment board may grant the exemption for the current year.

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



The Florida Senate

Committee Agenda Request

To: Senator Anitere Flores, Chair
Committee on Fiscal Policy

Subject: Committee Agenda Request

Date: March 19, 2015

I respectfully request that **Senate Bill # 260**, relating to Value Adjustment Board Proceedings, be placed on the:

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

A handwritten signature in black ink, appearing to read "Rob Bradley".

Senator Rob Bradley
Florida Senate, District 7

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/26/15
Meeting Date

260
Bill Number (if applicable)

Topic Value Adjustment Boards

Amendment Barcode (if applicable)

Name David Johnson

Job Title Property Appraiser Seminole County

Address 1101 E 15th St.

Phone 407/665-7500

Street

Sanford
City

FL
State

32711
Zip

Email david@sepafl.org

Speaking: For Against Information

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

Representing FL. Assoc. of Property Appraisers

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 590

INTRODUCER: Senators Altman and Bradley

SUBJECT: Flags

DATE: March 25, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stearns	Yeatman	CA	Favorable
2.	Peacock	McVaney	GO	Favorable
3.	Goedert	Hrdlicka	FP	Favorable

I. Summary:

SB 590 requires all United States and state flags purchased on or after January 1, 2016, by the state, a county, or a municipality for public use, to be made in the United States and entirely from domestically grown, produced, and manufactured materials.

II. Present Situation:

Display of United States and State Flags

Florida law requires that the United States and state flags be displayed at certain venues. The United States flag must be displayed at the state capitol and at each county courthouse,¹ at every public auditorium,² at each polling station on election days,³ and on the grounds and in the classrooms of public K-20 educational institutions.⁴ The Governor has the authority to adopt protocol on the display of the state flag.⁵

Procurement of Commodities and Services

Purchases made by the executive branch are regulated by the provisions of ch. 287, F.S., which provides that the Department of Management Services (DMS) is responsible for the procurement of goods and services for all state agencies.⁶ The DMS establishes statewide purchasing rules to

¹ Section 256.01, F.S.

² Section 256.11, F.S.

³ Section 256.011(1), F.S.

⁴ Sections 1000.06, and 256.032, F.S. (requiring the state flag to be displayed on the grounds of every elementary and secondary public school).

⁵ Section 256.015, F.S.

⁶ Section 287.042(1)(a), F.S.; *see* s. 287.012(1), F.S., defining agency as “any of the various state officers, departments, boards, commissions, divisions, bureaus, and councils and any other unit of organization, however designated, of the

coordinate purchases across the various agencies and negotiates contracts and purchasing agreements, utilizing the state's buying power to promote efficiency and savings in the procurement process.⁷

Agencies may utilize a variety of procurement methods depending on the value of the needed goods or services. Formal competitive bidding is required for all contracts in excess of \$35,000.⁸ For contracts between \$2,500 and \$35,000, agencies should receive informal bids when practical, but may conform to "good purchasing practices," such as written quotations or written records of telephone quotations.⁹ For contracts less than \$2,500, agencies are only required to conform to "good purchasing practices."¹⁰

Chapter 287, F.S., does not apply to the procurement processes of the legislative and judicial branches, counties, municipalities, or school districts.¹¹ The Office of Legislative Services is responsible for the procurement of goods for the Legislature. Procurement for the judicial branch falls under the control of the Office of the State Courts Administrator.¹² Local governments procure commodities and services pursuant to local procurement ordinances.

Florida Flag Procurement

Currently, there is no specific state law on flag procurement; however, most flags purchased by the DMS are manufactured in the United States from domestically-sourced materials. Of the 772 flags purchased by agencies via MyFloridaMarketplace¹³ in Fiscal Year 2012-2013, 682 were produced by RESPECT of Florida.¹⁴ RESPECT of Florida is a non-profit organization designated by the DMS¹⁵ to administer the State Use Program, designed to provide employment opportunities for handicapped individuals.¹⁶ All United States and state flags sold by RESPECT of Florida are made in Florida using goods and materials made in America.¹⁷

executive branch of state government. 'Agency' does not include the university and college boards of trustees or the state universities and colleges."

⁷ Sections 287.042 and 287.032, F.S.

⁸ Section 287.057(1), F.S.

⁹ Rule 60A-1.002(3), F.A.C.

¹⁰ Rule 60A-1.002(2), F.A.C.

¹¹ See s. 287.012(1), F.S. (definition of "agency" only includes units of organization under the executive branch); *Cf.* s. 287.055(2)(b), F.S. (including "a municipality, a political subdivision, a school district, or a school board" in the definition of "agency" for the purposes of procuring architectural, engineering, and surveying services in regards to acquisition of professional architectural, engineering, landscape architectural or surveying and mapping services).

¹² See Fla. R. Jud. Admin. 2.205(e)(2).

¹³ The online procurement system operated by the DMS through which agencies may make certain types of purchases, available at http://www.dms.myflorida.com/business_operations/state_purchasing/myfloridamarketplace (last visited March 12, 2015).

¹⁴ DMS, 2014 Legislative Bill Analysis HB 201, March 6, 2014.

¹⁵ See Rule 60E-1.003, F.A.C. (authorizing the DMS to designate a "Central, Non-Profit Agency" to provide services specified in ss. 413.032-413.037, F.S.).

¹⁶ *Id.* See also RESPECT of Florida website at <http://www.respectofflorida.org/category/295/About-Us.html> (last visited March 13, 2015).

¹⁷ RESPECT of Florida February 2014 Newsletter, available at http://www.respectofflorida.org/assets/pdf/Shopping-Respect/9_ShoppingRESPECT_Feb14.pdf (last visited March 12, 2015).

The Department of State is authorized to provide state flags to schools, governmental agencies, and other organizations at no cost, up to an annual cost for the department of \$15,000 per year.¹⁸

While it is possible that some of the flags purchased by state and local governments are foreign-made, the quantity is likely to be small. The Flag Manufacturers Association of America estimates that 95 percent of United States flags are manufactured entirely in the United States.¹⁹ According to the U.S. Census Bureau, \$302.7 million worth of “shipments of fabricated flags, banners, and similar emblems” were produced in the United States in 2007,²⁰ while \$4 million worth of flags were imported in 2013.²¹

Procurement of Commodities and Services by the Federal Government and Other States

The Buy American Act requires that goods acquired by the federal government for public use must be domestically manufactured if a contract amount exceeds a specific threshold.²² These requirements can be waived by the President of the United States under the Trade Agreements Act of 1979 for the purpose of entering into trade agreements with other countries.²³ According to the Congressional Research Service, waivers under the Trade Agreements Act of 1979 are heavily used, resulting in little remaining scope for the Buy American Act provisions.²⁴

Other provisions of federal law require the purchase of domestically produced goods, including flags. The Berry Amendment requires that certain items purchased by the Department of Defense be exclusively grown, reprocessed, reused, or produced within the United States.²⁵ Federal law prohibits the Department of Veterans Affairs from procuring burial flags that were not wholly produced in the United States.²⁶

Several states have existing statutes requiring the use of domestically manufactured flags. Oklahoma requires all flags purchased by the state and political subdivisions to be manufactured in the United States.²⁷ Massachusetts has a similar law that applies to all public institutions and agencies.²⁸ Arizona requires a domestically-manufactured United States flag to be displayed in all public school classrooms.²⁹ Tennessee requires any United States or state flag purchased

¹⁸ Section 256.031(1)(a), F.S.

¹⁹ Flag Manufacturers Association of America, FAQ’s, available at <http://fmaa-usa.com/info/FAQ.php> (last visited March 13, 2015).

²⁰ U.S. Census Bureau News, Profile America Facts for Features, The Fourth of July 2013, available at <http://www.census.gov/newsroom/facts-for-features/2013/cb13-ff14.html> (last visited March 13, 2015).

²¹ U.S. Census Bureau News, Profile America Facts for Features, The Fourth of July 2014, available at <http://www.census.gov/newsroom/facts-for-features/2014/cb14-ff16.html> (last visited March 13, 2015).

²² 41 U.S.C. s. 8302.

²³ 19 U.S.C. s. 2511.

²⁴ Domestic Content Restrictions: The Buy American Act and Complementary Provisions of Federal Law, Congressional Research Service, p. 7, January 6, 2014, available at <http://www.hsdl.org/?view&did=749327> (last visited March 13, 2015).

²⁵ 10 U.S.C. s. 2533a.

²⁶ 38 U.S.C. s. 2301(h)(1).

²⁷ OKLA. STAT. tit. 25, s. 158.

²⁸ MASS. GEN. LAWS ch. 2, s. 6.

²⁹ ARIZ. REV. STAT. ANN. s. 15-1626(A)(17).

under a state contract to be manufactured in the United States.³⁰ Minnesota prohibits the sale of a United States flag manufactured outside the United States.³¹

III. Effect of Proposed Changes:

Section 1 provides that the act may be cited as the “All-American Flag Act.”

Section 2 requires any United States or state flag purchased for public use by the state, a county, or a municipality, on or after January 1, 2016, to be wholly manufactured in the United States from materials grown and/or produced domestically.

Section 3 provides an effective date of July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill requires a county or municipality, when purchasing United States or state flags, to purchase flags made in the United States from domestically grown, produced, and manufactured materials. This bill applies to all persons similarly situated, including the state and local governments, and it is likely to have an insignificant fiscal impact on counties and municipalities.³²

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Impairment of Contract

Both the U.S.³³ and Florida³⁴ constitutions prohibit the state from passing laws impairing existing contractual rights. Contractual rights are impaired to the extent the law changes the substantive rights of the parties in the existing contract.³⁵ Whether an impairment of contractual rights is constitutionally valid depends on “whether the nature and extent of the impairment is constitutionally tolerable in light of the importance of the state’s objective, or whether it unreasonably intrudes into the parties’ bargain to a degree greater than is necessary to achieve that objective.”³⁶ The ability of the state to modify

³⁰ TENN. CODE ANN. s. 4-1-301(d).

³¹ MINN. STAT. s. 325E.65.

³² FLA. CONST. art. VII, s. 18.

³³ U.S. CONST. art. I, s. 10. (“No State shall . . . pass any . . . Law impairing the Obligation of Contracts.”)

³⁴ FLA. CONST. art. I, s. 10. (“No . . . law impairing the obligation of contracts shall be passed.”)

³⁵ *Manning v. Travelers Ins. Co.*, 250 So. 2d 872, 874 (Fla. 1971).

³⁶ *Pomponio v. Claridge of Pompano Condominium, Inc.*, 378 So. 2d 774, 780 (Fla. 1979).

contractual obligations is most limited when a final agreement has been reached between a party and the state.³⁷

While the bill only applies to purchases of flags by state or local governments after January 1, 2016, it is possible the state or a local government may have existing contracts that extend beyond that date and therefore will not be in compliance with the bill.

Federal Treaties

State law may be preempted directly or by implication if the state law conflicts with a federal law or the federal government has fully occupied the field it has chosen to regulate.³⁸ The U.S. has entered into various free trade agreements that address government procurement policies and, in some cases, require that governments treat goods from other contracting parties similarly to nationally produced goods for the purpose of government procurement.³⁹ A court may find that the bill is preempted under the U.S. Constitution if the bill requires procurement practices that violate these trade agreements.

Commerce Clause

The U.S. Constitution grants Congress the exclusive power to regulate commerce between the states,⁴⁰ which limits the power of states to enact laws that impose burdens on commerce. A state law that facially discriminates against interstate commerce is invalid unless the state can prove that the statute serves a legitimate state purpose that cannot be served by nondiscriminatory means.⁴¹ State statutes that burden interstate transactions only incidentally do not violate the Commerce Clause unless the burdens are “clearly excessive in relation to the putative local benefits.”⁴²

Further, when a state is acting as a “market participant” rather than a “market regulator,” it is not subject to the limitations of the Commerce Clause. A state is considered to be a “market participant” when it is acting as an economic actor, such as a purchaser of goods and services.⁴³ While the U.S. Eleventh Circuit Court of Appeals has not yet opined on the application of the market participant exception to regulation of foreign commerce, the U.S. First Circuit Court of Appeals recently held that “a state may discriminate against foreign commerce when it participates in the free market.”⁴⁴

³⁷ *Chiles v. United Faculty of Fla.*, 615 So. 2d 671, 672 (Fla. 1993).

³⁸ U.S. CONST. art. VI. *State v. Harden*, 938 So.2d 480, 486 (Fla. 2006) (stating that “[u]nder the Supremacy Clause, a federal law may expressly or impliedly preempt state law. A state cannot assert jurisdiction where Congress clearly intended to preempt a field of law.”).

³⁹ For example the Agreement on Government Procurement addresses access to government procurement markets. See World Trade Organization, Agreement on Government Procurement, Art. I, Art. XXII, and Annex 2 – United States, available at https://www.wto.org/english/tratop_e/gproc_e/gp_gpa_e.htm (last visited March 20, 2015).

⁴⁰ U.S. CONST. art. I, s. 8. *Gibbons v. Ogden*, 22 U.S. 1 (1822).

⁴¹ *South-Central Timber Development, Inc. v. Wunnicke*, 467 U.S. 82 (1984).

⁴² *Maine v. Taylor*, 477 U.S. 131, 138 (1986) (citations omitted).

⁴³ *White v. Mass. Council of Constr. Employers, Inc.*, 460 U.S. 204, 208 (1983).

⁴⁴ *Antilles Cement Corp. v. Futuno*, 670 F.3d 310, 328 (1st Cir. 2010).

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

None.

B. Private Sector Impact:

The bill could have a positive economic impact on businesses selling United States and state flags that are domestically-produced and sourced. The bill could have a negative impact on businesses selling United States and state flags that are either imported or produced domestically from foreign materials.

C. Government Sector Impact:

This bill may have an indeterminate negative fiscal impact on state and local governments, depending on the extent to which state and local governments are currently purchasing flags produced outside of the United States or made from foreign materials and the cost difference between those flags and domestically-produced and sourced flags.

VI. Technical Deficiencies:

The bill does not contain a method of verification to ensure the flags purchased by state and local governments are manufactured in the United States from domestic materials.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 256.041 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 Altman

16-00863-15

2015590__

1 A bill to be entitled

2 An act relating to flags; providing a short title;
3 creating s. 256.041, F.S.; requiring a United States
4 flag or a state flag that is purchased on or after a
5 specified date by the state, a county, or a
6 municipality for public use to be made in the United
7 States; providing an effective date.
8

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

10
11 Section 1. This act may be cited as the "All-American Flag
12 Act."

13 Section 2. Section 256.041, Florida Statutes, is created to
14 read:

15 256.041 Purchase of United States flag or state flag for
16 public use.—When the state, a county, or a municipality
17 purchases a United States flag or a state flag for public use,
18 the flag must be made in the United States from articles,
19 materials, or supplies, all of which are grown, produced, and
20 manufactured in the United States. This section applies to the
21 purchase of a flag on or after January 1, 2016.

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



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

March 10, 2015

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

Dear Madame Chair Flores:

I respectfully request that SB 0590, related to *Flags*, be placed on the committee agenda at your earliest convenience.

Thank you for your consideration, and please do not hesitate to contact me should you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Thad Altman".

Thad Altman

CC: Jennifer Hrdlicka, Staff Director, 225 Knott Building
Tamra Lyon, Committee Administrative Assistant

TA/svb

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

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-26-2015
Meeting Date

590
Bill Number (if applicable)

Topic Flag act

Amendment Barcode (if applicable)

Name Charles Withers

Job Title Student

Address 2351 Amelia Circle
Street

Phone 921-795-5521

Tallahassee FL 32304
City State Zip

Email _____

Speaking: For Against Information

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

Representing N/A

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)

3/26/15

Meeting Date

590

Bill Number (if applicable)

Topic Flags bill

Amendment Barcode (if applicable)

Name Grey Dodge

Job Title Student - FSU Law

Address 956 Marys Dr.

Phone 321-759-8058

Street

Tallahassee

City

FL

State

32308

Zip

Email: greydodge@gmail.com

Speaking: For Against Information

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

Representing _____

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)

3/26

Meeting Date

590

Bill Number (if applicable)

Topic All American Flag Act

Amendment Barcode (if applicable)

Name Ms. Isabella Sosin

Job Title

Address 3675 Mary Lou Lane

Phone

Street

City Melbourne State FL Zip 32939

Email

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

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

Representing Dad

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

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

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-26-2015

Meeting Date

590

Bill Number (if applicable)

Topic Flag act

Amendment Barcode (if applicable)

Name Mathew Susin ~~AND [unclear]~~

Job Title Teacher

Address 7205 Whitney ave ~~7205~~
Street

Phone _____

Cocoa FL
City State Zip

Email _____

Speaking: For Against Information

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

Representing N/A

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Military and Veterans Affairs, Space, and Domestic Security, *Chair*
Children, Families, and Elder Affairs, *Vice-Chair*
Appropriations
Appropriations Subcommittee on General Government
Environmental Preservation and Conservation
Finance and Tax

SENATOR THAD ALTMAN

16th District

March 26, 2015

The Honorable Anitere Flores
Senate Committee on Fiscal Policy, Chair
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399

Dear Madam Chair Flores,

Senate Bill 590, related to *Flags* is on the Fiscal Policy Committee agenda today, March 26, 2015. Since I will be vice chairing the Committee on Children Families and Elder Affairs, I will be unable to attend.

Please recognize my Legislative Assistant Ms. Devon West to present SB 590 on my behalf. Please feel free to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Thad Altman".

Thad Altman

CC: Jennifer Hrdlicka, Staff Director, 201 The Capitol
Tamra Lyon, Committee Administrative Assistant

TA/dmw

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.flisenate.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.)

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

BILL: SB 694

INTRODUCER: Senator Ring

SUBJECT: Florida State Employees' Charitable Campaign

DATE: March 25, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McVaney</u>	<u>McVaney</u>	<u>GO</u>	Favorable
2.	<u>Davis</u>	<u>DeLoach</u>	<u>AGG</u>	Favorable
3.	<u>Pace</u>	<u>Hrdlicka</u>	<u>FP</u>	Favorable

I. Summary:

SB 694 allows state officers and employees to donate to the Florida State Employees' Charitable Campaign (FSECC) at agency fundraising events without designating specific organizations to receive the funds. The bill provides that the FSECC's fiscal agent must distribute these "undesignated" funds to participating charitable organizations in direct proportion to the percentage of designated funds or pledges received by the organization.

The bill removes additional eligibility requirements for independent unaffiliated agencies, international service agencies, and national agencies wanting to participate in the FSECC. In addition, the bill removes the statutory requirement to establish a local steering committee in each fiscal agent area.

The bill has no fiscal impact.

II. Present Situation:

The FSECC, maintained by the Department of Management Services (DMS), is the annual charitable drive funded by state employees.¹ State officers and employees may voluntarily donate money to nonprofit charitable organizations participating in the FSECC.²

The FSECC Prior to 2012

Prior to 2012, state law did not require state officers and employees who contributed to the FSECC to designate a specific participating charitable organization to receive the donation. The method of distributing undesignated funds to participating charities required a separate application process. Local steering committees were established to direct the allocation of

¹ Section 110.181(1)(a), F.S.

² Section 110.181(1)(b), F.S.

“undesigned” funds to a specific charitable organization. According to the DMS, this method for distributing undesigned funds was administratively complex and inefficient.³

The FSECC Presently

Section 110.181, F.S., was amended in 2012 to eliminate the ability of state officers and employees to contribute funds without designating a specific organization as the recipient. As of July 1, 2012, state officers and employees are required to designate a specific participating charitable organization to receive such contributions.⁴ No funds can be contributed unless the recipient organization has been designated. As a result, the process to distribute “undesigned” funds is no longer necessary.⁵

Requiring state officers and employees to designate a specific charitable organization as the recipient was expected to reduce litigation and state staff time involved in the process used to allocate “undesigned” funds.⁶ However, the DMS now believes that many of the efficiencies gained by this “designation” requirement have been replaced by the need to develop new processes to collect designated funds at agency FSECC fundraising events. At FSECC fundraising events, employees must designate a specific charitable organization as the recipient by filling out a separate form and contribute a minimum donation of \$5 in order to offset the administrative costs of processing the donation.⁷ Since many agency FSECC fundraising events are intended to accommodate the collection of small, one-time contributions, the DMS has determined it is not cost effective to individually track and process these designations.⁸

The DMS is authorized to allow participation in the FSECC by various local, state, national, and international charitable organizations. By administrative rule, each charitable organization must submit an application demonstrating that it meets statutory requirements.⁹ However, the law creates differing eligibility criteria depending upon the type of organizations (e.g. independent unaffiliated agency¹⁰, international service agency¹¹ and national agency¹²). According to the DMS, these additional eligibility requirements increase the complexity involved in reviewing applications submitted by potential participating charities, resulting in increased costs associated with administering the FSECC.¹³

Current law also requires the creation of local steering committees composed of state employees in each fiscal agent area to assist in conducting the campaign.¹⁴ While the original role of the local steering committee was to determine how “undesigned” funds raised for the FSECC were

³ Department of Management Services, *Senate Bill 694 Agency Analysis* (Feb. 10, 2015) (on file with the Senate Committee on Governmental Oversight and Accountability).

⁴ Section 110.181(1)(b), F.S.

⁵ *See* ch. 2012-215, s. 9, L.O.F.

⁶ Florida House of Representatives, *CS/CS/CS/CS/HB 1261 Final Bill Analysis* (May 11, 2012).

⁷ Rule 60L-39.009, F.A.C.

⁸ DMS Analysis, *supra* note 3.

⁹ Rule 60L-39.005, F.A.C.

¹⁰ Section 110.181(1)(d), F.S.

¹¹ Section 110.181(1)(e), F.S.

¹² Section 110.181(1)(f), F.S.

¹³ DMS Analysis, *supra* note 3.

¹⁴ Section 110.181(2)(d), F.S.

distributed, the current statutory role is limited to assisting the fiscal agent in conducting the campaign.¹⁵

III. Effect of Proposed Changes:

This bill allows state officers and employees to contribute undesignated funds to the FSECC at agency fundraising events. The bill amends s. 110.181(2)(d), F.S., to specify that undesignated funds are to be distributed among the charitable organizations in direct proportion to the percentage of the designated funds pledged to those organizations. For example, if a charitable organization receives 20 percent of the designated funds to the FSECC, that charity will receive 20 percent of the undesignated funds.

The bill also repeals the additional eligibility requirements for independent unaffiliated agencies, international service agencies, and national agencies.

This bill repeals the requirement that a local steering committee be created to assist the fiscal agent in conducting the FSECC.

The effective date of the bill is July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The repeal of additional eligibility requirements for independent unaffiliated agencies, international service agencies, and national agencies may increase participation among previously ineligible non-profit charitable organizations.

¹⁵ DMS Analysis, *supra* note 3.

C. Government Sector Impact:

Under the bill, the DMS may incur lower administrative costs associated with the FSECC.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 110.181 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By Senator Ring

29-00940-15

2015694__

1 A bill to be entitled
 2 An act relating to the Florida State Employees'
 3 Charitable Campaign; amending s. 110.181, F.S.;
 4 providing an exception to the requirement that state
 5 officers and employees designate a charitable
 6 organization to receive their contributions from the
 7 Florida State Employees' Charitable Campaign; deleting
 8 requirements for independent unaffiliated agencies,
 9 international service agencies, and national agencies;
 10 requiring the fiscal agent selected by the Department
 11 of Management Services to distribute undesignated
 12 funds in a specified manner; deleting the requirement
 13 that a local steering committee be established in each
 14 fiscal agent area; providing an effective date.
 15
 16 Be It Enacted by the Legislature of the State of Florida:
 17
 18 Section 1. Subsections (1) and (2) of section 110.181,
 19 Florida Statutes, are amended to read:
 20 110.181 Florida State Employees' Charitable Campaign.—
 21 (1) CREATION AND ORGANIZATION OF CAMPAIGN.—
 22 (a) The Department of Management Services shall establish
 23 and maintain, in coordination with the payroll system of the
 24 Department of Financial Services, an annual Florida State
 25 Employees' Charitable Campaign. Except as provided in subsection
 26 (5), this annual fundraising drive is the only authorized
 27 charitable fundraising drive directed toward state employees
 28 within work areas during work hours, and for which the state
 29 will provide payroll deduction.

Page 1 of 4

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

29-00940-15

2015694__

30 (b) State officers' and employees' contributions toward the
 31 Florida State Employees' Charitable Campaign must be entirely
 32 voluntary. State officers and employees ~~shall~~ must designate a
 33 charitable organization to receive ~~their such~~ contributions
 34 unless such contributions are collected as part of a campaign
 35 event.
 36 (c) Participation in the annual Florida State Employees'
 37 Charitable Campaign ~~is~~ must be limited to any nonprofit
 38 charitable organization ~~that~~ which has as its principal mission:
 39 1. Public health and welfare;
 40 2. Education;
 41 3. Environmental restoration and conservation;
 42 4. Civil and human rights; or
 43 5. ~~Any nonprofit charitable organization engaged in~~ The
 44 relief of human suffering and poverty.
 45 ~~(d) An independent unaffiliated agency must be a statewide~~
 46 ~~entity whose programs provide substantial, direct, hands-on~~
 47 ~~services that meet basic human or environmental needs and extend~~
 48 ~~throughout the year and throughout the state.~~
 49 ~~(e) An international service agency must have well-defined~~
 50 ~~programs that meet basic human or environmental needs outside~~
 51 ~~the United States with no duplication of existing programs.~~
 52 ~~(f) A national agency must demonstrate, through a well-~~
 53 ~~defined program, direct services meeting basic human or~~
 54 ~~environmental needs which are readily available, being~~
 55 ~~administered, or providing a substantial direct benefit to the~~
 56 ~~residents of this state.~~
 57 (d)(g) The financial records of a Any nonprofit charitable
 58 organization participating in the Florida State Employees'

Page 2 of 4

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

29-00940-15

2015694__

59 Charitable Campaign must ~~be have its financial records~~ audited
60 annually by an independent public accountant whose examination
61 conforms to generally accepted accounting principles.

62 ~~(e)(h)~~ Organizations ineligible to participate in the
63 Florida State Employees' Charitable Campaign include, but are
64 not limited to, the following:

65 1. Organizations whose fundraising and administrative
66 expenses exceed 25 percent, unless extraordinary circumstances
67 can be demonstrated.

68 2. Organizations whose activities contain an element that
69 is more than incidentally political in nature or whose
70 activities are primarily political, religious, professional, or
71 fraternal in nature.

72 3. Organizations ~~that which~~ discriminate against any
73 individual or group on account of race, color, religion, sex,
74 national origin, age, handicap, or political affiliation.

75 4. Organizations not properly registered as a charitable
76 organization as required by the Solicitation of Contributions
77 Act, ss. 496.401-496.424.

78 5. Organizations ~~that which~~ have not received tax-exempt
79 status under s. 501(c)(3) ~~of the~~, Internal Revenue Code.

80 (2) SELECTION OF FISCAL AGENTS; COST.—

81 (a) The Department of Management Services shall select
82 through the competitive procurement process a fiscal agent or
83 agents to receive, account for, and distribute charitable
84 contributions among participating charitable organizations.

85 (b) The fiscal agent shall withhold the reasonable costs
86 for conducting the campaign and for accounting and distribution
87 to the participating organizations and shall reimburse the

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2015694__

88 department the actual cost for coordinating the campaign in
89 accordance with the rules of the department. In any fiscal year
90 ~~that in which~~ the Legislature specifically appropriates to the
91 department its total costs for coordinating the campaign from
92 the General Revenue Fund, the fiscal agent is not required to
93 reimburse such costs to the department under this subsection.
94 Otherwise, reimbursement will be the difference between actual
95 costs and the amount appropriated.

96 (c) The fiscal agent shall furnish the department and
97 participating charitable organizations a report of the
98 accounting and distribution activities. Records relating to
99 these activities must ~~shall~~ be open for inspection upon
100 reasonable notice and request.

101 (d) The fiscal agent shall distribute undesignated funds to
102 each participating organization in direct proportion to the
103 percentage of designated funds pledged to the organization ~~A~~
104 ~~local steering committee shall be established in each fiscal~~
105 ~~agent area to assist in conducting the campaign. The committee~~
106 ~~shall be composed of state employees selected by the fiscal~~
107 ~~agent from among recommendations provided by interested~~
108 ~~participating organizations, if any, and approved by the~~
109 ~~Statewide Steering Committee.~~

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



The Florida Senate

Committee Agenda Request

To: Senator Anitere Flores
Senate Committee on Fiscal Policy

Subject: Committee Agenda Request

Date: March 19, 2015

I respectfully request that **Senate Bill # 694**, relating to Florida State Employees Charitable Campaign, be placed on the:

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

Jeremy Ring

Senator Jeremy Ring
Florida Senate, District 29

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/26/2015

Meeting Date

694

Bill Number (if applicable)

Topic Florida State Employees' Charitable Campaign

Amendment Barcode (if applicable)

Name Taylor Hatch

Job Title Director of Legislative Affairs

Address 4050 Esplanade Way

Phone 850-487-7001

Street

Tallahassee

FL

32399

Email taylor.hatch@dms.myflorida.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Department of Management Services

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1060

INTRODUCER: Banking and Insurance Committee and Senator Simmons

SUBJECT: Legislative Ratification

DATE: March 25, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson</u>	<u>Knudson</u>	<u>BI</u>	Fav/CS
2.	<u>Jones</u>	<u>Hrdlicka</u>	<u>FP</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1060 amends s. 120.80, F.S., to exempt all rules adopting maximum reimbursement allowances and manuals for workers' compensation medical treatment and care approved by the three-member panel from the ratification requirement in s. 120.541(3), F.S.

II. Present Situation:

Rulemaking Authority and Legislative Ratification

Rulemaking authority is delegated by the Legislature¹ through statute and authorizes an agency to "adopt, develop, establish, or otherwise create"² a rule. A rule is an agency statement of general applicability that interprets, implements, or prescribes law or policy, including the procedure and practice requirements of an agency as well as certain types of forms.³ Agencies do not have discretion to engage in rulemaking.⁴ To adopt a rule an agency must have a general grant of authority to implement a specific law by rulemaking and such grant of rulemaking authority itself need not be detailed.⁵ The specific statute being interpreted or implemented through rulemaking must provide specific standards and guidelines to preclude the

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

² Section 120.52(17), F.S.

³ Section 120.52(16), F.S.; *Fla. Dep't of Financial Services v. Capital Collateral Regional Counsel-Middle Region*, 969 So.2d 527, 530 (Fla. 1st DCA 2007).

⁴ Section 120.54(1)(a), F.S.

⁵ Sections 120.52(8) and 120.536(1), F.S.; *Save the Manatee Club, Inc.*, *supra* at 599.

administrative agency from exercising unbridled discretion in creating policy or applying the law.⁶

An agency begins the formal rulemaking process by filing a notice of the proposed rule,⁷ which is published by the Department of State in the Florida Administrative Register.⁸ The notice must provide certain information, including the text of the proposed rule, and a summary of the agency's statement of estimated regulatory costs (SERC), if one is prepared. The SERC must include an economic analysis projecting a proposed rule's adverse effect on specified aspects of the state's economy or increase in regulatory costs.⁹

The economic analysis, mandated for each SERC, must analyze a rule's potential impact over the 5-year period after the rule goes into effect. The analysis must include whether the rule directly or indirectly is likely to:

- Have an adverse impact on economic growth, private-sector job creation or employment, or private-sector investment.
- Have an adverse impact on business competitiveness,¹⁰ productivity, or innovation; and
- Increase regulatory costs, including any transactional costs.¹¹

If the analysis shows the projected impact of the proposed rule in any one of these areas will exceed \$1 million in the aggregate for the 5-year period, the rule cannot go into effect until ratified by the Legislature.¹² Currently this requirement does not apply to the adoption of federal standards, and triennial updates to the Florida Building Code or to the Florida Fire Prevention Code.¹³

Workers' Compensation Medical Benefits

For work-related injuries sustained by employees, workers' compensation provides medically necessary remedial treatment, care, and attendance for such a period that the injury or the process of recovery may require and includes medicine, medical supplies, durable medical equipment, and prosthetics.¹⁴ The Division of Workers' Compensation (division) of the Department of Financial Services administers the regulation of the workers' compensation system pursuant to ch. 440, F.S. The division does not establish the reimbursement formulas and methodologies for the compensation of providers and facilities that deliver medical services.

⁶ *Sloban v. Fla. Bd. of Pharmacy*, 982 So.2d 26, 29-30 (Fla. 1st DCA 2008); *Bd. of Tr. of the Internal Improvement Trust Fund v. Day Cruise Ass'n, Inc.*, 794 So.2d 696, 704 (Fla. 1st DCA 2001).

⁷ Section 120.54(3)(a)1., F.S.

⁸ Section 120.55(1)(b)1., F.S.

⁹ Section 120.541(2), F.S.

¹⁰ This factor includes the ability of those doing business in Florida to compete with those doing business in other states or domestic markets.

¹¹ Section 120.541(2)(a), F.S.

¹² Section 120.541(3), F.S.

¹³ Section 120.541(4), F.S.

¹⁴ Section 440.13(2)(a), F.S.

Schedules of Maximum Reimbursement Allowances

The three-member panel (panel) determines and annually adopts the schedules of maximum reimbursement allowances (MRA) for medically necessary treatment, care, and attendance provided by physicians, hospitals, ambulatory surgical centers, work-hardening programs, pain programs, and durable medical equipment. An individual physician, hospital, ambulatory surgical center, pain program, or work-hardening program must be reimbursed either by the agreed-upon contract price or the MRA in the appropriate schedule.¹⁵

The panel consists of the Chief Financial Officer, or the Chief Financial Officer's designee, and two members appointed by the Governor, subject to confirmation by the Senate.¹⁶ One member appointed by the Governor is a representative of employers and the other is a representative of employees.¹⁷

The division presents recommendations to the panel on reimbursement and policy changes to the Health Care Provider Reimbursement Manual, Hospital Reimbursement Manual, and the Ambulatory Surgical Center Reimbursement Manual. The panel receives public comment on the proposed changes and either adopts the recommendations, amends the recommendations, or does not accept them. The panel's recommendations are implemented within each respective reimbursement manual.¹⁸ The division then undertakes rulemaking pursuant to ch. 120, F.S., in order to adopt each reimbursement manual.¹⁹

Three-Member Panel Biennial Report, 2015 Edition

The division has taken the position that the rules incorporating the reimbursement manuals are subject to legislative ratification despite the statutory authority given to the panel to determine MRAs and despite the explicit provisions that dictate the amount of reimbursement payable to various health care providers contained in s. 440.13(12), F.S.²⁰ This is because the division annually updates the reimbursement manuals by rule and Florida law requires a proposed rule to be ratified by the Legislature if it is likely to increase regulatory costs, including any transactional costs, over \$1 million in the aggregate within a 5-year period.²¹

Rule ratification can result in delays in the implementation of the schedules, causing them to become outdated and not representative of the marketplace. Currently, health care providers are

¹⁵ Section 440.13(12), F.S.

¹⁶ Section 440.13(12)(a), F.S.

¹⁷ *Id.*

¹⁸ Department of Financial Services Analysis of Senate Bill 1060 (March 5, 2015) (on file with the Senate Banking and Insurance Committee).

¹⁹ The division publishes the uniform schedules of MRAs within the reimbursement manuals incorporated by reference into the rules. Rules 69L-7.020, 69L-7.100, and 69L-7.501, F.A.C.

²⁰ Department of Financial Services Analysis of Senate Bill 1060 (March 5, 2015) (on file with the Senate Banking and Insurance Committee).

²¹ Three-Member Panel Biennial Report, 2015 Edition, p. 4, available at http://www.myfloridacfo.com/Division/WC/PublicationsFormsManualsReports/Reports/3MP_Report_2015.pdf (last visited on Mar. 24, 2015).

being reimbursed based upon outdated Medicare rates, rather than the most recently adopted rates.²²

According to the division, requests for rule ratifications of the Health Care Provider Reimbursement Manual, were submitted to the Legislature in 2012, 2013, and 2014. In 2013, House Bill 1165 was filed to ratify the manual; however, it failed to become law.²³

Therefore, the panel recommended that the reimbursement manuals should be exempt from the legislative ratification requirements of ch. 120, F.S.²⁴

III. Effect of Proposed Changes:

Section 1 amends s. 120.80, F.S., to exempt the panel-approved MRAs and manuals adopted by rule by the Department of Financial Services from legislative ratification.

Section 2 provides the bill will take effect July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not affect counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

If the fee schedules and manuals are exempt from rule ratification, this could result in reimbursement rates for providers being adopted in a timelier manner and such fees being more representative of the market place.

²² *Id.*

²³ Department of Financial Services Analysis of Senate Bill 1060 (March 5, 2015) (on file with the Senate Banking and Insurance Committee).

²⁴ *Supra* note 21 at 5.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 120.80 of the Florida Statutes.

IX. Additional Information:

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

CS by Banking and Insurance on March 10, 2015:

The bill clarifies that all rules adopting MRAs and manuals, which are approved by the three-member panel, are exempt from ratification.

- B. Amendments:

None.

By the Committee on Banking and Insurance; and Senator Simmons

597-02120-15

20151060c1

1 A bill to be entitled
2 An act relating to legislative ratification; amending
3 s. 120.80, F.S.; providing that the maximum
4 reimbursement allowances and manuals approved by a
5 three-member panel for purposes of the Workers'
6 Compensation Law are exempt from legislative
7 ratification under the Administrative Procedure Act if
8 the adverse impact or regulatory costs of such
9 allowances or manuals exceed specified criteria;
10 providing an effective date.

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

13
14 Section 1. Subsection (19) is added to section 120.80,
15 Florida Statutes, to read:
16 120.80 Exceptions and special requirements; agencies.—
17 (19) DEPARTMENT OF FINANCIAL SERVICES.—Section 120.541(3)
18 does not apply to the adoption of maximum reimbursement
19 allowances and manuals approved by a three-member panel pursuant
20 to s. 440.13(12).
21 Section 2. This act shall take effect July 1, 2015.

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-26-15
Meeting Date

SB 1060
Bill Number (if applicable)

Topic SB 1060

Amendment Barcode (if applicable)

Name Elizabeth Boyd

Job Title Legislative Director

Address 400 N. Monroe St
Street

Phone 850-413-2863

Tallahassee FL 32399
City State Zip

Email Elizabeth.Boyd@myfloridacfo.com

Speaking: For Against Information

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

Representing CFO Atwater

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/26/15
Meeting Date

1060
Bill Number (if applicable)

Topic Exemption from Ratification

Amendment Barcode (if applicable)

Name Mike Casick

Job Title Lobbyist

Address 200 W. College Ave
Street

Phone 850-222-5620

Tallahassee FL 32301
City State Zip

Email Mike@MichaelCasick.com

Speaking: For Against Information

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

Representing Fl. Society of Ambulatory Surgical Centers

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Rules, *Chair*
Appropriations
Appropriations Subcommittee on Education
Banking and Insurance
Environmental Preservation and Conservation
Higher Education
Judiciary

JOINT COMMITTEE:
Joint Legislative Budget Commission

SENATOR DAVID SIMMONS
10th District

March 25, 2015

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

Dear Madame Chair:

I will be chairing the Rules Committee on Thursday morning at 9:00 a.m. In the event that I am unable to get to your committee in time, I respectfully request that you allow my legislative assistant, Diane Suddes, to present my CS/SB 1060: Legislative Ratification to your committee.

Thank you for your consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read "David Simmons".

David Simmons

cc: Jennifer Hrdlicka, Staff Director

REPLY TO:

- 251 Maitland Avenue, Suite 304, Altamonte Springs, FL 32701 (407) 262-7578
- 400 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5010

Senate's Website: www.flsenate.gov

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.)

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

BILL: PCS/CS/SB 1246 (897622)

INTRODUCER: Fiscal Policy (Recommended by Appropriations Subcommittee on Transportation, Tourism, and Economic Development); Commerce and Tourism Committee; and Senator Detert

SUBJECT: Individuals with Disabilities

DATE: March 25, 2015

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Siples	McKay	CM	Fav/CS
2. Gusky	Miller	ATD	Recommend: Fav/CS
3. Jones	Hrdlicka	FP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1246 creates the Florida Unique Abilities Partner program to recognize business entities that employ individuals who have a disability, contribute to organizations that support the independence of individuals who have a disability, or establish or contribute to the establishment of a program that contributes to the independence of individuals who have a disability. A business that receives the designation must annually re-certify that it continues to meet the criteria for the designation.

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

- Work with state agencies and CareerSource Florida, Inc., to create the program;
- Work with disability organizations to develop a logo for the program;
- Maintain a website that provides the list of businesses that have been designated as a Florida Unique Abilities Partner;
- Identify businesses with the designation on the Employ Florida Marketplace system;
- Provide VISIT Florida the list of businesses that have been designated as a Florida Unique Abilities Partner for consideration for use in any marketing campaigns, especially those targeting individuals who have a disability or their families; and
- Report to the Legislature on its progress in implementing the program by January 1, 2016, and then annually thereafter on the program's progress.

For the 2015-2016 fiscal year, the bill appropriates \$100,000 in recurring funds and \$100,000 in nonrecurring funds from the Special Employment Security Administration Trust Fund to fund the development, implementation, and administration of the Florida Unique Abilities Partner program.

II. Present Situation:

According to the United States Census Bureau, individuals who have a disability make up approximately 13.4 percent of the population of Florida, and 10.3 percent of individuals between the ages of 18 to 64 have a disability.¹ Individuals who have a disability participate in the labor force at a lower rate than those who do not have a disability. Approximately 18.2 percent of individuals who have a disability in Florida are employed, while 60.5 percent of those in Florida who do not have a disability are engaged in employment.²

Corporate Social Responsibility and Consumer Response

Corporate social responsibility is now a standard practice in the business world.³ Corporate social responsibility is defined as a company's sense of responsibility toward the community and environment,⁴ which may be expressed through support of issues, such as ethical supply sourcing or a contribution to, or support for, social issues and programs. In 2013, corporations in the United States gave approximately \$18.7 billion, consisting of both cash and non-cash donations, such as product donations and employee volunteer hours.⁵ Corporate philanthropy is considered advantageous to a business because it provides the company with a bolstered public image, improved community relations, and increased employee morale.⁶

Studies suggest that people value businesses that support causes that are important to them. A recent Nielsen survey found that 55 percent of global respondents indicated a willingness to pay extra for goods and services from businesses that are committed to making a positive social and environmental impact.⁷ Consumers are becoming "more deliberate and purposeful" in their

¹ U.S. Department of Commerce, United States Census Bureau, American Fact Finder, *Disability Characteristics, 2013 American Community Survey 1-year Estimates*, Report S1810, available at <http://factfinder.census.gov/> (last visited Mar. 24, 2015).

² U.S. Department of Commerce, United States Census Bureau, American Fact Finder, *Selected Economic Characteristics for the Civilian Noninstitutionalized Population by Disability Status, 2013 American Community Survey 1-year Estimates*, Report S1811, available at <http://factfinder.census.gov/> (last visited Mar. 24, 2015).

³ Illia, Laura et al., *Communicating Corporate Social Responsibility to a Cynical Public*, MIT SLOAN MANAGEMENT REVIEW, Feb. 21, 2013, available at http://sloanreview.mit.edu/article/communicating-corporate-social-responsibility-to-a-cynical-public/?use_credit=db34fbf0a135038c9c9102e028c614be (last visited Mar. 24, 2015).

⁴ BusinessDictionary.com, available at <http://www.businessdictionary.com/definition/corporate-social-responsibility.html> (last visited Mar. 24, 2015).

⁵ Adams, Susan, *America's Most Generous Companies*, FORBES, July 15, 2014, available at <http://www.forbes.com/sites/susanadams/2014/07/15/americas-most-generous-companies/> (last visited Mar. 24, 2015).

⁶ Montini, Laura, *Corporate Altruism Is on the Rise (Infographic)*, INC., Aug. 17, 2014, available at <http://www.inc.com/laura-montini/infographic/the-benefits-of-community-service.html> (last visited Mar. 24, 2015).

⁷ The Nielsen Company, *Doing Well by Doing Good* (June 2014), available at <http://www.nielsen.com/content/dam/corporate/us/en/reports-downloads/2014%20Reports/global-corporate-social-responsibility-report-june-2014.pdf> (last visited Mar. 24, 2015).

shopping decisions by patronizing businesses that have similar values to their own.⁸ Consumers are also more likely to be loyal to those brands that share their values or are engaged in the support of those causes that are important to them.⁹ People may even base their employment decisions on such values.

III. Effect of Proposed Changes:

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

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

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

- Employment of individuals who have a disability;
- Contributions to local or national disability organizations; or
- Contributions to or the establishment of a program that contributes to the independence of individuals who have a disability.

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

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

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

⁸ Solomon, Micah, *Six Customer Trends That Will Build or Break Your Business As We Enter 2015*, FORBES, Dec. 25, 2014, available at <http://www.forbes.com/sites/micahsolomon/2014/12/25/six-deep-customer-trends-that-will-build-or-break-your-business-as-we-enter-2015/> (last visited Mar. 24, 2015).

⁹ Irwin, Julie, *Ethical Consumerism Isn't Dead, It Just Needs Better Marketing*, HARVARD BUSINESS REVIEW, Jan. 12, 2015, available at <https://hbr.org/2015/01/ethical-consumerism-isnt-dead-it-just-needs-better-marketing> (last visited Mar. 24, 2015).

A business entity that applies to be designated as a Florida Unique Abilities Partner must be awarded the designation if it meets the above listed requirements.

In lieu of the application process, the DEO must also consider nominations from members of the community regarding a local business entity's qualification for designation as a Florida Unique Abilities Partner. The nomination must identify the business entity's achievements in one or more of the above-referenced categories. Upon receipt of a nomination, the DEO must determine whether the nominee meets the requirements of the program based on the information provided and may request additional information from the nominee if needed. If the nominee meets the requirements, the DEO must notify the nominated business and provide the business the qualifying criteria asserted in the nomination.

The nominee has 30 days from the receipt of notice to certify that the information in the notice is true and correct and to accept or decline the nomination. If the nominee accepts the nomination, the DEO must award the designation. If a business does not accept the nomination within 30 days, the DEO may not award the designation. If the nominee declines the nomination, the DEO may not award the designation.

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

The DEO must adopt procedures for the application, nomination and designation processes for the Florida Unique Abilities Partner program. The business's name, location and contact information must also be included in business entity's application or nomination. The bill specifies that the DEO's designation under this program does not constitute final agency action, and therefore is not subject to the Florida Administrative Procedures Act in ch. 120, F.S. The bill directs the DEO, in partnership with the disability community, to develop a logo that may be used to identify a business that has been designated as a Florida Unique Abilities Partner. The DEO is responsible for developing guidelines and requirements for the use and display of the Florida Unique Abilities Partner program logo. A business that has not received the designation or has elected to discontinue its designation may not display the logo.

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

- The list of businesses, by county, that currently have the Florida Unique Abilities Partners designation, updated quarterly;
- Information on the eligibility requirements for the designation and the methods to apply or nominate; and
- The best practices for businesses to facilitate the inclusion of individuals who have a disability, updated annually.

The website may provide links to the websites of organizations or other resources that will aid business entities to employ or support individuals who have a disability. The Agency for Persons with Disabilities must provide on its website a link to the DEO website for the Florida Unique Abilities Partner program. On the Employ Florida Marketplace, the DEO and CareerSource,

Florida, Inc., must identify the employers that currently have a designation as a Florida Unique Abilities Partner designation.

The DEO is required to provide a list of businesses that have a designation as a Florida Unique Abilities Partner to VISIT Florida¹⁰ on a quarterly basis. VISIT Florida must consider using the program and the designees in marketing campaigns, including campaigns that target individuals who have a disability or their families.

The DEO must report its progress in implementing the Florida Unique Abilities Partner program to the Legislature by January 1, 2016. Also, beginning in 2016, the DEO must describe the progress and use of the program in its annual report required under s. 20.60, F.S.¹¹

Section 2 provides an appropriation to the DEO to develop, implement, and administer the Florida Unique Abilities Partner program in Fiscal Year 2015-2016 (*See* Section V).

Section 3 provides an effective date of July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Under the bill, a business that receives a designation may experience greater patronage due to the designation.

Local or national disability organizations may receive additional donations from businesses seeking a designation under the program.

¹⁰ VISIT Florida is statutorily referred to as the Florida Tourism Industry Marketing Corporation. s. 288.1226, F.S.

¹¹ This report is due to the Legislature on November 1 annually.

C. Government Sector Impact:

For the 2015-2016 fiscal year, the bill appropriates \$100,000 in recurring funds and \$100,000 in nonrecurring funds from the Special Employment Security Administration Trust Fund to the DEO to cover costs associated with developing, implementing, and administering the Florida Unique Abilities Partner program. Costs include staff time to develop the program, process applications, determine compliance, and designate businesses. Staff time is also required to create, maintain, and update the website that is required by the bill.¹²

VI. Technical Deficiencies:

None.

VII. Related Issues:

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

Under the Americans with Disabilities Act (ADA), employers are prohibited from inquiring about whether a person has a disability or the nature of a disability prior to employment.¹³ However, an employer may inquire about the applicant's ability to perform job-related functions. Upon employment, an employer may require a medical examination it is required of all employees, is job-related, and consistent with business necessity. Any medical information obtained from the medical examination must be maintained in a separate file. If an employee requests a reasonable accommodation, an employer is permitted to request documentation sufficient to substantiate the need for the reasonable accommodation.¹⁴

VIII. Statutes Affected:

This bill creates an 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.)

Recommended CS Barcode 897622 by Appropriations Subcommittee on Transportation, Tourism, and Economic Development on March 19, 2015:

The committee substitute:

- Makes clarifying changes to the structure of the program.
- Requires the DEO to include the progress and use of the Florida Unique Abilities program in its annual report to the Governor and Legislature.

¹² The Department of Economic Opportunity, *Senate Bill 1246 Analysis* (March 5, 2015) (on file with the Senate Appropriations Subcommittee on Transportation, Tourism, and Economic Development).

¹³ See 42 U.S.C. s. 12112.

¹⁴ EEOC, No. 915.002, *EEOC Enforcement Guidance of Disability-Related Inquiries and Medical Examinations of Employees Under the Americans with Disabilities Act (ADA)*, July 27, 2000, available at <http://www.eeoc.gov/policy/docs/guidance-inquiries.html> (last visited Mar. 24, 2015).

- Appropriates \$200,000 from the Special Employment Security Administration Trust Fund to the DEO to implement the program in Fiscal Year 2015-2016.

CS by Commerce on March 10, 2015:

- Directs the DEO to accept nominations for the Florida Unique Abilities Partner designation from members of the community in which the business is located, in lieu of submission of an application by the business.
- Requires the DEO review nominations for the Florida Unique Abilities Partner program to determine if the nominations meet the requirements of the program.
- Requires the DEO to notify a nominated business of its nomination and the qualifying criteria asserted in the nomination, and give a nominated business the opportunity to decline a nomination.
- Prohibits the DEO from requiring a business to provide personally identifiable information about its employees.
- Deletes the requirement that the DEO must partner with the Florida Tourism Industry Marketing Corporation (VISIT Florida) to create a marketing campaign and requirement that VISIT Florida has a link from its website to the DEO's website.
- Requires the DEO to provide VISIT Florida a list of Florida Unique Abilities Partners for consideration for use in any marketing campaigns.

B. Amendments:

None.



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Proposed Committee Substitute by the Committee on Fiscal Policy
(Appropriations Subcommittee on Transportation, Tourism, and
Economic Development)

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



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27 does not have a current designation; requiring the
28 department to maintain a website with specified
29 information; requiring the Agency for Persons with
30 Disabilities to provide a link on its website to the
31 department's website for the Florida Unique Abilities
32 Partner program; requiring the department to provide
33 the Florida Tourism Industry Marketing Corporation
34 with certain information; requiring the department and
35 CareerSource Florida, Inc., to identify employment
36 opportunities posted by employers that receive the
37 Florida Unique Abilities Partner designation on the
38 workforce information system; providing report
39 requirements; requiring the department to adopt rules;
40 providing appropriations; providing an effective date.

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

43
44 Section 1. Florida Unique Abilities Partner program.-
45 (1) CREATION AND PURPOSE.-The Department of Economic
46 Opportunity shall establish the Florida Unique Abilities Partner
47 program to designate a business entity as a Florida Unique
48 Abilities Partner if the business entity demonstrates
49 commitment, through employment or support, to the independence
50 of individuals who have a disability. The department shall
51 consult with the Agency for Persons with Disabilities, the
52 Division of Vocational Rehabilitation of the Department of
53 Education, the Division of Blind Services of the Department of
54 Education, and CareerSource Florida, Inc., in creating the
55 program.



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



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



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114 contribution of at least \$5,000; or

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

126
127 A business entity that applies to the department to be
128 designated as a Florida Unique Abilities Partner shall be
129 awarded the designation upon meeting the requirements of this
130 section.

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

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

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

142 3. The nominee shall be provided 30 days from the receipt



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143 of the notice to certify that the information in the notice is
144 true and accurate and accept the nomination; or to decline the
145 nomination. After 30 days, if the nomination has not been
146 accepted, the department may not award the designation. If the
147 nominee accepts the nomination, the department shall award the
148 designation. If the nominee declines the nomination, the
149 department may not award the designation.

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

158 (6) LOGO DEVELOPMENT.—

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

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

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



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

181 (8) INTERAGENCY COLLABORATION.—

182 (a) The Agency for Persons with Disabilities shall provide
183 a link on its website to the department's website for the
184 Florida Unique Abilities Partner program.

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

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

198 (9) REPORT.—

199 (a) By January 1, 2016, the department shall provide a
200 report to the President of the Senate and the Speaker of the



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201 House of Representatives on the status of the implementation of
202 this section, including the adoption of rules, development of
203 the logo, and development of application procedures.

204 (b) Beginning in 2016 and each year thereafter, the
205 department's annual report required under s. 20.60, Florida
206 Statutes, must describe in detail the progress and use of the
207 program. At a minimum, the report must include the following
208 information for the most recent year: the number of applications
209 and nominations received; the number of nominations accepted and
210 declined; designations awarded; annual certifications; use of
211 information provided under subsection (8); and any other
212 information deemed necessary to evaluate the program.

213 (10) RULES.—The department shall adopt rules to administer
214 this section.

215 Section 2. For the 2015-2016 fiscal year, the sums of
216 \$100,000 in recurring funds and \$100,000 in nonrecurring funds
217 from the Special Employment Security Administration Trust Fund
218 are appropriated to the Department of Economic Opportunity for
219 the purpose of funding the development, implementation, and
220 administration of the Florida Unique Abilities Partner program
221 created by this act.

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/CS/SB 1246

INTRODUCER: Fiscal Policy (Recommended by Appropriations Subcommittee on Transportation, Tourism, and Economic Development); Commerce and Tourism Committee; and Senator Detert

SUBJECT: Individuals with Disabilities

DATE: March 26, 2015

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Siples	McKay	CM	Fav/CS
2. Gusky	Miller	ATD	Recommend: Fav/CS
3. Jones	Hrdlicka	FP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1246 creates the Florida Unique Abilities Partner program to recognize business entities that employ individuals who have a disability, contribute to organizations that support the independence of individuals who have a disability, or establish or contribute to the establishment of a program that contributes to the independence of individuals who have a disability. A business that receives the designation must annually re-certify that it continues to meet the criteria for the designation.

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

- Work with state agencies and CareerSource Florida, Inc., to create the program;
- Work with disability organizations to develop a logo for the program;
- Maintain a website that provides the list of businesses that have been designated as a Florida Unique Abilities Partner;
- Identify businesses with the designation on the Employ Florida Marketplace system;
- Provide VISIT Florida the list of businesses that have been designated as a Florida Unique Abilities Partner for consideration for use in any marketing campaigns, especially those targeting individuals who have a disability or their families; and
- Report to the Legislature on its progress in implementing the program by January 1, 2016, and then annually thereafter on the program's progress.

For the 2015-2016 fiscal year, the bill appropriates \$100,000 in recurring funds and \$100,000 in nonrecurring funds from the Special Employment Security Administration Trust Fund to fund the development, implementation, and administration of the Florida Unique Abilities Partner program.

II. Present Situation:

According to the United States Census Bureau, individuals who have a disability make up approximately 13.4 percent of the population of Florida, and 10.3 percent of individuals between the ages of 18 to 64 have a disability.¹ Individuals who have a disability participate in the labor force at a lower rate than those who do not have a disability. Approximately 18.2 percent of individuals who have a disability in Florida are employed, while 60.5 percent of those in Florida who do not have a disability are engaged in employment.²

Corporate Social Responsibility and Consumer Response

Corporate social responsibility is now a standard practice in the business world.³ Corporate social responsibility is defined as a company's sense of responsibility toward the community and environment,⁴ which may be expressed through support of issues, such as ethical supply sourcing or a contribution to, or support for, social issues and programs. In 2013, corporations in the United States gave approximately \$18.7 billion, consisting of both cash and non-cash donations, such as product donations and employee volunteer hours.⁵ Corporate philanthropy is considered advantageous to a business because it provides the company with a bolstered public image, improved community relations, and increased employee morale.⁶

Studies suggest that people value businesses that support causes that are important to them. A recent Nielsen survey found that 55 percent of global respondents indicated a willingness to pay extra for goods and services from businesses that are committed to making a positive social and environmental impact.⁷ Consumers are becoming "more deliberate and purposeful" in their

¹ U.S. Department of Commerce, United States Census Bureau, American Fact Finder, *Disability Characteristics, 2013 American Community Survey 1-year Estimates*, Report S1810, available at <http://factfinder.census.gov/> (last visited Mar. 24, 2015).

² U.S. Department of Commerce, United States Census Bureau, American Fact Finder, *Selected Economic Characteristics for the Civilian Noninstitutionalized Population by Disability Status, 2013 American Community Survey 1-year Estimates*, Report S1811, available at <http://factfinder.census.gov/> (last visited Mar. 24, 2015).

³ Illia, Laura et al., *Communicating Corporate Social Responsibility to a Cynical Public*, MIT SLOAN MANAGEMENT REVIEW, Feb. 21, 2013, available at http://sloanreview.mit.edu/article/communicating-corporate-social-responsibility-to-a-cynical-public/?use_credit=db34fbf0a135038c9c9102e028c614be (last visited Mar. 24, 2015).

⁴ BusinessDictionary.com, available at <http://www.businessdictionary.com/definition/corporate-social-responsibility.html> (last visited Mar. 24, 2015).

⁵ Adams, Susan, *America's Most Generous Companies*, FORBES, July 15, 2014, available at <http://www.forbes.com/sites/susanadams/2014/07/15/americas-most-generous-companies/> (last visited Mar. 24, 2015).

⁶ Montini, Laura, *Corporate Altruism Is on the Rise (Infographic)*, INC., Aug. 17, 2014, available at <http://www.inc.com/laura-montini/infographic/the-benefits-of-community-service.html> (last visited Mar. 24, 2015).

⁷ The Nielsen Company, *Doing Well by Doing Good* (June 2014), available at <http://www.nielsen.com/content/dam/corporate/us/en/reports-downloads/2014%20Reports/global-corporate-social-responsibility-report-june-2014.pdf> (last visited Mar. 24, 2015).

shopping decisions by patronizing businesses that have similar values to their own.⁸ Consumers are also more likely to be loyal to those brands that share their values or are engaged in the support of those causes that are important to them.⁹ People may even base their employment decisions on such values.

III. Effect of Proposed Changes:

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

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

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

- Employment of individuals who have a disability;
- Contributions to local or national disability organizations; or
- Contributions to or the establishment of a program that contributes to the independence of individuals who have a disability.

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

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

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

⁸ Solomon, Micah, *Six Customer Trends That Will Build or Break Your Business As We Enter 2015*, FORBES, Dec. 25, 2014, available at <http://www.forbes.com/sites/micahsolomon/2014/12/25/six-deep-customer-trends-that-will-build-or-break-your-business-as-we-enter-2015/> (last visited Mar. 24, 2015).

⁹ Irwin, Julie, *Ethical Consumerism Isn't Dead, It Just Needs Better Marketing*, HARVARD BUSINESS REVIEW, Jan. 12, 2015, available at <https://hbr.org/2015/01/ethical-consumerism-isnt-dead-it-just-needs-better-marketing> (last visited Mar. 24, 2015).

A business entity that applies to be designated as a Florida Unique Abilities Partner must be awarded the designation if it meets the above listed requirements.

In lieu of the application process, the DEO must also consider nominations from members of the community regarding a local business entity's qualification for designation as a Florida Unique Abilities Partner. The nomination must identify the business entity's achievements in one or more of the above-referenced categories. Upon receipt of a nomination, the DEO must determine whether the nominee meets the requirements of the program based on the information provided and may request additional information from the nominee if needed. If the nominee meets the requirements, the DEO must notify the nominated business and provide the business the qualifying criteria asserted in the nomination.

The nominee has 30 days from the receipt of notice to certify that the information in the notice is true and correct and to accept or decline the nomination. If the nominee accepts the nomination, the DEO must award the designation. If a business does not accept the nomination within 30 days, the DEO may not award the designation. If the nominee declines the nomination, the DEO may not award the designation.

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

The DEO must adopt procedures for the application, nomination and designation processes for the Florida Unique Abilities Partner program. The business's name, location and contact information must also be included in business entity's application or nomination. The bill specifies that the DEO's designation under this program does not constitute final agency action, and therefore is not subject to the Florida Administrative Procedures Act in ch. 120, F.S. The bill directs the DEO, in partnership with the disability community, to develop a logo that may be used to identify a business that has been designated as a Florida Unique Abilities Partner. The DEO is responsible for developing guidelines and requirements for the use and display of the Florida Unique Abilities Partner program logo. A business that has not received the designation or has elected to discontinue its designation may not display the logo.

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

- The list of businesses, by county, that currently have the Florida Unique Abilities Partners designation, updated quarterly;
- Information on the eligibility requirements for the designation and the methods to apply or nominate; and
- The best practices for businesses to facilitate the inclusion of individuals who have a disability, updated annually.

The website may provide links to the websites of organizations or other resources that will aid business entities to employ or support individuals who have a disability. The Agency for Persons with Disabilities must provide on its website a link to the DEO website for the Florida Unique Abilities Partner program. On the Employ Florida Marketplace, the DEO and CareerSource,

Florida, Inc., must identify the employers that currently have a designation as a Florida Unique Abilities Partner designation.

The DEO is required to provide a list of businesses that have a designation as a Florida Unique Abilities Partner to VISIT Florida¹⁰ on a quarterly basis. VISIT Florida must consider using the program and the designees in marketing campaigns, including campaigns that target individuals who have a disability or their families.

The DEO must report its progress in implementing the Florida Unique Abilities Partner program to the Legislature by January 1, 2016. Also, beginning in 2016, the DEO must describe the progress and use of the program in its annual report required under s. 20.60, F.S.¹¹

Section 2 provides an appropriation to the DEO to develop, implement, and administer the Florida Unique Abilities Partner program in Fiscal Year 2015-2016 (*See* Section V).

Section 3 provides an effective date of July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Under the bill, a business that receives a designation may experience greater patronage due to the designation.

Local or national disability organizations may receive additional donations from businesses seeking a designation under the program.

¹⁰ VISIT Florida is statutorily referred to as the Florida Tourism Industry Marketing Corporation. s. 288.1226, F.S.

¹¹ This report is due to the Legislature on November 1 annually.

C. Government Sector Impact:

For the 2015-2016 fiscal year, the bill appropriates \$100,000 in recurring funds and \$100,000 in nonrecurring funds from the Special Employment Security Administration Trust Fund to the DEO to cover costs associated with developing, implementing, and administering the Florida Unique Abilities Partner program. Costs include staff time to develop the program, process applications, determine compliance, and designate businesses. Staff time is also required to create, maintain, and update the website that is required by the bill.¹²

VI. Technical Deficiencies:

None.

VII. Related Issues:

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

Under the Americans with Disabilities Act (ADA), employers are prohibited from inquiring about whether a person has a disability or the nature of a disability prior to employment.¹³ However, an employer may inquire about the applicant's ability to perform job-related functions. Upon employment, an employer may require a medical examination it is required of all employees, is job-related, and consistent with business necessity. Any medical information obtained from the medical examination must be maintained in a separate file. If an employee requests a reasonable accommodation, an employer is permitted to request documentation sufficient to substantiate the need for the reasonable accommodation.¹⁴

VIII. Statutes Affected:

This bill creates an 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/CS by Fiscal Policy on March 26, 2015:

As recommended by the Appropriation Subcommittee on Transportation, Tourism, and Economic Development, the CS does the following:

- Makes clarifying changes to the structure of the program.
- Requires the DEO to include the progress and use of the Florida Unique Abilities program in its annual report to the Governor and Legislature.

¹² The Department of Economic Opportunity, *Senate Bill 1246 Analysis* (March 5, 2015) (on file with the Senate Appropriations Subcommittee on Transportation, Tourism, and Economic Development).

¹³ See 42 U.S.C. s. 12112.

¹⁴ EEOC, No. 915.002, *EEOC Enforcement Guidance of Disability-Related Inquiries and Medical Examinations of Employees Under the Americans with Disabilities Act (ADA)*, July 27, 2000, available at <http://www.eeoc.gov/policy/docs/guidance-inquiries.html> (last visited Mar. 24, 2015).

- Appropriates \$200,000 from the Special Employment Security Administration Trust Fund to the DEO to implement the program in Fiscal Year 2015-2016.

CS by Commerce on March 10, 2015:

- Directs the DEO to accept nominations for the Florida Unique Abilities Partner designation from members of the community in which the business is located, in lieu of submission of an application by the business.
- Requires the DEO review nominations for the Florida Unique Abilities Partner program to determine if the nominations meet the requirements of the program.
- Requires the DEO to notify a nominated business of its nomination and the qualifying criteria asserted in the nomination, and give a nominated business the opportunity to decline a nomination.
- Prohibits the DEO from requiring a business to provide personally identifiable information about its employees.
- Deletes the requirement that the DEO must partner with the Florida Tourism Industry Marketing Corporation (VISIT Florida) to create a marketing campaign and requirement that VISIT Florida has a link from its website to the DEO's website.
- Requires the DEO to provide VISIT Florida a list of Florida Unique Abilities Partners for consideration for use in any marketing campaigns.

B. Amendments:

None.

By the Committee on Commerce and Tourism; and Senator Detert

577-02088-15

20151246c1

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

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

577-02088-15

20151246c1

30 requiring the department to identify employment
 31 opportunities posted by employers that receive the
 32 Florida Unique Abilities Partner designation on the
 33 workforce information system; requiring the department
 34 to provide a specified report to the Legislature by a
 35 specified date; requiring the department to adopt
 36 rules; providing an effective date.
 37

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

40 Section 1. (1) The Department of Economic Opportunity shall
 41 establish the Florida Unique Abilities Partner program to
 42 designate a business entity as a Florida Unique Abilities
 43 Partner if the business entity demonstrates commitment, through
 44 employment and support, to the independence of individuals who
 45 have a disability. The department shall consult with the Agency
 46 for Persons with Disabilities, the Division of Vocational
 47 Rehabilitation of the Department of Education, the Division of
 48 Blind Services of the Department of Education, and CareerSource
 49 Florida in creating the program. As used in this section, the
 50 term "individuals who have a disability" means persons who have
 51 a physical or intellectual impairment that substantially limits
 52 one or more major life activities; persons who have a history or
 53 record of such an impairment; or persons who are perceived by
 54 others as having such an impairment.

55 (2) A business entity may apply to the Department of
 56 Economic Opportunity to be designated as a Florida Unique
 57 Abilities Partner, based on the business entity's achievements
 58 in at least one of the following categories:

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20151246c1

59 (a) Employment of individuals who have a disability.
 60 (b) Contributions to local or national disability
 61 organizations or the establishment of a program that contributes
 62 to the independence of individuals who have a disability.
 63 (3) As an alternative to application by a business entity,
 64 the Department of Economic Opportunity must consider nominations
 65 from members of the community in which the business entity is
 66 located. The nomination must identify the business entity's
 67 achievements in one or both of the categories as provided in
 68 subsection (2).
 69 (4) The Department of Economic Opportunity shall adopt
 70 procedures for the application and designation processes for the
 71 Florida Unique Abilities Partner program. Designation as a
 72 Florida Unique Abilities Partner does not establish or involve
 73 licensure, does not affect the substantial interests of a party,
 74 and does not constitute a final agency action. The Florida
 75 Unique Abilities Partner program and designation are not subject
 76 to chapter 120, Florida Statutes.
 77 (5) In determining the eligibility for the designation of a
 78 business entity as a Florida Unique Abilities Partner, the
 79 Department of Economic Opportunity must consider, at a minimum,
 80 the following criteria:
 81 (a) For a designation based on an application by a
 82 business:
 83 1. A business entity must certify that it employs at least
 84 one individual who has a disability. Such employees must be
 85 residents of this state and must have been employed by the
 86 business entity for at least 9 months before the business
 87 entity's application for the designation. The department may not

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20151246c1

88 require the employer to provide personally identifiable
 89 information about its employees; or
 90 2. A business entity must certify that it has made
 91 contributions to local and national disability organizations or
 92 contributions in support of individuals who have a disability.
 93 Contributions may be accomplished through financial or in-kind
 94 contributions, including employee volunteer hours, or
 95 accomplished through the establishment of a program that
 96 contributes to the independence of individuals who have a
 97 disability. Contributions must be documented by providing copies
 98 of written receipts or letters of acknowledgment from recipients
 99 or donees. A business entity with 100 or fewer employees must
 100 make a financial or in-kind contribution of at least \$1,000, and
 101 a business entity with more than 100 employees must make a
 102 financial or in-kind contribution of at least \$5,000.
 103 (b) For a designation based upon receipt of a nomination of
 104 a business entity, the Department of Economic Opportunity shall
 105 determine whether the nominee, based on the information provided
 106 by the nominating person or entity, meets the requirements of
 107 paragraph (a). If the designee appears to meet the requirements,
 108 the Department of Economic Opportunity shall provide notice to
 109 the nominee, including the qualification criteria asserted in
 110 the nomination. The nominee shall be provided 30 days from the
 111 receipt of the notice to decline the nomination. After 30 days,
 112 if the nomination has not been declined, the business must be
 113 awarded the designation.
 114 (6) After an initial designation as a Florida Unique
 115 Abilities Partner, a business entity must certify each year that
 116 it continues to meet the criteria for the designation. If a

Page 4 of 6

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

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117 business entity does not submit yearly certification of
 118 continued eligibility, the Department of Economic Opportunity
 119 shall remove the designation. A business entity may elect to
 120 discontinue its use of the designation at any time by notifying
 121 the department of such decision.

122 (7) The Department of Economic Opportunity, in consultation
 123 with members of the disability community, must develop a logo
 124 that identifies a business entity that is designated as a
 125 Florida Unique Abilities Partner.

126 (8) The Department of Economic Opportunity must adopt
 127 guidelines and requirements for use of the logo, including how
 128 the logo may be used in advertising. The department may allow a
 129 business entity to display a Florida Unique Abilities Partner
 130 logo upon designation. A business entity that has not been
 131 designated as a Florida Unique Abilities Partner or has elected
 132 to discontinue its designated status may not display the logo.

133 (9) The Department of Economic Opportunity must maintain a
 134 website that provides the public with a list of business
 135 entities, by county, which currently have the Florida Unique
 136 Abilities Partner designation and which provides information
 137 regarding the eligibilities for the designation. At least once a
 138 year, the department must publish on its website the best ways
 139 for business entities to facilitate the inclusion of individuals
 140 who have a disability. The Agency for Persons with Disabilities
 141 must provide a link on its website to the department's website
 142 that makes available the information on the Florida Unique
 143 Abilities Partner program and designation.

144 (10) On a quarterly basis, the Department of Economic
 145 Opportunity must provide the Florida Tourism Industry Marketing

577-02088-15 20151246c1

146 Corporation with a current list of all businesses that are
 147 designated as Florida Unique Abilities Partners. The Florida
 148 Tourism Industry Marketing Corporation must consider the Florida
 149 Unique Abilities Partner program in the development of marketing
 150 campaigns, and specifically in any targeted marketing campaign
 151 for individuals who have a disability or their families.

152 (11) The Department of Economic Opportunity shall identify
 153 employment opportunities posted by business entities that
 154 currently have the Florida Unique Abilities Partner designation
 155 on the workforce information system under s. 445.011, Florida
 156 Statutes.

157 (12) By January 1, 2016, the Department of Economic
 158 Opportunity must provide a report to the President of the Senate
 159 and the Speaker of the House of Representatives on the status of
 160 the implementation of this section, including the adoption of
 161 rules, development of the logo, and development of application
 162 procedures.

163 (13) The Department of Economic Opportunity shall adopt
 164 rules to administer this section.

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



The Florida Senate

Committee Agenda Request

To: Senator Anitere Flores, Chair
Committee on Fiscal Policy

Subject: Committee Agenda Request

Date: March 20, 2015

I respectfully request that **Senate Bill #1246**, relating to Individuals with Disabilities, be placed on the:

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

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

Senator Nancy C. Detert
Florida Senate, District 28

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/26/15
Meeting Date

1246
Bill Number (if applicable)

Topic Individual w/ Disabilities

Amendment Barcode (if applicable)

Name Melissa Ramba

Job Title Director of Government Affairs

Address 227 S Adams St

Phone 850-570-0269

Street

Tallahassee

FL

32301

City

State

Zip

Email Melissa@FRF.org

Speaking: For Against Information

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

Representing Florida Retail Federation

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)

3/26/2015
Meeting Date

1246
Bill Number (if applicable)

Topic Individuals with Disabilities

Amendment Barcode (if applicable)

Name Sally West

Job Title Regional Director of Government Affairs

Address _____

Phone 850-210-2461

Street
Tallahassee FL 32309
City *State* *Zip*

Email sally.west@walgreens.com

Speaking: For Against Information

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

Representing Walgreens

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)

3-26-15

Meeting Date

SB 1246

Bill Number (if applicable)

Topic Individuals with Disabilities Amendment Barcode (if applicable)

Name Amy Datz

Job Title Mother of A Disabled Child

Address 1130 Crestview Ave.

Phone (850)322 7599

Street

Tallahassee FL 32303

Email annaliedatz@

City

State

Zip

mac.com

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

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

Representing Mothers with Disabled Children

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

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

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

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

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

JOINT COMMITTEE:

Joint Administrative Procedures Committee

SENATOR NANCY C. DETERT
28th District

March 26, 2015

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

Dear Madame Chair:

I will be presenting one of my bills in the Senate Children, Families, and Elder Affairs Committee on Thursday morning at 9:00 a.m. In the event that I am unable to get to your committee in time, I respectfully request that you allow my aide, Charlie Anderson, to present my CS/SB 1246-Individuals with Disabilities to your committee.

Thank you for your consideration of this request.

Sincerely,

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

Nancy C. Detert

NCD/ca

cc: Jennifer Hrdlicka, Staff Director

REPLY TO:

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

Senate's Website: www.flsenate.gov

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.)

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

BILL: SB 7014

INTRODUCER: Finance and Tax Committee

SUBJECT: Corporate Income Tax

DATE: March 25, 2015

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
<u>Babin</u>	<u>Diez-Arguelles</u>		FT Submitted as Committee Bill
1. <u>Hrdlicka</u>	<u>Hrdlicka</u>	<u>FP</u>	Favorable

I. Summary:

SB 7014 updates Florida's Corporate Income Tax Code by adopting the Internal Revenue Code as in effect on January 1, 2015.

The federal Tax Increase Prevention Act of 2014 grants extraordinary deductions for capital asset expensing and depreciation. Similar to past treatment, the bill requires Florida taxpayers to spread the benefit of these deductions over a 7 year period.

The bill authorizes the Department of Revenue to adopt emergency rules to implement the bill.

The Revenue Estimating Conference has estimated that the bill will have an indeterminate impact on general revenue.

II. Present Situation:

Florida imposes a 5.5 percent tax on the taxable income of corporations and financial institutions doing business in Florida. The determination of taxable income for Florida tax purposes begins with the taxable income determined for federal income tax purposes. This means that a corporation paying taxes in Florida receives the same treatment in Florida as is allowed in determining its federal taxable income.

Florida maintains its relationship with the federal Internal Revenue Code by each year adopting the federal Internal Revenue Code as it exists on January 1 of the year. By doing this, Florida adopts any changes that were made in the previous year to the determination of federal taxable income.

III. Effect of Proposed Changes:

General Update

The bill updates the Florida Corporate Income Tax Code to reflect changes in the federal Internal Revenue Code enacted by Congress. The bill takes effect upon becoming a law and operates retroactively to January 1, 2015.

Additions due to Bonus Depreciation and Increased Expensing

President Obama signed into law the Tax Increase Prevention Act of 2014¹ on December 19, 2014. The act contained several significant amendments to the Internal Revenue Code.

The Internal Revenue Code allows a taxpayer to deduct the cost of capital assets by deducting a portion of the cost over the useful life of the property (depreciation).² Additionally, the Internal Revenue Code allows a taxpayer to treat a certain amount of the cost of capital assets as a business expense that can be taken entirely in the year of purchase (expensing).³ Until recently, the amount that could be expensed was limited to \$25,000.

Similar to other federal legislation during the past several years,⁴ the Tax Increase Prevention Act of 2014 grants an additional depreciation deduction (bonus depreciation) and increases the expensing limitation. The Tax Prevention Act of 2014 grants a first-year bonus depreciation amount of 50 percent of the cost of the property placed in service during 2014 and increases the expensing limitation to \$500,000 for taxable years beginning in 2014.

The Revenue Estimating Conference has estimated that the adoption of the Internal Revenue Code, including the bonus depreciation and increased expensing limitation, would result in a reduction of \$180 million in corporate tax receipts in Fiscal Year 2015-2016 and increased tax receipts in subsequent years.⁵

In order to mitigate the Fiscal Year 2015-2016 fiscal impact of the increased federal deductions on Florida, the bill requires taxpayers to spread the effect of these deductions over 7 taxable years. The bill accomplishes this by requiring taxpayers to “add-back” the bonus depreciation deduction and the amount of the increased expensing deduction above \$128,000. The taxpayer is then permitted to subtract from income one-seventh (1/7) of these deductions for the current

¹ Pub. Law No. 113-295, H.R. 5771, 113th Cong. (December 19, 2014).

² See generally ss. 167 and 168, Internal Revenue Code.

³ See generally s. 179, Internal Revenue Code.

⁴ The Economic Stimulus Act of 2008, the American Recovery and Reinvestment Act of 2009, the Small Business Jobs Act of 2010, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, and the American Taxpayer Relief Act of 2012.

⁵ See Revenue Estimating Conference, Piggyback Bill, Proposed Language (January, 26 2015).

taxable year and the following 6 taxable years. This mechanism was used to address the impacts of similar federal legislation in 2009, 2011, and 2013.⁶

The bill grants the Department of Revenue emergency rulemaking authority to implement the provisions of the bill (Section 3).

The bill reenacts s. 1009.97(3)(1), F.S., to incorporate changes made by the bill in other statutes.

The bill is effective upon becoming law and operates retroactively to January 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:

The Revenue Estimating Conference has estimated that the bill will have an indeterminate impact on general revenue.⁷

B. Private Sector Impact:

By adopting recent changes to the Internal Revenue Code, Florida provides ease of administration for Florida corporate taxpayers.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

⁶ Chapters 2009-132, 2011-229, and 2013-40, L.O.F.

⁷ Revenue Estimating Conference, SPB 7014 (February, 6 2015).

VII. Related Issues:

The bill grants the Department of Revenue emergency rulemaking authority to implement the provisions of the bill; the authority expires on January 1, 2018.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 220.03 and 220.13.

The bill reenacts section 1009.97(3)(1) 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 the Committee on Finance and Tax

593-02342-15

20157014__

1 A bill to be entitled
 2 An act relating to the corporate income tax; amending
 3 s. 220.03, F.S.; adopting the 2015 version of the
 4 Internal Revenue Code; amending s. 220.13, F.S.;
 5 incorporating a reference to a recent federal act into
 6 state law for the purpose of defining the term
 7 "adjusted federal income"; revising the treatment by
 8 this state of certain depreciation and expensing of
 9 assets that are allowed for federal income tax
 10 purposes; authorizing the Department of Revenue to
 11 adopt emergency rules; reenacting s. 1009.97(3)(1),
 12 F.S., relating to prepaid college board programs, to
 13 incorporate the amendment made to s. 220.03, F.S., in
 14 a reference thereto; providing for retroactive
 15 application; providing an effective date.
 16
 17 Be It Enacted by the Legislature of the State of Florida:
 18
 19 Section 1. Paragraph (n) of subsection (1) and paragraph
 20 (c) of subsection (2) of section 220.03, Florida Statutes, are
 21 amended to read:
 22 220.03 Definitions.—
 23 (1) SPECIFIC TERMS.—When used in this code, and when not
 24 otherwise distinctly expressed or manifestly incompatible with
 25 the intent thereof, the following terms shall have the following
 26 meanings:
 27 (n) "Internal Revenue Code" means the United States
 28 Internal Revenue Code of 1986, as amended and in effect on
 29 January 1, 2015 ~~2014~~, except as provided in subsection (3).

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593-02342-15

20157014__

30 (2) DEFINITIONAL RULES.—When used in this code and neither
 31 otherwise distinctly expressed nor manifestly incompatible with
 32 the intent thereof:
 33 (c) Any term used in this code has the same meaning as when
 34 used in a comparable context in the Internal Revenue Code and
 35 other statutes of the United States relating to federal income
 36 taxes, as such code and statutes are in effect on January 1,
 37 2015 ~~2014~~. However, if subsection (3) is implemented, the
 38 meaning of a term shall be taken at the time the term is applied
 39 under this code.
 40 Section 2. Paragraph (e) of subsection (1) of section
 41 220.13, Florida Statutes, is amended to read:
 42 220.13 "Adjusted federal income" defined.—
 43 (1) The term "adjusted federal income" means an amount
 44 equal to the taxpayer's taxable income as defined in subsection
 45 (2), or such taxable income of more than one taxpayer as
 46 provided in s. 220.131, for the taxable year, adjusted as
 47 follows:
 48 (e) *Adjustments related to federal acts.*—Taxpayers shall be
 49 required to make the adjustments prescribed in this paragraph
 50 for Florida tax purposes with respect to certain tax benefits
 51 received pursuant to the Economic Stimulus Act of 2008, the
 52 American Recovery and Reinvestment Act of 2009, the Small
 53 Business Jobs Act of 2010, the Tax Relief, Unemployment
 54 Insurance Reauthorization, and Job Creation Act of 2010, ~~and~~ the
 55 American Taxpayer Relief Act of 2012, and the Tax Increase
 56 Prevention Act of 2014.
 57 1. There shall be added to such taxable income an amount
 58 equal to 100 percent of any amount deducted for federal income

Page 2 of 5

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

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59 tax purposes as bonus depreciation for the taxable year pursuant
60 to ss. 167 and 168(k) of the Internal Revenue Code of 1986, as
61 amended by s. 103 of Pub. L. No. 110-185, s. 1201 of Pub. L. No.
62 111-5, s. 2022 of Pub. L. No. 111-240, s. 401 of Pub. L. No.
63 111-312, ~~and~~ s. 331 of Pub. L. No. 112-240, and s. 125 of Pub.
64 L. No. 113-295, for property placed in service after December
65 31, 2007, and before January 1, 2015 ~~2014~~. For the taxable year
66 and for each of the 6 subsequent taxable years, there shall be
67 subtracted from such taxable income an amount equal to one-
68 seventh of the amount by which taxable income was increased
69 pursuant to this subparagraph, notwithstanding any sale or other
70 disposition of the property that is the subject of the
71 adjustments and regardless of whether such property remains in
72 service in the hands of the taxpayer.

73 2. There shall be added to such taxable income an amount
74 equal to 100 percent of any amount in excess of \$128,000
75 deducted for federal income tax purposes for the taxable year
76 pursuant to s. 179 of the Internal Revenue Code of 1986, as
77 amended by s. 102 of Pub. L. No. 110-185, s. 1202 of Pub. L. No.
78 111-5, s. 2021 of Pub. L. No. 111-240, s. 402 of Pub. L. No.
79 111-312, ~~and~~ s. 315 of Pub. L. No. 112-240, and s. 127 of Pub.
80 L. No. 113-295, for taxable years beginning after December 31,
81 2007, and before January 1, 2015 ~~2014~~. For the taxable year and
82 for each of the 6 subsequent taxable years, there shall be
83 subtracted from such taxable income one-seventh of the amount by
84 which taxable income was increased pursuant to this
85 subparagraph, notwithstanding any sale or other disposition of
86 the property that is the subject of the adjustments and
87 regardless of whether such property remains in service in the

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88 hands of the taxpayer.

89 3. There shall be added to such taxable income an amount
90 equal to the amount of deferred income not included in such
91 taxable income pursuant to s. 108(i)(1) of the Internal Revenue
92 Code of 1986, as amended by s. 1231 of Pub. L. No. 111-5. There
93 shall be subtracted from such taxable income an amount equal to
94 the amount of deferred income included in such taxable income
95 pursuant to s. 108(i)(1) of the Internal Revenue Code of 1986,
96 as amended by s. 1231 of Pub. L. No. 111-5.

97 4. Subtractions available under this paragraph may be
98 transferred to the surviving or acquiring entity following a
99 merger or acquisition and used in the same manner and with the
100 same limitations as specified by this paragraph.

101 5. The additions and subtractions specified in this
102 paragraph are intended to adjust taxable income for Florida tax
103 purposes, and, notwithstanding any other provision of this code,
104 such additions and subtractions shall be permitted to change a
105 taxpayer's net operating loss for Florida tax purposes.

106 Section 3. (1) The Department of Revenue is authorized, and
107 all conditions are deemed to be met, to adopt emergency rules
108 pursuant to s. 120.54(4), Florida Statutes, for the purpose of
109 implementing this act.

110 (2) Notwithstanding any other law, emergency rules adopted
111 pursuant to subsection (1) are effective for 6 months after
112 adoption and may be renewed during the pendency of procedures to
113 adopt permanent rules addressing the subject of the emergency
114 rules.

115 (3) This section expires January 1, 2018.

116 Section 4. For the purpose of incorporating the amendment

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117 made by this act to section 220.03, Florida Statutes, in a
118 reference thereto, paragraph (1) of subsection (3) of section
119 1009.97, Florida Statutes, is reenacted to read:

120 1009.97 General provisions.—

121 (3) DEFINITIONS.—As used in ss. 1009.97-1009.984, the term:

122 (1) "Internal Revenue Code" means the Internal Revenue Code
123 of 1986, as defined in s. 220.03(1), and regulations adopted
124 pursuant thereto.

125 Section 5. This act shall take effect upon becoming a law
126 and shall operate retroactively to January 1, 2015.

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-26-15

Meeting Date

7014

Bill Number (if applicable)

Topic Corporate Income Tax

Amendment Barcode (if applicable)

Name Jon Costello

Job Title lobbyist

Address 119 S. Monroe

Phone 850 681-6788

Street

Tallahassee

FL

32301

Email jon@rathledge-economia.com

City

State

Zip

Speaking: For Against Information

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

Representing Associated Industries of FL

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:
Health Policy, *Chair*
Appropriations Subcommittee on Health
and Human Services
Commerce and Tourism
Fiscal Policy
Judiciary
Regulated Industries

JOINT COMMITTEE:
Joint Administrative Procedures Committee

SENATOR AARON BEAN
4th District

March 23, 2015

Senator Anitere Flores
Chair, Fiscal Policy Committee
413 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Flores:

Due to family circumstances, I will be absent from the Fiscal Policy Committee this week on Thursday, March 26, 2015.

Thank you for your consideration and do not hesitate to contact me if needed.

Sincerely,

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

Aaron Bean
State Senator | 4th District

Cc: Jennifer Hrdlicka, Staff Director/Fiscal Policy
Allie Mattice, Legisl Analyst/Majority Office

/da

REPLY TO:

1919 Atlantic Boulevard, Jacksonville, Florida 32207 (904) 346-5039 FAX: (888) 263-1578
 302 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5004 FAX: (850) 410-4805

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
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 Anitere Flores
Fiscal Policy Committee Committee Chair
225 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

RE: Excused Absence

Dear Chair Flores:

I am unable to attend the Fiscal Policy Committee Meeting on Thursday, March 26, 2015 and I respectfully request that this absence be excused. Your leadership and consideration are appreciated.

Sincerely,

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

John Legg
State Senator, District 17

cc: Jennifer Hrdlicka, 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

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore



THE FLORIDA SENATE

Senator Maria Lorts Sachs
Deputy Minority Whip
District 34

Committees:

Higher Education
Vice Chair

Fiscal Policy

Communications, Energy,
and Public Utilities

Appropriations
Subcommittee on
Education

Appropriations
Subcommittee on
Transportation, Tourism,
and Economic
Development

Military Affairs, Space,
and Domestic Security

Regulated Industries

STAFF:

Matthew Damsky
Legislative Assistant

Laura Jiménez
Legislative Assistant

March 25, 2015

The Honorable Anitere Flores
413 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Chairwoman Flores,

I will not be able to attend the Committee on Fiscal Policy meeting taking place at 9:00am on March 26, 2015. Please excuse me from attending the meeting.

Your leadership and consideration are appreciated.

Very truly yours,

A handwritten signature in black ink, appearing to read "Maria Lorts Sachs", written over a printed name and title.

Senator Maria Lorts Sachs
District 34

CourtSmart Tag Report

Room: KN 412

Caption: Senate Fiscal Policy Committee

Case:

Judge:

Type:

Started: 3/26/2015 9:02:47 AM

Ends: 3/26/2015 10:34:31 AM

Length: 01:31:45

9:03:21 AM Tab 3 Senator Simpson SB 224
9:04:08 AM Amendment barcode 750274
9:06:46 AM Ryan Matthews FL League of Cities
9:11:24 AM CS/CS/CS/SB 224 Favorable
9:11:49 AM Tab 6 Senator Ring SB 694
9:13:16 AM SB 694 Favorable
9:13:45 AM Tab 2 Senator Bradley CS/SB 172
9:25:34 AM Senator Ring
9:26:19 AM Senator Clemens
9:27:03 AM Senator Bradley
9:29:27 AM Lisa Henning, Fraternal Order of Police
9:31:06 AM Kraig Conn, FL League of Cities
9:36:22 AM Matt Puckett, FL Police Benevolent Association
9:38:06 AM Kane Kelly, FL Chamber of Commerce
9:39:54 AM Senator Bradley
9:40:10 AM Morgan McCord, FL Tax Watch
9:43:27 AM Senator Stargel
9:44:47 AM Chair Flores
9:46:01 AM Senator Bradley
9:46:26 AM Senator Stargel
9:48:06 AM Rocco Salvatori, FI Professional Firefighters
9:53:11 AM Senator Clemens
9:54:53 AM Senator Margolis
9:58:04 AM Senator Bradley
9:58:44 AM Senator Ring
10:04:32 AM CS/SB 172 Favorable
10:04:51 AM Tab 1 Senator Evers SB 184 (Dave Murzin, legislative aide)
10:05:43 AM SB 184 favorable
10:06:03 AM Tab 4 Senator Bradley SB 260
10:06:48 AM Senator Clemens
10:06:57 AM Senator Bradley
10:07:23 AM CS/SB 260 Favorable
10:07:42 AM Tab 5 Senator Altman SB 590 (LA presenting)
10:09:08 AM Charles Withers, student
10:10:55 AM Grey Dodge, Student
10:13:14 AM Isabella Susin, student
10:14:41 AM Mathew Susin, teacher
10:16:20 AM Senator Hays
10:17:44 AM Senator Hays recommends co-sponsors for all members
10:18:04 AM Senator Bradley
10:20:17 AM Senator Stargel
10:22:01 AM SB 590 Favorable
10:22:41 AM Tab 7 Senator Simmons CS/SB 1060 (LA presenting)
10:24:01 AM CS/SB 1060 Favorable
10:24:26 AM Tab 8 CS/SB 1246 Senator Detert
10:24:47 AM PCS barcode 897622 Charlie Anderson, legislative aide
10:26:42 AM Sally West, Walgreens
10:28:28 AM Amy Datz, Mothers with Disabled Children
10:30:23 AM Senator Stargel
10:32:16 AM Senator Abruzzo
10:32:30 AM CS/CS/SB 1246 Favorable
10:32:48 AM Tab 9 Senator Hukill SB 7014

