

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

COMMERCE AND TOURISM

Senator Montford, Chair

Senator Gainer, Vice Chair

MEETING DATE: Tuesday, February 21, 2017

TIME: 9:00—11:30 a.m.

PLACE: Toni Jennings Committee Room, 110 Senate Office Building

MEMBERS: Senator Montford, Chair; Senator Gainer, Vice Chair; Senators Gibson, Hutson, Latvala, Passidomo, Rodriguez, and Young

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 346 Stargel (Similar CS/H 169)	Fictitious Names; Revising filing requirements for registration of a fictitious name; requiring certain persons to register a fictitious name under certain circumstances within a specified time; exempting limited liability companies from specified registration requirements under certain circumstances, etc. CM 02/21/2017 Fav/CS GO RC	Fav/CS Yeas 7 Nays 0
2	SB 372 Stargel (Similar H 671)	Reemployment Assistance Fraud; Authorizing reproductions from certain files or digital records maintained by the Department of Highway Safety and Motor Vehicles to be made and issued to the Department of Economic Opportunity pursuant to an interagency agreement for specified purposes, etc. CM 02/21/2017 Favorable TR RC	Favorable Yeas 7 Nays 0
3	SB 252 Book (Similar H 71)	Tax Exemption for Personal Hygiene Products; Exempting from the sales and use tax the sale of diapers and baby wipes, etc. CM 02/21/2017 Fav/CS AFT AP	Fav/CS Yeas 7 Nays 0
4	SB 364 Gainer	Recovery Fund for the Deepwater Horizon Incident; Revising the funding source of the principal of the Recovery Fund for the Deepwater Horizon incident; requiring that certain funds be transferred to the Recovery Fund within a specified timeframe, etc. CM 02/21/2017 Temporarily Postponed ATD AP	Temporarily Postponed
Discussion with Ken Lawson, President and CEO of VISIT FLORIDA			Discussed

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Commerce and Tourism

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Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: CS/SB 346

INTRODUCER: Commerce and Tourism Committee and Senator Stargel

SUBJECT: Fictitious Names

DATE: February 21, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harmsen	McKay	CM	Fav/CS
2.			GO	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 346 updates the Florida Fictitious Name Act, s. 865.09, F.S., which requires any person or business entity doing business in Florida under a name other than their legal name to register a fictitious name with the Division of Corporations of the Department of State. Specifically, the bill:

- Defines the term “registrant” to clarify and standardize who is required to file a fictitious name;
- Clarifies that foreign business entities must be in active status with the Division of Corporations to file a fictitious name;
- Updates the process for cancellation, registration, and renewal of a fictitious name, including clarifying the term of registration;
- Standardizes language to include varied business entities, rather than just corporations;
- Changes the penalty for failure to comply with the Fictitious Name Act from a misdemeanor to a noncriminal violation; and
- Makes technical and conforming changes throughout.

The bill takes effect on July 1, 2017.

II. Present Situation:

The Florida Department of State

The Florida Department of State (Department) consists of six divisions: the Division of Elections; Division of Historical Resources; Division of Library and Information Services; Division of Cultural Affairs; Division of Administration; and Division of Corporations.¹

The Division of Corporations (Division) maintains a registry for recording and retrieving commercial information that is filed or registered with the Department. In total, the Division maintains more than eight million records, including a variety of business entity filings such as articles of incorporation or other forms of business entity organization, annual reports, trade and service mark registrations, judgment lien filings, and fictitious name registrations.² The Division determines whether submitted filings and forms meet the pertinent statutory requirements and then records and indexes those filings in its database of records.

Florida Fictitious Name Act

A fictitious name is any name other than the person's or business entity's legal name (a business entity's legal name is that which is registered with the Department of State).³ A fictitious name is also known as a "doing business as," "dba," or "assumed" name.⁴

The Florida Fictitious Name Act^{5,6} (Act) was enacted in 1941 to provide notice to the public and creditors of the names and addresses of those conducting business under a fictitious name.⁷ From 1941 through 1990, the Act required a business to register its fictitious name in the county circuit court located in the business' principal place of business. This decentralized process made it difficult for interested parties to search for a business' fictitious name. As a result, the Legislature transferred the duty of registering fictitious names to the Florida Department of State (Department) in 1991.⁸ As of January 2017, the Division had 606,586 active registered fictitious names; in 2016 alone, the Division processed 101,604 fictitious name registrations.⁹

The current Act requires any person or business entity to register their fictitious name with the Division prior to conducting business in Florida by:

- Advertising the intention to register the business at least once in a newspaper in the business' principal place of business;

¹ Section 20.10, F.S.

² Florida Department of State, *Overview of the Division of Corporations*, (Dec. 2016), (on file with the Committee on Commerce and Tourism).

³ Section 865.09(1)(a), F.S.

⁴ United States Small Business Administration, *Starting and Managing a Business; Register Your Business Name*, available at <https://www.sba.gov/starting-business/choose-register-your-business/register-your-business-name> (last visited Feb. 21, 2017).

⁵ Section 865.09, F.S.

⁶ The "Florida Fictitious Name Act" is formerly known as the "Florida Fictitious Name Statute." *See*, section 865.09, F.S. (1990).

⁷ *Jackson v. Jones*, 423 So. 2d 972, 973 (Fla. 4th DCA 1982), rev. denied, 436 So. 2d 99 (Fla. 1983).

⁸ Ch. 90-267, Laws of Fla.

⁹ Florida Department of State, Division of Corporations, *Yearly Statistics, from 2011 to Present*, (Jan. 23, 2017). Available at <http://dos.myflorida.com/sunbiz/about-us/yearly-statistics/> (last visited Feb. 21, 2017).

- Filing a sworn statement with the Division that lists the name to be registered, the business' mailing address, the name and address of each business owner, and the federal employer's identification number (FEIN) and Florida incorporation or registration number if the owner is a corporation; and
- Paying a \$50 filing fee to the Division.¹⁰

A fictitious name registration is valid for five years, but expires on December 31 of the fifth year.¹¹ As a result, depending on when the business initially registers its fictitious name, it may not realize a full five-year registration term. Should a business operating under a fictitious name change ownership during this period, the current owner is obligated to file a cancellation and reregistration to notify of the new ownership.¹²

Businesses that fail to register a fictitious name under which they are doing business may not maintain any action, suit, or proceeding in any Florida court until they comply with the Act.¹³ Additionally, any person who fails to comply with the Act commits a second-degree misdemeanor.¹⁴ No business may register a fictitious name with the words "corporation," "incorporated," or any form thereof unless the business is actually incorporated.¹⁵

Certain business are exempt from registration under the Act, including:

- Entities registered with the Department that also operate under their full, registered name;
- Any business formed by and operated under the name of an attorney licensed by the Florida Bar, for the purpose of practicing law;
- Any person or business actively licensed by the Department of Business and Professional Regulation or the Department of Health for the purpose of practicing said licensed profession; the person or entity must conduct business under the name as licensed with the State.

The Rise of Non-Corporate Business Entities

Non-corporate business entity structures have risen in popularity since the IRS clarified tax rules governing such entities in the 1990's and states adopted permitting legislation.¹⁶ These structures include the limited liability company (LLC), limited liability partnership (LLP), and the limited liability limited partnership (LLLP). Businesses have begun to favor these alternate business

¹⁰ Section 865.09(3), F.S.

¹¹ Section 865.09(5), F.S.

¹² Section 865.09(4), F.S.

¹³ Section 865.09(9), F.S.

¹⁴ *Id.*

¹⁵ Section 865.09(14), F.S.

¹⁶ Stephen Bainbridge, *the Inexorable (?) Rise of the LLC* (June 9, 2010). Available at: <http://www.professorbainbridge.com/professorbainbridge.com/2010/06/the-inexorable-rise-of-the-llc.html> (last visited Feb. 21, 2017). See also, Florida Department of State, Division of Corporations, *Yearly Statistics, from 2011 to Present*, (Jan. 23, 2017). Available at <http://dos.myflorida.com/sunbiz/about-us/yearly-statistics/> (last visited Feb. 21, 2017). The total number of LLCs registered with the Division has risen from 145,780 in 2011 to 233,077 in 2016.

structures because they provide flexibility for purposes of taxation, and protection of the partners' personal assets.¹⁷

An LLC is a hybrid business entity that provides its members with limited liability against the entity's debts and obligations, as a corporation does, but also provides its members with the flexibility to choose the federal income tax classification of the entity.¹⁸ An LLC must file Articles of Incorporation with the Division to commence its legal existence.¹⁹ A Professional Limited Liability Company ("PLLC" or "PL") is an LLC that is formed by licensed professionals for the specific purpose of practicing business in that licensed area.²⁰

An LLP is a general partnership that limits the liability of each partner (but not the general partner) from liabilities of the other, and is taxed like a partnership.²¹ A partnership that agrees to operate as an LLP must file a statement of qualification with the Division to be granted legal status as an LLP.²²

An LLLP is a partnership that limits the liability of all of its partners, and instead places the duty of any obligations of the LLLP on the partnership itself. The LLLP is also taxed like a partnership.²³

Some business entities choose to remain under the corporate form as a Professional Association ("PA" or "chartered" corporation). A PA consists of shareholders who are licensed to perform a licensed service, and who formed their business entity for the purpose of practicing said service.²⁴

III. Effect of Proposed Changes:

Section 1 makes changes throughout Florida's Fictitious Name Act, s. 865.09, F.S., to incorporate clarifications and other recommendations made by the Division and the Business Law Section of the Florida Bar (Business Law Section).

Defines "Registrant"

The bill defines a "registrant" as a person who registers a fictitious name with the division. The bill adopts this term throughout the Act to standardize the language formerly used to refer to those who may register a fictitious name, including "applicant," "owner," and "person."

¹⁷ Susan Pace Hamill, *The Story of LLCs: Combining the Best Features of a Flawed Business Tax Structure*. Available at: [https://www.law.ua.edu/misc/hamill/Chapter%2010--Business%20Tax%20Stories%20\(Foundation\).pdf](https://www.law.ua.edu/misc/hamill/Chapter%2010--Business%20Tax%20Stories%20(Foundation).pdf) (last visited Feb. 21, 2017).

¹⁸ *Id.*

¹⁹ Section 605.0201, F.S.

²⁰ Section 621.03(3), F.S.

²¹ Section 620.8306(3), F.S.; Gregory Yadley, Christina Nethero, *1-1 Florida Small Business Practice*, s. 1.3 (2013 edition).

²² Section 620.9001, F.S.

²³ Gregory Yadley, Christina Nethero, *1-1 Florida Small Business Practice*, s. 1.3 (2013 edition).

²⁴ Section 621.05, F.S.

The bill clarifies that the registrant of a general partnership that is not registered with the Division are the partners, not the partnership entity; however, the registrant of a general partnership that is registered and in active status with the Division is the partnership itself.

Registration, Renewal, and Cancellation of a Fictitious Name

The bill amends the registration process to require a “registration” rather than a “sworn statement.” According to the Business Law Section, this amendment conforms the law to current practice, as the Division does not currently require submission of a sworn statement.²⁵

The bill clarifies the term of initial registration to be a period of “up to five years,” and that the first year of registration is the period from initial registration through December 31 of that year. The bill additionally requires the Division to notify registrants of fictitious names that their registered fictitious name is due to expire by September 1 of the fifth year.

The bill clarifies that business entity registrants, including foreign entities, must be in active status with the Division. The bill further requires business entity registrants to provide the Division with their Florida incorporation number and FEIN. This requirement does not apply to general partnerships that are not registered with the Division, but does apply to general partnerships that have chosen to register under the permissive registration statute.²⁶

The bill amends the process to transfer ownership of a fictitious name. Under the bill, a current owner is only obligated to file a notice of cancellation with the Division; the new owner may file a reregistration in accordance with the Act at the same time of the cancellation. This conforms to the Division’s use of one form for both the cancellation and reregistration of a fictitious name.²⁷

Non-Corporate Business Entities

The bill generally replaces the term “corporation” with “business entity” to broaden application of the Act to not only corporate entities, but also LLC’s, LLP’s, LLLP’s, and other business entities. For the same purpose, the bill expands the words prohibited from use in a fictitious name to include “Limited Partnership,” “Limited Liability Limited Partnership,” “Limited Liability Partnership,” and “Limited Liability Company,” “Professional Associations,” “Professional Limited Liability Companies,” and any other forms thereof, in cases where the business entity is not legally registered or organized as such. The words “corporation” and “incorporated” are already prohibited if the business entity is not registered as a corporation.

Under the bill, a fictitious name may not be renewed if it is prohibited under the Act at the time of its renewal.

²⁵ Stefan Rubin, Florida Bar Business Law Section, *Proposed Amendments to Florida Statute Section 865.09, Fictitious Name Act: Executive Summary*, (Oct., 2016). On file with the Committee on Commerce and Tourism.

²⁶ Section 620.8105, F.S. “A partnership may file a partnership registration statement with the Department of State...”

²⁷ See, Florida Department of State, *Application for Registration of Fictitious Name*. Available at: <http://form.sunbiz.org/pdf/CR4E001.pdf> (last visited Feb. 21, 2017).

Penalties

The bill reduces the penalty for failure to comply with the Act from a second-degree misdemeanor to a noncriminal violation, which is punishable only by a fine, forfeiture, or other civil penalty.²⁸

Section 2 provides an effective date of July 1, 2017.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department foresees a minimal impact required to make necessary changes to the Sunbiz online filing system to prevent the use of prohibited terms in fictitious names.²⁹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

²⁸ Section 775.08, F.S. Noncriminal violations do not constitute a crime.

²⁹ Department of State, *Senate Bill 346 Agency Analysis* (Feb. 6, 2017). On file with the Committee on Commerce and Tourism.

VIII. Statutes Affected:

This bill substantially amends section 865.09 of the Florida Statutes.

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

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

CS by Commerce and Tourism Committee on February 21, 2017:

- Removes a requirement that foreign business entities file their incorporation number, document registration number, or other identifying number from their home jurisdiction;
- Clarifies that the entity must be in active registered status with the Florida Division of Corporations and must provide a Florida incorporation number with its fictitious name registration;
- Requires the Division to notify registrants of an upcoming expiration of a fictitious name by September 1 of the last year of the fictitious name's term of registration;
- Prohibits the use of "Professional Association," "Professional Limited Liability Company," and any form thereof in fictitious names where the business entity is not legally registered or organized as such; and
- Makes technical and conforming changes throughout.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/21/2017	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 865.09, Florida Statutes, is reordered
and amended to read:

865.09 Fictitious name registration.—

(1) SHORT TITLE.—This section may be cited as the
"Fictitious Name Act."

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



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11 (c)~~(a)~~ "Fictitious name" means any name under which a
12 person transacts business in this state, other than the person's
13 legal name.

14 (a)~~(b)~~ "Business" means any enterprise or venture in which
15 a person sells, buys, exchanges, barters, deals, or represents
16 the dealing in any thing or article of value, or renders
17 services for compensation.

18 (b)~~(c)~~ "Division" means the Division of Corporations of the
19 Department of State.

20 (d) "Registrant" means a person who registers a fictitious
21 name with the division.

22 (3) REGISTRATION.—

23 (a) A person may not engage in business under a fictitious
24 name unless the person first registers the name with the
25 division by filing a registration ~~sworn statement~~ listing:

26 1.~~(a)~~ The name to be registered.

27 2.~~(b)~~ The mailing address of the business.

28 3.~~(c)~~ The name and address of each registrant ~~owner and, if~~
29 ~~a corporation, its federal employer's identification number and~~
30 ~~Florida incorporation or registration number.~~

31 4. If the registrant is a business entity that was required
32 to file incorporation or similar documents with its state of
33 organization when it was organized, such entity must be
34 registered with the division and in active status with the
35 division, provide its incorporation number, and provide its
36 federal employer identification number if the entity has such a
37 number.

38 5.~~(d)~~ Certification by at least one registrant ~~the~~
39 ~~applicant~~ that the intention to register such fictitious name



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has been advertised at least once in a newspaper as defined in chapter 50 in the county in which ~~where~~ the principal place of business of the registrant is or ~~applicant~~ will be located.

6. ~~(e)~~ Any other information the division may reasonably deem necessary to adequately inform other governmental agencies and the public as to the registrant ~~persons~~ so conducting business.

(b) Such registration ~~statement~~ shall be accompanied by the applicable processing fees and any other taxes or penalties owed to the state.

(c) If the registrant is a general partnership that is not registered with the division, its partners are the registrants and not the partnership entity. If the registrant is a general partnership that is registered with the division, the partnership is the registrant and it must be in active status with the division.

(4) CANCELLATION AND REREGISTRATION ~~CHANGE OF OWNERSHIP.~~—If a registrant ceases to engage in business under a registered fictitious name, such registrant ~~the ownership of a business registered under this section changes, the owner of record with the division~~ shall file a cancellation with the division ~~and reregistration that meets the requirements set forth in subsection (3)~~ within 30 days after the cessation occurs ~~the occurrence of such change.~~ If such cessation is in connection with a transfer of the business and, as a result, a new person will engage in business under the registered fictitious name, such new person may reregister the name pursuant to subsection (3) at the same time as the cancellation is filed.

(5) TERM.—



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(a) A fictitious name registered under this section shall be valid for a period beginning on the date of registration and expiring on December 31 of the 5th calendar year thereafter, counting the period from registration through December 31 of the year of registration as the first calendar year.

(b) Each renewal under subsection (6) is valid for a period of 5 years beginning on January 1 of the year following the prior registration expiration date and expiring ~~of 5 years and expires~~ on December 31 of the 5th calendar year.

(6) RENEWAL.—

(a) Renewal of a fictitious name registration shall occur on or after January 1 and on or before December 31 of the expiration year. Upon timely filing of a renewal statement, the effectiveness of the name registration is continued for 5 years as provided in subsection (5).

(b) In the ~~last~~ year that a ~~of the~~ registration is to expire, the division shall notify the ~~owner or~~ registrant of the fictitious name registration of the upcoming expiration of the fictitious name no later than September 1. If the ~~owner or~~ registrant of the fictitious name has provided the division ~~department~~ with an electronic mail address, such notice shall be by electronic transmission.

(c) If a registrant ~~the owner~~ of the fictitious name registration fails to timely file a renewal and pay the appropriate processing fees prior to December 31 of the year of expiration, the fictitious name registration expires. The division shall remove any expired or canceled fictitious name registration from its records and may purge such registrations. Failure to receive the notice ~~statement~~ of expiration ~~renewal~~



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required by paragraph (b) does ~~shall~~ not constitute grounds for appeal of a registration's expiration or removal from the division's records.

(d) If a registered fictitious name is prohibited by subsection (14) at the time of renewal, the fictitious name may not be renewed.

(7) EXEMPTIONS.—A business formed by an attorney actively licensed to practice law in this state, by a person actively licensed by the Department of Business and Professional Regulation or the Department of Health for the purpose of practicing his or her licensed profession, or by any corporation, limited liability company, partnership, or other business ~~commercial~~ entity that is ~~actively~~ organized or registered and in active status with the division ~~Department of State~~ is not required to register its name pursuant to this section, unless the name under which business is to be conducted differs from the name as licensed or registered.

(8) EFFECT OF REGISTRATION.—Notwithstanding ~~the provisions of~~ any other law, registration under this section is for public notice only, and does not give ~~gives~~ rise to a ~~no~~ presumption of the registrant's rights to own or use the name registered, nor does it affect trademark, service mark, trade name, or corporate or other business entity name rights previously acquired by others in the same or a similar name. Registration under this section does not reserve a fictitious name against future use.

(9) PENALTIES.—

(a) If a business fails to comply with this section, the business or the person or persons engaging in the, ~~its members,~~ ~~and those interested in doing such~~ business may not maintain any



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127 action, suit, or proceeding in any court of this state with
128 respect to or on behalf of such business until this section is
129 complied with. An action, suit, or proceeding may not be
130 maintained in any court of this state by any successor or
131 assignee of such business on any right, claim, or demand arising
132 out of the transaction of business by such business in this
133 state until this section has been complied with.

134 (b) The failure of a business to comply with this section
135 does not impair the validity of any contract, deed, mortgage,
136 security interest, lien, or act of such business and does not
137 prevent such business from defending any action, suit, or
138 proceeding in any court of this state. However, a party
139 aggrieved by a noncomplying business may be awarded reasonable
140 attorney ~~attorney's~~ fees and court costs necessitated by the
141 noncomplying business.

142 (c) Any person who fails to comply with this section
143 commits a noncriminal violation as defined in s. 775.08
144 ~~misdemeanor of the second degree~~, punishable as provided in ~~s.~~
145 ~~775.082~~ or s. 775.083.

146 (10) POWERS OF DIVISION ~~DEPARTMENT~~.—The division ~~Department~~
147 ~~of State~~ is granted the power reasonably necessary to enable it
148 to administer this section efficiently and ~~7~~ to perform the
149 duties herein imposed upon it.

150 (11) FORMS.—Registration, cancellation, and renewal shall
151 be made on forms prescribed by the division ~~Department of State~~,
152 which may include the uniform business report, pursuant to s.
153 606.06, as a means of satisfying the requirement of this
154 section.

155 (12) PROCESSING FEES.—The division ~~Department of State~~



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shall charge and collect nonrefundable processing fees as follows:

(a) For registration of a fictitious name, \$50.

(b) For cancellation or for cancellation and reregistration of a fictitious name, \$50.

(c) For renewal of a fictitious name registration, \$50.

(d) For furnishing a certified copy of a fictitious name registration document, \$30.

(e) For furnishing a certificate of status, \$10.

(13) DEPOSIT OF FUNDS.—All funds required to be paid to the division ~~Department of State~~ pursuant to this section shall be collected and deposited into the General Revenue Fund.

(14) PROHIBITION.—A fictitious name registered as provided in this section may not contain the following words, abbreviations, or designations:

(a) "Corporation," ~~or "incorporated," or the abbreviations "Corp.,"~~ or "Inc.," unless the person or business for which the name is registered is incorporated or has obtained a certificate of authority to transact business in this state pursuant to ~~part~~ ~~I of~~ chapter 607 or chapter 617.

(b) "Limited liability company," "LLC," or "L.L.C.," unless the person or business for which the name is registered is organized as a limited liability company or has obtained a certificate of authority to transact business in this state pursuant to chapter 605.

(c) "Limited liability partnership," "LLP," or "L.L.P.," unless the person or business for which the name is registered is organized as a limited liability partnership or has in effect a statement of foreign qualification in this state pursuant to



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ss. 620.81001-620.9902.

(d) "Limited partnership," "limited liability limited partnership," "LP," "L.P.," "LLLP," or "L.L.L.P.," unless the person or business for which the name is registered is organized as a limited partnership or has obtained a certificate of authority to transact business in this state pursuant to ss. 620.1101-620.2205.

(e) "Professional association," "P.A.," or "chartered," unless the person or business for which the name is registered is organized as a professional corporation pursuant to chapter 621, or is organized as a professional corporation pursuant to a similar law of another jurisdiction and has obtained a certificate of authority to transact business in this state pursuant to chapter 607.

(f) "Professional limited liability company," "PLLC," "P.L.L.C.," "PL," or "P.L.," unless the person or business for which the name is registered is organized as a professional limited liability company pursuant to chapter 621, or is organized as a professional limited liability company pursuant to a similar law of another jurisdiction and has obtained a certificate of authority to transact business in this state pursuant to chapter 605.

(15) LEGAL DESIGNATION OF ENTITY.—Notwithstanding any other ~~provision of~~ law to the contrary, a fictitious name registered as provided in this section for a corporation, limited liability company, limited liability partnership, or limited partnership is not required to contain the designation of the type of legal entity in which the person or business is organized, including the terms "corporation," "limited liability company," "limited



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liability partnership," "limited partnership," or any
abbreviation or derivative thereof.

Section 2. This act shall take effect July 1, 2017.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to fictitious name registration;
reordering and amending s. 865.09, F.S.; defining the
term "registrant"; revising the information required
to register a fictitious name; revising requirements
for a change in registration; revising provisions
concerning the expiration of a registration;
prohibiting a renewal of a registration if the
registered fictitious name is prohibited by specified
provisions; specifying additional forms of business
organization that may not be required to register
under certain circumstances; revising provisions
concerning penalties for violations; specifying that
certain powers previously granted to the Department of
State are granted to the Division of Corporations;
specifying additional terms that may not be included
in a fictitious name; providing an effective date.

By Senator Stargel

22-00344-17

2017346__

A bill to be entitled

An act relating to fictitious names; amending s. 865.09, F.S.; defining the term "registrant"; revising filing requirements for registration of a fictitious name; specifying who is considered the registrant in a general partnership under certain circumstances; requiring certain persons to register a fictitious name under certain circumstances within a specified time; requiring a person to file a cancellation for a fictitious name registration within a specified time under certain circumstances; authorizing the reregistration of a fictitious name after the transfer of a business under certain circumstances; providing requirements for such reregistration; clarifying the length of time that the initial registration of a fictitious name is valid; providing requirements for renewal; prohibiting renewal of a fictitious name under certain circumstances; exempting limited liability companies from specified registration requirements under certain circumstances; revising penalty provisions for noncompliance to include a prohibition of certain actions, suits, or proceedings; revising processing fees to include registration with or without a change of ownership; adding words and abbreviations that may not be contained in a fictitious name, under certain circumstances; conforming provisions to changes made by the act; making technical changes; providing an effective date.

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

Section 1. Section 865.09, Florida Statutes, is amended to

Page 1 of 8

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

22-00344-17

2017346__

read:

865.09 Fictitious name registration.—

(1) SHORT TITLE.—This section may be cited as the "Fictitious Name Act."

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

(c) ~~(a)~~ "Fictitious name" means any name under which a person transacts business in this state, other than the person's legal name.

(a) ~~(b)~~ "Business" means any enterprise or venture in which a person sells, buys, exchanges, barter, deals, or represents the dealing in any thing or article of value, or renders services for compensation.

(b) ~~(e)~~ "Division" means the Division of Corporations of the Department of State.

(d) "Registrant" means a person who registers a fictitious name with the division.

(3) REGISTRATION.—

(a) A person may not engage in business under a fictitious name unless the person first registers the name with the division by filing a registration ~~sworn statement~~ listing:

1. ~~(a)~~ The name to be registered.

2. ~~(b)~~ The mailing address of the business.

3. ~~(c)~~ The name and address of each registrant ~~owner and, if a corporation, its federal employer's identification number and Florida incorporation or registration number.~~

4. If the registrant is a business entity that was required to file incorporation or similar documents with its state of organization when it was organized, the registrant's incorporation number, document registration number or other

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

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62 similar identifying number in the jurisdiction in which it is
 63 organized, and its federal employer identification number, if
 64 applicable. The business entity must be registered and in active
 65 status with the division.

66 5.(d) Certification by at least one registrant ~~the~~
 67 ~~applicant~~ that the intention to register ~~the such~~ fictitious
 68 name has been advertised at least once in a newspaper as defined
 69 in chapter 50 in the county where the principal place of
 70 business of the registrant is ~~applicant will be~~ located.

71 6.(e) Any other information the division may deem necessary
 72 to adequately inform other governmental agencies and the public
 73 as to the ~~registrant persons~~ so conducting business.

74 (b) Such registration must ~~statement shall~~ be accompanied
 75 by the applicable processing fees and any other taxes or
 76 penalties owed to the state.

77 (c) If the person is a general partnership that is not
 78 registered with the division, the partners, rather than the
 79 partnership entity, are the registrants. If the person is a
 80 general partnership that is registered with the division, the
 81 partnership is the registrant and must be reported by the
 82 division as having an active status.

83 (4) CANCELLATION AND REREGISTRATION CHANGE OF OWNERSHIP.-If
 84 a registrant ceases to engage in business under a registered
 85 fictitious name, such registrant ~~the ownership of a business~~
 86 ~~registered under this section changes, the owner of record with~~
 87 ~~the division shall file a cancellation with the division and~~
 88 ~~reregistration that meets the requirements set forth in~~
 89 ~~subsection (3) within 30 days after the cessation occurs the~~
 90 ~~occurrence of such change. If such cessation is in connection~~

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91 with a transfer of the business and the transferee will engage
 92 in business under the registered fictitious name, the transferee
 93 may reregister the name pursuant to the requirements for
 94 registration specified in subsection (3) at the same time the
 95 registrant files the cancellation.

96 (5) TERM.-Initial registration of a fictitious name
 97 ~~registered~~ under this section ~~is shall be~~ valid for a period of
 98 ~~up to 5 years, determined by the initial registration date. The~~
 99 ~~period of time from the date of initial registration through~~
 100 ~~December 31 of the year in which the fictitious name is first~~
 101 ~~registered is considered the first year, with the registration~~
 102 ~~expiring on December 31 of the 5th calendar year of registration~~
 103 ~~of 5 years and expires on December 31 of the 5th year.~~

104 (6) RENEWAL.-

105 (a) A registrant may request renewal of a fictitious name
 106 registration at any time during the year in which the
 107 registration expires, but no later than December 31. Each
 108 renewal pursuant to this subsection is valid for a period of 5
 109 years, beginning on January 1 of the renewal ~~shall occur on or~~
 110 ~~after January 1 and on or before December 31 of the expiration~~
 111 ~~year. Upon timely filing of a renewal statement, the~~
 112 ~~effectiveness of the name registration is continued for 5 years~~
 113 ~~as provided in subsection (5).~~

114 (b) Before December 31 of the year in which the
 115 registration is scheduled to expire ~~In the last year of the~~
 116 ~~registration, the division shall provide notify the owner or~~
 117 ~~registrant with a notice of the expiration of the fictitious~~
 118 ~~name. If the owner or registrant of the fictitious name has~~
 119 ~~provided the division department with an electronic mail~~

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

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address, ~~the such~~ notice shall be by electronic transmission.

(c) If ~~a registrant the owner of the name registration~~ fails to timely file a renewal and pay the appropriate processing fees ~~before prior to~~ December 31 of the expiration ~~year of expiration~~, the fictitious name registration expires. The division shall remove any expired or canceled fictitious name registration from its records and may purge such registrations. Failure to receive the notice statement of expiration renewal required by paragraph (b) does shall not constitute grounds for appeal of a registration's expiration or removal from the division's records.

(d) If a registered fictitious name is prohibited by subsection (14) at the time of renewal, the fictitious name may not be renewed.

(7) EXEMPTIONS.—A business formed by an attorney actively licensed to practice law in this state, by a person actively licensed by the Department of Business and Professional Regulation or the Department of Health for the purpose of practicing his or her licensed profession, or by any corporation, limited liability company, partnership, or other business commercial entity that is actively organized or registered and of active status with the division ~~Department of State~~ is not required to register its name pursuant to this section, unless the name under which business is to be conducted differs from the name as licensed or registered.

(8) EFFECT OF REGISTRATION.—Notwithstanding the provisions of any other law, registration under this section is for public notice only, and gives rise to no presumption of the registrant's rights to own or use the name registered, nor does

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it affect trademark, service mark, trade name, or corporate or other business entity name rights previously acquired by others in the same or a similar name. Registration under this section does not reserve a fictitious name against future use.

(9) PENALTIES.—

(a) If a business fails to comply with this section, the business and the person or persons engaging in the, ~~its members,~~ and those interested in doing such business may not maintain any action, suit, or proceeding in any court of this state with respect to or on behalf of such business until it complies with this section ~~is complied with~~. An action, suit, or proceeding may not be maintained in any court of this state by any successor or assignee of such business on any right, claim, or demand arising out of the transaction of business by such business in this state until the business complies with this section ~~has been complied with~~.

(b) The failure of a business to comply with this section does not impair the validity of any contract, deed, mortgage, security interest, lien, or act of such business and does not prevent such business from defending any action, suit, or proceeding in any court of this state. However, a party aggrieved by a noncomplying business may be awarded reasonable attorney attorney's fees and court costs necessitated by the noncomplying business.

(c) Any person who fails to comply with this section commits a noncriminal violation as defined in s. 775.08 ~~misdemeanor of the second degree~~, punishable as provided in s. 775.082 or s. 775.083.

(10) POWERS OF DIVISION ~~DEPARTMENT~~.—The division ~~Department~~

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178 ~~of State~~ is granted the power reasonably necessary to enable it
179 to administer this section efficiently and, to perform the
180 duties herein imposed upon it.

181 (11) FORMS.—Registration, cancellation, and renewal shall
182 be made on forms prescribed by the division ~~Department of State~~,
183 which may include the uniform business report, pursuant to s.
184 606.06, as a means of satisfying the requirement of this
185 section.

186 (12) PROCESSING FEES.—The division ~~Department of State~~
187 shall charge and collect nonrefundable processing fees as
188 follows:

189 (a) For registration of a fictitious name, \$50.

190 (b) For cancellation or cancellation and reregistration of
191 a fictitious name, \$50.

192 (c) For renewal of a fictitious name registration, \$50.

193 (d) For furnishing a certified copy of a fictitious name
194 document, \$30.

195 (e) For furnishing a certificate of status, \$10.

196 (13) DEPOSIT OF FUNDS.—All funds required to be paid to the
197 division ~~Department of State~~ pursuant to this section shall be
198 collected and deposited into the General Revenue Fund.

199 (14) PROHIBITION.—A fictitious name registered as provided
200 in this section may not contain the words:

201 (a) "Corporation" or "Incorporated," or the abbreviations
202 "Corp." or "Inc.," unless the person or business for which the
203 name is registered is incorporated or has obtained a certificate
204 of authority to transact business in this state pursuant to part
205 I of chapter 607 or chapter 617.

206 (b) "Limited Partnership," or "Limited Liability Limited

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207 Partnership," or the abbreviation "LP," "L.P.," "LLLP," or
208 "L.L.L.P.," unless the person or business for which the name is
209 registered is organized as a limited partnership or has obtained
210 a certificate of authority to transact business in this state
211 pursuant to ss. 620.1101 through 620.2205.

212 (c) "Limited Liability Partnership," or the abbreviation
213 "LLP" or "L.L.P.," unless the person or business for which the
214 name is registered is registered as a limited liability
215 partnership or has obtained a certificate of authority to
216 transact business in this state pursuant to s. 620.9102.

217 (d) "Limited Liability Company," or the abbreviation "LLC"
218 or "L.L.C.," unless the person or business for which the name is
219 registered is organized as a limited liability company or has
220 obtained a certificate of authority to transact business in this
221 state pursuant to chapter 605.

222 (15) LEGAL DESIGNATION OF ENTITY.—Notwithstanding any other
223 ~~provision of~~ law to the contrary, a fictitious name registered
224 as provided in this section for a corporation, limited liability
225 company, limited liability partnership, or limited partnership
226 is not required to contain the designation of the type of legal
227 entity in which the person or business is organized, including
228 the terms "corporation," "limited liability company," "limited
229 liability partnership," or "limited partnership," or any
230 abbreviation or derivative thereof.

231 Section 2. This act shall take effect July 1, 2017.

232



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR KELLI STARGEL

22nd District

COMMITTEES:

Appropriations Subcommittee on Finance and Tax,
Chair
Appropriations Subcommittee on Health and
Human Services, *Vice Chair*
Appropriations
Children, Families, and Elder Affairs
Communications, Energy, and Public Utilities
Military and Veterans Affairs, Space, and Domestic
Security

January 25, 2017

The Honorable Bill Montford
Senate Commerce and Tourism Committee, Chair
410 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399

Dear Chair Montford:

I respectfully request that SB 346, related to *Fictitious Names*, 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 dark ink, reading "Kelli Stargel". The signature is fluid and cursive, with a long horizontal stroke extending from the end.

Kelli Stargel
State Senator, District 22

Cc: Todd McKay/ Staff Director
Gabriela Denton/ AA

REPLY TO:

- ☐ 2033 East Edgewood Drive, Suite 1, Lakeland, Florida 33803
- ☐ 322 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5022

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

2/21/17

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

Meeting Date

346

Bill Number (if applicable)

Topic Fictitious Names Registration

Amendment Barcode (if applicable)

Name Stefan Rubin

Job Title Attorney

Address 119 S. Monroe Street, Suite 200

Phone (850)205-9000

Street

Tallahassee

FL

32301

City

State

Zip

Email srubin@shutts.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing The Business Law Section of the Florida Bar

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/21/17

346

*Meeting Date**Bill Number (if applicable)*Topic Fictitious Names Registration*Amendment Barcode (if applicable)*Name Stefan RubinJob Title AttorneyAddress 119 S. Monroe Street, Suite 200Phone (850)205-9000*Street*TallahasseeFL32301*City**State**Zip*Email srubin@shutts.comSpeaking: ☒ For ☐ Against ☐ InformationWaive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)Representing The Business Law Section of the Florida BarAppearing at request of Chair: ☐ Yes ☒ NoLobbyist 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)

COMMITTEE: Commerce and Tourism
ITEM: SB 346
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Tuesday, February 21, 2017
TIME: 9:00—11:30 a.m.
PLACE: 110 Senate Office Building

[illegible]

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed
VA=Vote After Roll Call
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WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: SB 372

INTRODUCER: Senator Stargel

SUBJECT: Reemployment Assistance Fraud

DATE: February 16, 2017 REVISED: 2/21/17

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Little	McKay	CM	Favorable
2.		TR	
3.		RC	

I. Summary:

SB 372 authorizes the Department of Highway Safety and Motor Vehicles (DHSMV) to provide certain driver license images to the Department of Economic Opportunity (DEO) in order to facilitate in the detection of fraudulent reemployment assistance claims.

The bill likely has an insignificant fiscal impact.

The bill is effective upon becoming law.

II. Present Situation:

Reemployment Assistance Program

The federal Unemployment Insurance Program provides unemployment benefits to eligible workers who are unemployed through no fault of their own (as determined under state law) and who meet the requirements of state law.¹ The program is administered as a partnership of the federal government and the states.²

Florida's unemployment insurance program was created by the Legislature in 1937.³ The program was rebranded as the "Reemployment Assistance Program" in 2012.⁴ The DEO is responsible for administering Florida's reemployment assistance laws, primarily through its Division for Workforce Services.⁵

¹ United States Department of Labor, Employment and Training Administration, *State Unemployment Insurance Benefits*, available at <http://workforcesecurity.doleta.gov/unemploy/uifactsheet.asp> (last visited Feb. 15, 2017).

² There are 53 programs, including the 50 states, Puerto Rico, the Virgin Islands, and the District of Columbia.

³ Chapter 18402, Laws of Fla.

⁴ Chapter 2012-30, Laws of Fla.

⁵ Section 20.60(5)(c), F.S. and s. 443.171, F.S.

An unemployed individual must apply to the DEO for benefits using Florida's Online Reemployment Assistance System.⁶ The DEO application process requires the claimant to provide their social security number and a secondary form of identification. Acceptable secondary forms of identification include any of the following:

- A driver's license containing a photograph or identifying information such as name, date of birth, sex, height, and address;
- Documentation issued by federal, state, or local government agency containing a photograph or identifying information such as name, date of birth, sex, height, and address;
- A school identification card with photograph;
- A United States (U.S.) military ID, dependent's ID card, or U.S. Coast Guard Merchant Mariner card;
- Native American tribal document;
- U.S. passport (expired or unexpired); or
- Certificate of U.S. Citizenship or Certificate of Naturalization.⁷

In order to receive benefits, an applicant must also meet certain monetary and nonmonetary eligibility requirements.⁸ Key eligibility requirements involve a claimant's earnings during a certain period of time, the manner in which the claimant became unemployed, and the claimant's efforts to find new employment. A notice of claim is sent to a claimant's most recent employer and all employers whose employment records are liable for benefits.⁹

Fraudulent Claims

In 2014, the DEO implemented the Fraud Initiative and Rules Rating Engine (FIRRE) program in order to detect fraud and identity theft within public-assistance programs. In the first year of implementation, the FIRRE program detected over 70,000 fraudulent claims for reemployment assistance benefits.¹⁰

In order to identify falsely filed claims, the FIRRE program cross matches identification information with external entities, including the claimant's social security and driver's license information.¹¹ To cross match driver's license information, the DEO has been provided limited access to the information database used by the DHSMV.¹² The DEO's current access does not include digital images contained in DHSMV's Driver and Vehicle Information Database

⁶ Rule 73B-11.013(1), F.A.C.

⁷ Rule 73B-11.013(6), F.A.C.

⁸ See s. 443.091, F.S. and Rule 73B-11.013, F.A.C.

⁹ Section 443.151(3)(a), F.S.

¹⁰ Letter to Thomas Perez, US Secretary of Labor, from Jesse Panuccio, Exe. Dir. DEO, RE: Identify Theft and Fraud in Public Benefit Systems (March 13, 2015), available at <http://floridajobs.org/docs/default-source/communicationsfiles/3-13-15-deo-letter.pdf> (last visited Feb. 17, 2017).

¹¹ Department of Economic Opportunity, *Senate Bill 1216 Agency Legislative Bill Analysis*, (Jan. 7, 2016) (on file with the Senate Committee on Commerce and Tourism).

¹² *Id.*

(DAVID). Under s. 322.142, F.S., other state agencies have been given access to reproductions of the digital images for similar purposes.¹³

Penalties and Disqualification

Under current law, any person who establishes a fictitious employing unit¹⁴ by submitting fraudulent documents through a computer system, by alteration or destruction of computer files, or by theft of financial instruments, data, and other assets for the purpose of enabling any person to receive benefits under the reemployment program commits a felony of the third degree.¹⁵ Establishment of a fictitious employing unit in violation of the reemployment assistance program is considered racketeering activity under Florida law.¹⁶

Any person who makes false or fraudulent representations for the purpose of obtaining benefits contrary to the reemployment assistance program commits a felony of the third degree. Each false or fraudulent representation constitutes a separate offense.¹⁷ A person who makes such representation is subject to a disqualification of benefits, beginning with the week in which the false or fraudulent representation is made. The disqualification may be imposed for a period of up to 1 year following the date the DEO discovers the false or fraudulent representation and until any overpayment of benefits resulting from such representation is repaid in full.¹⁸ The duration of disqualification for false or fraudulent representations in other states is comparable to Florida's current penalty, as the disqualification time period in most states is 52 weeks.¹⁹

Recovery for Overpayment

Any person who receives benefits by fraud, to which he or she is not entitled, is liable for repaying those benefits to the DEO. Florida law also allows the DEO to impose a penalty equal to 15 percent of the amount overpaid.²⁰

Upon discovery of an overpayment, the DEO makes a determination of the amount of overpayment and attempts to make recovery of the payment. To enforce this provision, the DEO must find the existence of fraud through a redetermination or a decision within 2 years after the fraud was committed. Any recovery or recoupment of benefits must be commenced within 7 years after the redetermination or decision.²¹ The DEO is required to collect the repayment of

¹³ Section 322.142(4), F.S., provides access to the digital images contained in DAVID to the Department of Business and Professional Regulation, the Department of Health, the Department of State, the Department of Children and Family Services, the Agency for Health Care Administration, and the Department of Financial Services.

¹⁴ An employing unit means "an individual or type of organization, including a partnership, limited liability company, association, trust, estate, joint-stock company, insurance company, or corporation, whether domestic or foreign; the receiver, trustee in bankruptcy, trustee or successor of any of the foregoing; or the legal representative of a deceased person; which has or had in its employ one or more individuals performing services for it within this state." Section 443.036(20), F.S.

¹⁵ Section 443.071(4), F.S.

¹⁶ Section 895.02(8)(a)7., F.S.

¹⁷ Section 443.071(1), F.S.

¹⁸ Section 443.101(6), F.S.

¹⁹ For a review of other state laws, see US Dept. of Labor, *Comparison of State Unemployment Laws*, available at <https://workforcesecurity.doleta.gov/unemploy/pdf/uilawcompar/2016/complete.pdf> (last visited Feb. 15, 2017).

²⁰ Section 443.151(6)(a), F.S.

²¹ *Id.*

benefits without interest by the deduction of benefits through a redetermination or by a civil action.²²

III. Effect of Proposed Changes:

The bill amends s. 322.142, F.S., relating to color photographic or digital imaged licenses, to authorize the DHSMV to make and issue reproductions of color photographic or digital imaged licenses and signatures of licensees to the DEO. The DEO will be able to use such reproductions to facilitate in the validation of reemployment assistance claims and to identify fraudulent or false reemployment assistance claims.

Allowing the DEO access to the DHSMV database will likely increase the number of fraudulent and false claims detected by the DEO.²³

The bill provides an effective date of upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The DHSMV estimates programing and implementation of the bill will cost approximately \$20,025.²⁴

²² Section 443.151(6)(e), F.S.

²³ Department of Economic Opportunity, *Senate Bill 1216 Agency Legislative Bill Analysis*, (Jan. 7, 2016) (on file with the Senate Committee on Commerce and Tourism).

²⁴ Department of Highway Safety and Motor Vehicles, *Senate Bill 372 Agency Legislative Bill Analysis*, (Feb. 6, 2017) (on file with the Senate Committee on Commerce and Tourism).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends section 322.142 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 Stargel

22-00467-17

2017372__

A bill to be entitled

An act relating to reemployment assistance fraud; amending s. 322.142, F.S.; authorizing reproductions from certain files or digital records maintained by the Department of Highway Safety and Motor Vehicles to be made and issued to the Department of Economic Opportunity pursuant to an interagency agreement for specified purposes; providing an effective date.

WHEREAS, the incidence of identity theft and the resulting fraud has reached a crisis level, and

WHEREAS, identity theft is especially problematic in this state, and the Federal Trade Commission reports that Florida has the highest per capita rate of reported fraud in the nation, and

WHEREAS, stolen identities are used to commit an ever-expanding range of fraud, including public assistance fraud, and

WHEREAS, identity theft and related fraud harm those whose identities are stolen, rob the social safety net of precious resources, impose unwarranted costs on taxpayers, and undermine public confidence in government, and

WHEREAS, the Department of Economic Opportunity's efforts to detect, prevent, and prosecute fraud have revealed that thousands of fraudulent claims for reemployment assistance are being filed, and

WHEREAS, the Department of Economic Opportunity has made prevention, detection, and prosecution of reemployment assistance fraud a top priority and has identified additional resources and tools necessary to effectively combat fraud, NOW, THEREFORE,

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

22-00467-17

2017372__

Section 1. Present paragraphs (k), (l), and (m) of subsection (4) of section 322.142, Florida Statutes, are redesignated as paragraphs (l), (m), and (n), respectively, and a new paragraph (k) is added to that subsection, to read:

322.142 Color photographic or digital imaged licenses.—

(4) The department may maintain a film negative or print file. The department shall maintain a record of the digital image and signature of the licensees, together with other data required by the department for identification and retrieval. Reproductions from the file or digital record are exempt from the provisions of s. 119.07(1) and may be made and issued only:

(k) To the Department of Economic Opportunity pursuant to an interagency agreement to facilitate the validation of reemployment assistance claims and the identification of fraudulent or false reemployment assistance claims.

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR KELLI STARGEL

22nd District

COMMITTEES:

Appropriations Subcommittee on Finance and Tax,
Chair
Appropriations Subcommittee on Health and
Human Services, *Vice Chair*
Appropriations
Children, Families, and Elder Affairs
Communications, Energy, and Public Utilities
Military and Veterans Affairs, Space, and Domestic
Security

January 25, 2017

The Honorable Bill Montford
Senate Commerce and Tourism Committee, Chair
410 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399

Dear Chair Montford:

I respectfully request that SB 372, related to *Reemployment Assistance Fraud*, 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 dark ink that reads "Kelli Stargel". The signature is fluid and cursive, with a long horizontal stroke extending from the end.

Kelli Stargel
State Senator, District 22

Cc: Todd McKay/ Staff Director
Gabriela Denton/ AA

REPLY TO:

- ☐ 2033 East Edgewood Drive, Suite 1, Lakeland, Florida 33803
- ☐ 322 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5022

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/21/17

Meeting Date

372

Bill Number (if applicable)

Topic UC fraud

Name Carolyn Johnson

Job Title Policy Director

Address 130 S Bronough St

Street

Tallahassee

City

State

Zip

Phone 521-1235

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FL Chamber

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

02/21/2017

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

372

Meeting Date

Bill Number (if applicable)

Topic Reemployment Assistance Fraud

Amendment Barcode (if applicable)

Name Cissy Proctor

Job Title Executive Director

Address 107 E. Madison Street

Phone 850-245-7298

Street

Tallahassee

FL

32399

City

State

Zip

Email Cissy.Proctor@DEO.Myflorida.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Department of Economic Opportunity

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)

COMMITTEE: Commerce and Tourism
ITEM: SB 372
FINAL ACTION: Favorable
MEETING DATE: Tuesday, February 21, 2017
TIME: 9:00—11:30 a.m.
PLACE: 110 Senate Office Building

[illegible]

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

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TP=Temporarily Postponed
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WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: CS/SB 252

INTRODUCER: Commerce and Tourism Committee and Senators Book and Passidomo

SUBJECT: Tax Exemption for Personal Hygiene Products

DATE: February 21, 2017

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Little	McKay	CM	Fav/CS
2. _____	_____	AFT	_____
3. _____	_____	AP	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 252 exempts the sale of diapers and certain incontinence products from state sales and use tax.

The Revenue Estimating Conference has not yet determined the fiscal impact of the bill. The Department of Revenue will incur a cost of approximately \$88,000 to notify businesses of the sales tax exemption.

The bill provides an effective date of January 1, 2018.

II. Present Situation:

Florida Sales and Use Tax

Florida levies a six percent state sales and use tax on the sale or rental of most tangible personal property, admissions, rentals of transient accommodations, rental of commercial real estate, and a limited number of services.¹ In addition to the six percent state sales tax, Florida law authorizes counties to levy discretionary sales surtaxes.² Sales tax is added to the price of taxable goods or services and the tax is collected from the purchaser at the time of sale.

¹ Chapter 212, F.S.

² Sections 212.054 and 212.055, F.S.

Chapter 212, F.S., contains statutory provisions that authorize the levy and collection of Florida's sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. There are currently more than 200 different exemptions, exclusions, deductions, and credits from sales and use tax.³

Medical products and supplies considered necessary to human health are among the items exempt from sales and use tax.⁴ Such products and supplies include ostomy pouches, catheters, and mastectomy pads. Common household remedies used in the cure, mitigation, treatment, or prevention of illness or disease are also exempt from sales and use tax. Alcohol wipes, bandages, and gauze are examples of common household remedies. Certain products relating to infants are also exempt, including baby food, formulas, and teething lotion.⁵

Diapers are not currently exempt from sales and use tax in Florida.⁶

Other States

Currently, eleven states and the District of Columbia⁷ do not subject the sale of diapers to state sales tax.⁸ Massachusetts,⁹ Minnesota,¹⁰ Pennsylvania,¹¹ New York,¹² Rhode Island,¹³ and Vermont,¹⁴ provide sales tax exemptions for diapers or incontinence products.

Connecticut¹⁵ and Maryland¹⁶ provide a tax exemption for disposable pads used for incontinency, but not baby diapers.

III. Effect of Proposed Changes:

The bill provides a state sales tax exemption for the sale of the following items:

- Diapers;
- Incontinence undergarments;
- Incontinence pads; and
- Incontinence liners.

³ Florida Revenue Estimating Conference, *Florida Tax Handbook*, (2016), available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2016.pdf> (last visited Feb. 17, 2017).

⁴ See s. 212.08(2)(a), F.S. and

⁵ The Department of Business and Professional Regulation is responsible for prescribing and approving a list of common household remedies, which is then certified by the Department of Revenue, available at http://floridarevenue.com/Forms_library/current/dr46nt.pdf (last visited Feb. 21, 2017).

⁶ However, diapers for children and adults, diaper bags, and diaper inserts have been temporarily exempt from sales tax during sales tax holidays. See Rule 12AER16-01, F.A.C.

⁷ D.C. Code § 47-2005.

⁸ Alaska, Delaware, Montana, New Hampshire, and Oregon do not impose a state sales tax.

⁹ Mass. Gen. Laws ch. 64H, § 6.

¹⁰ Minn. Stat. § 297A.67.9.

¹¹ 72 Pa. Cons. Stat. § 7204.

¹² N.Y. Tax Law § 1115.

¹³ Code. R.I. S.U. 07-13.

¹⁴ Minn. Stat. § 297A.67.9.

¹⁵ Conn. Gen. Stat. § 12-412.

¹⁶ Md. Tax-Gen. Code Ann., § 11-211.

The bill provides an effective date of January 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, section 18 of the Florida Constitution governs laws that require counties and municipalities to spend funds or that limit their ability to raise revenue or receive state tax revenue.

Subsection (b) of Article VII, section 18 of the Florida Constitution provides that, except upon approval by each house of the Legislature by two-thirds vote of its membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate.¹⁷ These requirements do not apply to laws that have an insignificant fiscal impact on local governments, which for Fiscal Year 2017-2018, is approximately \$2 million.¹⁸

The REC has not yet determined the fiscal impact of the bill. If the bill reduces local option tax revenue of counties and municipalities, the bill may require a two-thirds vote of approval by 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:

The REC has not yet determined the fiscal impact of the bill. However, the REC reviewed similar language and estimated the fiscal impact of a sales tax exemption for diapers and baby wipes would reduce General Revenue receipts by \$21.7 million in Fiscal Year 2017-2018, with a \$52.1 million recurring impact.

Staff estimates the recurring impact will be approximately \$40 million after removing baby wipes from the sales tax exemption.

¹⁷ See FLA. CONST. art. VII, s. 18(d).

¹⁸ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times ten cents. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Feb. 17, 2017).

B. Private Sector Impact:

Indeterminate, but positive. Individuals will see a reduction in the cost of diapers and incontinence products. Businesses such as daycare providers, diaper service providers, and hospitals will also see a reduction in the cost of diapers and incontinence products.

C. Government Sector Impact:

The Department of Revenue estimates a one-time cost of \$88,000 to print and mail a Tax Information Publication to advise businesses of the sales tax exemption.¹⁹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 212.08 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 Commerce and Tourism on February 21, 2017:

The committee substitute removes baby wipes from the sales tax exemption and provides a sales tax exemption for the sale of the following items:

- Diapers;
- Incontinence undergarments;
- Incontinence pads; or
- Incontinence liners.

B. Amendments:

None.

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

¹⁹ Department of Revenue, *SB 252 Fiscal Impact Analysis*, (Feb. 20, 2017) (on file with the Senate Commerce and Tourism Committee).



316012

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/21/2017	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 36 - 44
and insert:

(ooo) Diapers and incontinence products.—The sale for human utilization of diapers, incontinence undergarments, incontinence pads, or incontinence liners is exempt from the tax imposed by this chapter.

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



316012

11 And the title is amended as follows:

12 Delete lines 2 - 6

13 and insert:

14 An act relating to a tax exemption for diapers and
15 incontinence products; amending s. 212.08, F.S.;
16 exempting from the sales and use tax the sale for
17 human utilization of diapers, incontinence
18 undergarments, incontinence pads, or incontinence
19 liners; providing an effective date.

By Senator Book

32-00519-17

2017252__

1 A bill to be entitled
2 An act relating to a tax exemption for personal
3 hygiene products; amending s. 212.08, F.S.; exempting
4 from the sales and use tax the sale of diapers and
5 baby wipes; defining the terms "diaper" and "baby
6 wipe"; providing an effective date.
7
8 Be It Enacted by the Legislature of the State of Florida:
9
10 Section 1. Paragraph (ooo) is added to subsection (7) of
11 section 212.08, Florida Statutes, to read:
12 212.08 Sales, rental, use, consumption, distribution, and
13 storage tax; specified exemptions.—The sale at retail, the
14 rental, the use, the consumption, the distribution, and the
15 storage to be used or consumed in this state of the following
16 are hereby specifically exempt from the tax imposed by this
17 chapter.
18 (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any
19 entity by this chapter do not inure to any transaction that is
20 otherwise taxable under this chapter when payment is made by a
21 representative or employee of the entity by any means,
22 including, but not limited to, cash, check, or credit card, even
23 when that representative or employee is subsequently reimbursed
24 by the entity. In addition, exemptions provided to any entity by
25 this subsection do not inure to any transaction that is
26 otherwise taxable under this chapter unless the entity has
27 obtained a sales tax exemption certificate from the department
28 or the entity obtains or provides other documentation as
29 required by the department. Eligible purchases or leases made
30 with such a certificate must be in strict compliance with this
31 subsection and departmental rules, and any person who makes an
32 exempt purchase with a certificate that is not in strict

Page 1 of 2

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

32-00519-17

2017252__

33 compliance with this subsection and the rules is liable for and
34 shall pay the tax. The department may adopt rules to administer
35 this subsection.
36 (ooo) Personal hygiene products.—The sale of diapers and
37 baby wipes is exempt from the tax imposed by this chapter. As
38 used in this paragraph, the term:
39 1. "Diaper" means a product used to absorb or contain body
40 waste, including, but not limited to, baby diapers and adult
41 diapers and pads designed and used for incontinence.
42 2. "Baby wipe" means a moistened, disposable, often
43 antiseptic tissue used chiefly for cleansing the skin,
44 especially of babies and children.
45 Section 2. This act shall take effect January 1, 2018.

Page 2 of 2

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Environmental Preservation and
Conservation, *Chair*
Appropriations Subcommittee on the Environment
and Natural Resources, *Vice Chair*
Appropriations
Appropriations Subcommittee on Health and
Human Services
Health Policy
Rules

SENATOR LAUREN FRANCES BOOK

Democratic Leader Pro Tempore
32nd District

January 13, 2017

The Honorable Bill Montford
Chair, Commerce and Tourism Committee

Via Email

Re: SB 252 (HB 71)

Dear Chairman Montford:

I respectfully request that you agenda SB 252 at the next available meeting of the
Commerce and Tourism committee.

Thank you for your consideration.

Sincerely,

Lauren Book
Senator, District 32

Cc: Mr. Todd McKay, Staff Director
Ms. Gabriela Denton, Committee Administrative Assistant

REPLY TO:

□ 202 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5032

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

2/21/17
Meeting Date

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

Bill Number (if applicable)

Topic Bill 252

Name TORRIE JASUWAN

Amendment Barcode (if applicable)

Job Title VOLUNTEER DIRECTOR/FOUNDER BABYCYCLE

Address 4337 14th St. NE

Street

Phone (727) 403-7280

St. Petersburg FL 33703

City

State

Zip

Email TORRIEJASUWAN@gmail.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing National Diaper Bank Network

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/21/17
Meeting Date

SB252
Bill Number (if applicable)

Topic SB 252

Name Katie Phelps

Job Title Babycycle Agency Coordinator

Address 4480 Pompano Dr. SE
Street

Phone 727-403-5213

St. Pet FL 33705
City State Zip

Email Katieorr81@yahoo.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.

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THE FLORIDA SENATE

APPEARANCE RECORD

2.21-17

Meeting Date

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

252

Bill Number (if applicable)

Topic Tax Exemption Personal Hygiene

Amendment Barcode (if applicable)

Name Colleen Mackin

Job Title Constituency Services

Address 401 S. Magnolia DR.

Street

Callahassess FL

City

State

Zip

Phone 850-425-2600

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing The Children's Campaign

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-21-17

Meeting Date

252

Bill Number (if applicable)

Topic

Feminine Products Tax

Amendment Barcode (if applicable)

Name

Barbara DeVane

Job Title

Ms

Address

1625 E Brevard St

Phone

850-251-4280

Street

Tall

City

FL 32308

State

Zip

Email

barbadevane@yahoo.com

Speaking:

☒

For

☐

Against

☐

Information

Waive Speaking:

☐

In Support

☐

Against

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

Representing

FL NOW

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

COMMITTEE VOTE RECORD

COMMITTEE: Commerce and Tourism
ITEM: SB 252
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Tuesday, February 21, 2017
TIME: 9:00—11:30 a.m.
PLACE: 110 Senate Office Building

[illegible]

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call

WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: SB 364

INTRODUCER: Senator Gainer and others

SUBJECT: Recovery Fund for the Deepwater Horizon Incident

DATE: February 17, 2017

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Little	McKay	CM	Pre-meeting
2. _____	_____	ATD	_____
3. _____	_____	AP	_____

I. Summary:

SB 364 appropriates 75 percent of Florida's economic damage settlement funds to Triumph Gulf Coast, Inc., a nonprofit corporation responsible for creating and administering a Recovery Fund to assist with economic recovery in the 8 counties disproportionately affected by the Deepwater Horizon oil spill.

The bill provides an effective date of July 1, 2017.

II. Present Situation:

Deepwater Horizon Oil Spill

On April 20, 2010, an offshore drilling rig, known as Deepwater Horizon, exploded in the Gulf of Mexico.¹ The explosion claimed the lives of 11 crewmembers² and caused nearly 5 million barrels of crude oil to spill into the Gulf of Mexico.³ The five states bordering the Gulf of Mexico (Alabama, Florida, Louisiana, Mississippi, and Texas) were quickly determined to have experienced the most devastating economic and environmental effects of the oil spill.⁴

On July 6, 2012, President Obama signed the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (RESTORE Act) in an

¹ Campbell Robertson, *Gulf Spill Is the Largest of Its Kind, Scientists Say*, The New York Times, Aug. 2, 2010, available at <http://www.nytimes.com/2010/08/03/us/03spill.html> (last visited Feb. 17, 2017).

² Bradley Blackburn, *BP Oil Spill: Families Gather to Honor 11 Who Died, Express Frustration with BP, Transocean*, ABC News, May 25, 2010, available at <http://abcnews.go.com/WN/bp-oil-spill-transocean-holds-memorial-11-lost/story?id=10739080> (last visited Feb. 17, 2017).

³ Robertson, *supra* note 1.

⁴ Exec. Order No. 13554, 75 Fed. Reg. 62313, (October 5, 2010), available at <https://obamawhitehouse.archives.gov/the-press-office/2010/10/05/executive-order-13554-gulf-coast-ecosystem-restoration-task-force> (last visited Feb. 17, 2017).

effort to provide a mechanism for funding restoration of the Gulf Coast region.⁵ The RESTORE Act required 80 percent of administrative and civil penalties paid by responsible parties⁶ under provisions of the federal Clean Water Act to be deposited into the Gulf Coast Restoration Trust Fund.⁷ The RESTORE Act set forth the following framework for allocation of the Trust Fund:

- 35 percent equally divided among the five states;
- 30 percent to the Gulf Coast Ecosystem Restoration Council;
- 30 percent to the Oil Spill Restoration Impact;
- 2.5 percent to the Gulf Coast Ecosystem Restoration Science Observation Monitoring and Technology Program; and
- 2.5 per cent to Centers of Excellence.⁸

In addition to penalties imposed under the Clean Water Act, responsible parties were liable for Natural Resource Damage Assessment Penalties under the Oil Pollution Act of 1990 and criminal penalties asserted by the National Fish and Wildlife Foundation.⁹ The funds awarded to the Gulf States were determined pursuant to a consent decree, approving a \$20.8 billion settlement of a civil lawsuit filed by the United States and the five Gulf States against parties responsible for the oil spill.¹⁰

Economic Loss Claims

In an agreement separate from the civil lawsuit, BP also agreed to pay a total of \$4.9 billion to the five Gulf States, and up to \$1 billion to local government entities for economic damage claims related to the oil spill.¹¹ Pursuant to this agreement, the state of Florida will receive a total of \$2 billion in economic damage claims over an 18-year period.¹² Attorney General Pam Bondi received BP's initial settlement payment of \$400 million in July of 2016, and the funds were placed into the state General Revenue Fund.¹³ Subsequent settlement payments are scheduled to be paid annually to the state in the amount of \$106,666,666 from 2019 until 2033.¹⁴

⁵ Pub. L. No. 112-141 (113th Congress). Codified at 33 U.S.C. 1321.

⁶ Transocean Ltd., British Petroleum (BP), and The Halliburton Company were among the parties found to be responsible.

⁷ The remaining 20 percent of the administrative and civil penalties are to be deposited into the federal Oil Spill Liability Trust Fund, which funds removal costs or damages resulting from discharges of oil. *See* 33 U.S.C. 1321.

⁸ A table of Projected BP Annual Deposits into the Gulf Coast Restoration Trust Fund is available at https://www.treasury.gov/services/restore-act/Documents/BP_Estimated_Deposits_Schedule_June302016.pdf (last visited Feb. 17, 2017).

⁹ Consent Decree, In re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico on April 20, 2010 (no. 2179, M.D.L., April 4, 2016), available as document no. 15, at <https://www.justice.gov/enrd/file/838066/download> (last visited Feb. 17, 2017).

¹⁰ A flowchart of the funds awarded in the approved settlement is available at <http://www.oceanconservancy.org/places/gulf-of-mexico/spill-funds-flowchart-spring.pdf> (last visited Feb. 17, 2017).

¹¹ Attorney General Pam Bondi, *Deepwater Horizon Oil Spill Settlement Fact Sheet* [http://myfloridalegal.com/webfiles.nsf/WF/KMAN-9Y2H9C/\\$file/BP+Fact+Sheet.pdf](http://myfloridalegal.com/webfiles.nsf/WF/KMAN-9Y2H9C/$file/BP+Fact+Sheet.pdf) (last visited Feb. 17, 2017).

¹² Consent Decree, In re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico on April 20, 2010 (no. 2179, M.D.L., April 4, 2016), available as document no. 15435-2.

¹³ Court settlement funds negotiated by the state are placed in the General Revenue Fund pursuant to s. 216.216, F.S.

¹⁴ Document no. 15435-2, *supra* note 8.

Florida Legislation

Disbursement of Funds

In 2011, the Legislature began to address the negative economic and environmental impacts of the oil spill.¹⁵ Section 377.43, F.S., was created to provide a mechanism for the disbursement of funds received by the state for damages associated with the oil spill.¹⁶ Section 377.43, F.S., ensures that 75 percent of “[a]ny funds received by the state from any governmental or private entity for damages caused by the Deepwater Horizon oil spill...” are utilized for the benefit of the eight counties disproportionately affected by the oil spill.¹⁷ The eight disproportionately affected counties are: Bay County, Escambia County, Franklin County, Gulf County, Okaloosa County, Santa Rosa Count, Walton County, and Wakulla County.¹⁸ Section 377.43, F.S., designates the Department of Environmental Protection (DEP) as the lead agency for expending funds directed to environmental restoration and the Department of Economic Opportunity (DEO) as the lead agency for expending funds directed to economic incentives and diversification efforts.¹⁹

Gulf Coast Economic Corridor Act

In 2013, the Legislature created the “Gulf Coast Economic Corridor Act” (the Act) to provide a long-term source of funding for economic recovery and enhancement efforts in the Gulf Coast region. The Act was intended to help businesses, individuals, and local governments recover from the Deepwater Horizon oil spill.²⁰ The Act created Triumph Gulf Coast, Inc. (Triumph Gulf Coast), a nonprofit corporation administratively housed under the DEO.²¹

Triumph Gulf Coast, Inc.

Triumph Gulf Coast must create and administer a “Recovery Fund,” to be utilized as a long-term source of revenue for the disproportionately affected counties.²² Triumph Gulf Coast is tasked with investing the principal of the Recovery Fund, which is derived from “75 percent of all funds recovered by the Attorney General for economic damage to the state resulting from the Deepwater Horizon disaster, after payment of reasonable and necessary attorney fees, costs, and expenses....”²³ The Recovery Fund is required to decline over a 30-year period, in equal amounts each year. Any funds remaining after 30 years will revert to the State Treasury.²⁴

The duties of Triumph Gulf Coast include:

- Responsibly and prudently managing all funds received and ensuring that the use of funds is in accordance with applicable laws, bylaws, and contractual requirements;
- Administering the program set forth by the Act;

¹⁵ Chapter 2011-142, Laws of Fla.

¹⁶ See ss. 377.43(2) and (3), F.S.

¹⁷ Section 377.43(3), F.S.

¹⁸ Section 377.43(1), F.S.

¹⁹ Section 377.43(5), F.S.

²⁰ Section 288.8011, F.S.

²¹ Sections 288.8013(1), F.S.

²² The “Recovery Fund” is defined as, “a trust account established by Triumph Gulf Coast, Inc., for the benefit of the disproportionately affected counties.” Section 288.2012(3), F.S.

²³ Sections 288.8013(2) and (3), F.S.

²⁴ Section 288.8013(3), F.S.

- Monitoring, reviewing, and annually evaluating awardees and their projects or programs to determine whether awards should be continued, terminated, reduced, or increased; and
- Operating in a transient manner, providing public access to information, notice of meetings, awards, and the status of projects and programs.²⁵

Triumph Gulf Coast is required to competitively procure one or more money managers to invest the funds.²⁶ While Triumph Gulf Coast is permitted to hire or contract for staff deemed necessary to execute the program, the corporation is required to retain all of the following staff members:

- An independent certified public accountant;
- An independent financial advisor;
- An economic advisor; and
- A legal advisor.²⁷

Board of Directors

Triumph Gulf Coast is comprised of a 5-member board of directors (the board).²⁸ Each of the Trustees of the State Board of Administration,²⁹ the President of the Senate, and the Speaker of the House of Representatives, appoint an individual from the private sector to serve as a board member.³⁰ To achieve staggered terms, the initial board members appointed by the President of the Senate and the Speaker of the House of Representatives will serve for a period of 5 years.³¹ All other initially appointed, and subsequently appointed, board members will serve for a term of 4 years.³²

The board annually elects a chairperson, who is responsible for the official seal of Triumph Gulf Coast and ensuring that records are properly recorded and maintained.³³ The board is required to meet at least quarterly, upon the call of the chairperson or at the request of a majority of the membership. A majority of the board members constitutes a quorum and board members cannot vote by proxy.³⁴

The board is required to formulate an investment policy governing the investment of the principal of the Recovery Fund, under the advice of the financial advisor, and in consultation with the State Board of Administration.³⁵ The board's powers include the ability to:

- Make and enter into contracts;
- Make expenditures;
- Adopt, use, and alter a common corporate seal;

²⁵ Section 288.8016, F.S.

²⁶ Section 288.8013(4)(b), F.S.

²⁷ Section 288.8014(9)(a), F.S.

²⁸ Section 288.8014(2), F.S.

²⁹ The State Board of Administration Trustees are the Governor, the Attorney General, and the Chief Financial Officer. *See* FLA. CONST. art. IV, s.4.

³⁰ Section 288.8014(2), F.S.

³¹ In 2014, the Legislature amended the length of the terms and specified the initial terms would begin once the Legislature appropriated funds to the Recovery Fund. *See* ch. 2014-218, Laws of Fla.

³² Section 288.8014(3), F.S.

³³ Section 288.8014(2), F.S.

³⁴ Section 288.8014(7), F.S.

³⁵ Section 288.8013(4)(a), F.S.

- Adopt, amend, and repeal bylaws; and
- Use the state seal.³⁶

The board may also request the presence of, and consult with, the executive director of the DEO, the secretary of the DEP, the chair of the Committee of 8 Disproportionately Affected Counties, and any retained staff. However, these individuals are not able to vote on any matters before the board.³⁷

Triumph Gulf Coast and its board members are subject to public records and meeting requirements.³⁸ Board members and staff must adhere to the same standards of conduct as public officers and employees and are required to file financial disclosure forms.³⁹ Board members are required to serve uncompensated, except for travel and per diem expenses. Additionally, each board member must agree to refrain from having any direct interest in any contract, program, project, or other benefit arising from an award from the Recovery Fund during the term of appointment to the board and for 2 years following the end of the appointment.⁴⁰ It is a misdemeanor of the first degree for a board member to violate these requirements.⁴¹

Awards

Triumph Gulf Coast is permitted to make awards from available earnings and principal for projects or programs that meet the priorities for economic recovery, diversification, and enhancement of the disproportionately affected counties.⁴² Triumph Gulf Coast may provide awards for any of the following projects or programs:

- Ad valorem tax reduction;
- Payment of impact fees;
- Administrative funding for economic development organizations;
- Local match requirements for certain economic incentives programs;
- Economic development projects;
- Infrastructure projects that are shown to enhance economic development;
- Grants to local governments to establish and maintain equipment and trained personnel for local action plans of response to disasters;
- Grants to support programs of excellence that prepare students for future occupations and careers at K-20 institutions; or
- Grants to Visit Florida for advertising and promoting tourism, the Fresh From Florida program, or other related content.⁴³

³⁶ Section 288.8015, F.S.

³⁷ See s. 288.8014(9), F.S.

³⁸ Section 288.8014(1), F.S.

³⁹ These standards of conduct include restrictions on employment of relatives, voting conflicts, and standards of conduct for public officers, which include prohibitions on self-dealing, solicitation of gifts, and postemployment restrictions. See ss. 288.8014(4) and (9), F.S.

⁴⁰ Section 288.8014(5), F.S.

⁴¹ Punishable by a fine of up to \$1,000 and up to one-year imprisonment. See ss. 775.082 and 775.083, F.S.

⁴² Section 288.8017(1), F.S.

⁴³ See s. 288.8017(1), F.S.

Triumph Gulf Coast must establish an application and scoring process for all awards. The scoring process should lead to the selection of projects or programs that “have the potential to generate increased economic activity in the disproportionately affected counties.”⁴⁴ Awards may not finance 100 percent of a project or program, and an awardee is prohibited from receiving all of the available funds in any given calendar year. A one-to-one private-sector match may be required if applicable and deemed prudent by the board.⁴⁵ The application and scoring process should give priority to projects or programs that meet the following criteria:

- Generate maximum economic benefits;
- Expand household income above the national average;
- Expand or establish new high growth industries;
- Leverage or enhance key regional assets, including research facilities and military bases;
- Partner with local governments, convention and visitor bureaus, chambers of commerce, school districts, or educational institutions;
- Have investment commitments from private equity or venture capital funds;
- Provide or encourage seed-stage investments;
- Provide advice or technical assistance to companies on restructuring existing management, operations, or production to attract business opportunities;
- Benefit the environment in addition to the economy; and
- Provide outcome measures for program of excellence.⁴⁶

Contracts for awards must include provisions requiring the awardee to submit a performance report to Triumph Gulf Coast. Contracts must also include provisions to provide for recovery of the award if the awardee is not meeting performance expectations or the awardee gave fraudulent information to obtain the award.⁴⁷

Administrative Costs

Earnings generated by investments and interest of the Recovery Fund are required to be utilized for awards and administrative costs under the program. Administrative costs include management fees for investments, audit expenses, travel and per diem expenses, staff salaries, and other allowable costs. Administrative costs are limited to 2.25 percent of the earnings each calendar year.⁴⁸ Management fees for investments are limited to 150 basis points.⁴⁹

Auditing and Reporting

Triumph Gulf Coast is required to report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on June 30 and December 30 of each year. The report should provide the financial status of the Recovery Fund and its investments, including a detailed list of approved awards, submitted applications, and any reasons for approval or denial. The report must also include information on the program’s established priorities and the application selection process.⁵⁰

⁴⁴ Section 288.8017(2), F.S.

⁴⁵ Section 288.8017(3), F.S.

⁴⁶ See s. 288.8017(2), F.S.

⁴⁷ Section 288.8014(4), F.S.

⁴⁸ Section 288.8013(3).

⁴⁹ Section 288.2013(4)(c), F.S.

⁵⁰ Section 288.8013(5), F.S.

Triumph Gulf Coast is also required to have two annual audits – one of the investment of the Recovery Fund by an independent certified public accountant,⁵¹ and one of the Recovery Fund and Triumph Gulf Coast by the Auditor General. Triumph Gulf Coast is required to provide the Auditor General details or supplemental data necessary to perform the audit.⁵²

III. Effect of Proposed Changes:

The bill defines “settlement agreement” as “the agreement between the gulf states and the BP entities with respect to economic claims arising from the Deepwater Horizon incident.” Adding the definition clarifies that the Act relates to the \$2 billion of economic damage settlement funds negotiated by the Attorney General.⁵³

The bill appropriates economic damage settlement funds to Triumph Gulf Coast. After reasonable and necessary payment of attorney fees, costs, and reasonable expenses, the bill requires settlement funds received by the state prior to June 30, 2017 to be transferred to the Recovery Fund no later than August 1, 2017.

The bill also creates a recurring appropriation to ensure that settlement funds received by the state on or after July 1, 2017 are appropriated to Triumph Gulf Coast and transferred to the Recovery Fund no later than 30 days after the funds are received.

The bill provides an effective date of July 1, 2017.

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.

⁵¹ Section 288.8013(4), F.S.

⁵² Section 288.8013(6), F.S.

⁵³ See *supra*, note 8.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

The bill reduces General Revenue funds by \$300 million in Fiscal Year 2017-2018. Seventy-five percent of future economic damage settlement payments received by the state will be transferred from General Revenue to the Recovery Fund.

VI. Technical Deficiencies:

Line 35 of the bill refers to moneys received *before* June 30, 2017 and line 40 of the bill refers to moneys received *on or after* July 1, 2017. The language inadvertently does not provide guidance for a scenario in which the state receives settlement funds on July 30, 2017.

VII. Related Issues:

Line 33 of the bill relates to 75 percent of the moneys after “reasonable and necessary payment of attorney fees, costs, and related expenses.” The Attorney General negotiated fees, costs, and expenses in an agreement separate from the settlement for economic damages. Without a deduction of these funds, Triumph Gulf Coast will receive 75 percent of the total amount of moneys received before June 30, 2017.

VIII. Statutes Affected:

This bill creates section 288.8012(5) of the Florida Statutes. This bill amends section 288.8013 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 Senators Gainer, Broxson, and Montford

2-00613-17

2017364__

A bill to be entitled

An act relating to the Recovery Fund for the Deepwater Horizon incident; amending s. 288.8012, F.S.; defining the term "settlement agreement"; amending s. 288.8013, F.S.; revising the funding source of the principal of the Recovery Fund for the Deepwater Horizon incident; requiring that certain funds be transferred to the Recovery Fund within a specified timeframe; providing an effective date.

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

Section 1. Subsection (5) is added to section 288.8012, Florida Statutes, to read:

288.8012 Definitions.—As used in ss. 288.80-288.8017, the term:

(5) "Settlement agreement" means the agreement between the gulf states and the BP entities with respect to economic claims arising from the Deepwater Horizon incident.

Section 2. Subsection (2) of section 288.8013, Florida Statutes, is amended to read:

288.8013 Triumph Gulf Coast, Inc.; Recovery Fund; creation; investment.—

(2) (a) Triumph Gulf Coast, Inc., must create and administer the Recovery Fund for the benefit of the disproportionately affected counties. The principal of the fund shall derive from 75 percent of all moneys received by the state pursuant to the settlement agreement ~~funds recovered by the Attorney General for economic damage to the state resulting from the Deepwater Horizon disaster~~, after payment of reasonable and necessary attorney fees, costs, and expenses, including such attorney fees, costs, and expenses pursuant to s. 16.0155.

Page 1 of 2

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

2-00613-17

2017364__

(b)1. After reasonable and necessary payment of attorney fees, costs, and related expenses, 75 percent of the remaining moneys received by the state before June 30, 2017, pursuant to the settlement agreement is appropriated to Triumph Gulf Coast, Inc., and shall be transferred to the Recovery Fund no later than August 1, 2017.

2. Seventy-five percent of the moneys received by the state pursuant to the settlement agreement on or after July 1, 2017, is appropriated to Triumph Gulf Coast, Inc., and shall be transferred to the Recovery Fund no later than 30 days after such funds are received by the state.

Section 3. This act shall take effect July 1, 2017.

Page 2 of 2

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



FLORIDA SENATE COMMITTEE ON COMMERCE & TOURISM

FEBRUARY 21, 2017

KEN LAWSON
PRESIDENT AND CEO
VISIT FLORIDA

VISITFLORIDA.

LEADERSHIP VALUES



TRANSPARENCY



VALUE



PARTNERSHIP

ROADMAP

- ❖ **TRANSPARENCY & ACCOUNTABILITY**
- ❖ **WHO WE ARE**
- ❖ **WHAT WE DO**
- ❖ **HELPING SMALL BUSINESSES & DELIVERING IMPACT**
- ❖ **WHAT'S AT STAKE?**

TRANSPARENCY & ACCOUNTABILITY

- ❖ 7 Pillars of Wisdom
- ❖ External Auditor
- ❖ Procedural Upgrades

WHO WE ARE: VISIT FLORIDA OVERVIEW



Florida has invested in tourism promotion for 71 years (since 1945)
VISIT FLORIDA established as a public private partnership in 1996



140 Positions



5 Welcome Centers



31 member Board of Directors



220 Industry Leaders serving on 11 committees



12K+ Industry Partners across all 67 counties

WHAT WE DO: MARKETING STRATEGIES



DRIVE DEMAND

ENSURING FLORIDA IS
TOP OF MIND



INCREASE YIELD

TARGETING VISITORS
WHO WILL DELIVER
THE GREATEST
ECONOMIC IMPACT



BRAND ENGAGEMENT

LEVERAGING VISITORS TO
MARKET FLORIDA



INDUSTRY ALIGNMENT

PROMOTING
COLLECTIVE IMPACT
THROUGH PARTNERSHIP

COOPERATIVE PARTNERSHIP



A platform for Industry Partners to participate in VISIT FLORIDA Marketing Programs that they otherwise would not have access to or afford on their own.

WHAT WE DO: COOPERATIVE PARTNERSHIP VALUE FOR PARTNERS



VISIT FLORIDA Partners



Investing in
VISIT FLORIDA co-op



Partners can stretch
budgets by an
additional 40% (avg)

WHAT WE DO: COOPERATIVE PARTNERSHIP LONDON TAKEOVER



WHAT WE DO: COOPERATIVE PARTNERSHIP LONDON TAKEOVER

VISIT FLORIDA Fire-starters	Waterloo, Expedia Microsite, PR, Paid and Earned Social (FB, Twitter, Instagram)		
	Entry: \$7,500	Mid-level: \$25,000	Premier: \$50,000
1:1 VF Match	✓	✓	✓
Influencer + Amplification Co-op	✓	✓	✓
Expedia.co.uk	✓	✓	✓
Digital TV FL Channel	2 videos	4 videos	8 videos
Fulham Football Club			✓
Heart Radio Campaign			✓
Facebook Canvas			✓
Minimum Value:	\$17,000	\$54,000	\$453,000
Minimum ROI:	2.2:1	2:1	9:1

Plus the additional benefit of VISIT FLORIDA advertising in market.

WHAT WE DO: COOPERATIVE PARTNERSHIP LONDON TAKEOVER: MARTIN COUNTY



\$7,500
Martin County
Investment



\$7,500
VISIT FLORIDA
Match



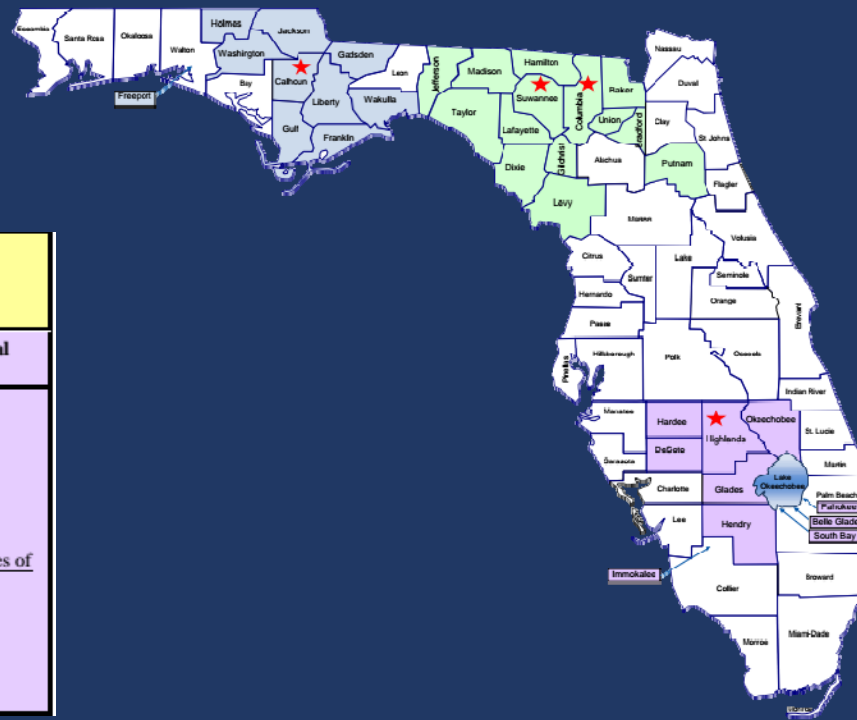
\$42,897
Media Value



5.7:1 Return on Investment

WHAT WE DO: HELPING SMALL BUSINESSES RURAL AREAS OF OPPORTUNITY

Rural Area of Opportunity (RAO) ★Catalyst Sites <small>Updated: 8/29/14</small>		
Northwest RAO	North Central RAO	South Central RAO
★Calhoun Franklin Gadsden Gulf Holmes Jackson Liberty Wakulla Washington & The City of Freeport	Baker Bradford ★Columbia Dixie Gilchrist Hamilton Jefferson Lafayette Levy Madison Putnam ★Suwannee Taylor Union	DeSoto Glades Hardee Hendry ★Highlands Okeechobee & <u>The Communities of</u> Pahokee Belle Glade South Bay Immokalee



MATCH REQUIREMENT 1:1

288.904(3)(a)&(b), F.S.

- ❖ **Public: \$74M (FY 2015-16)**
- ❖ **Private:**
 - \$12.1M Hard Dollars
 - \$130.8M Cooperative Marketing Dollars
- ❖ **Exceeding Match Requirement 2:1**

DELIVERING IMPACT: VALUE THROUGH POSITIVE ROI

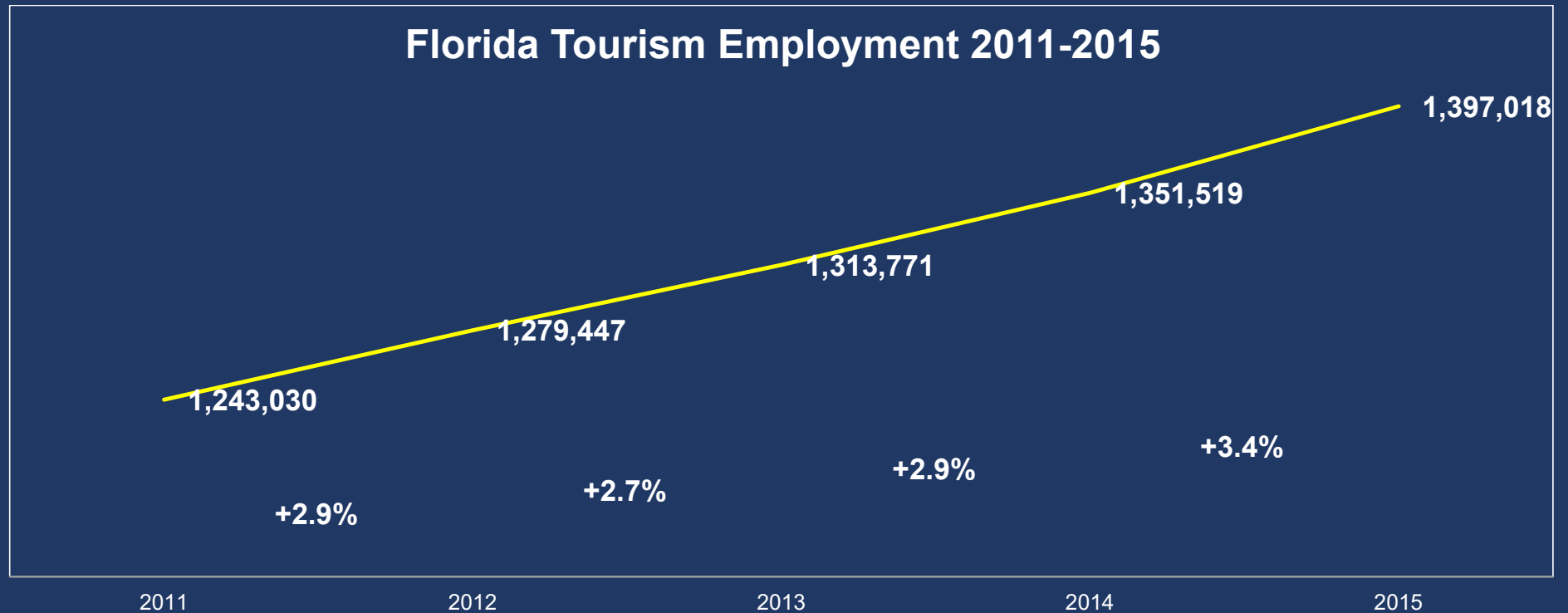
Every **\$1** invested in VISIT FLORIDA,
generates **\$3.20** in tax revenue for the state.



Source: Office of Economic and Demographic Research, Report: Return on Investment for VISIT FLORIDA

VALUE: JOBS

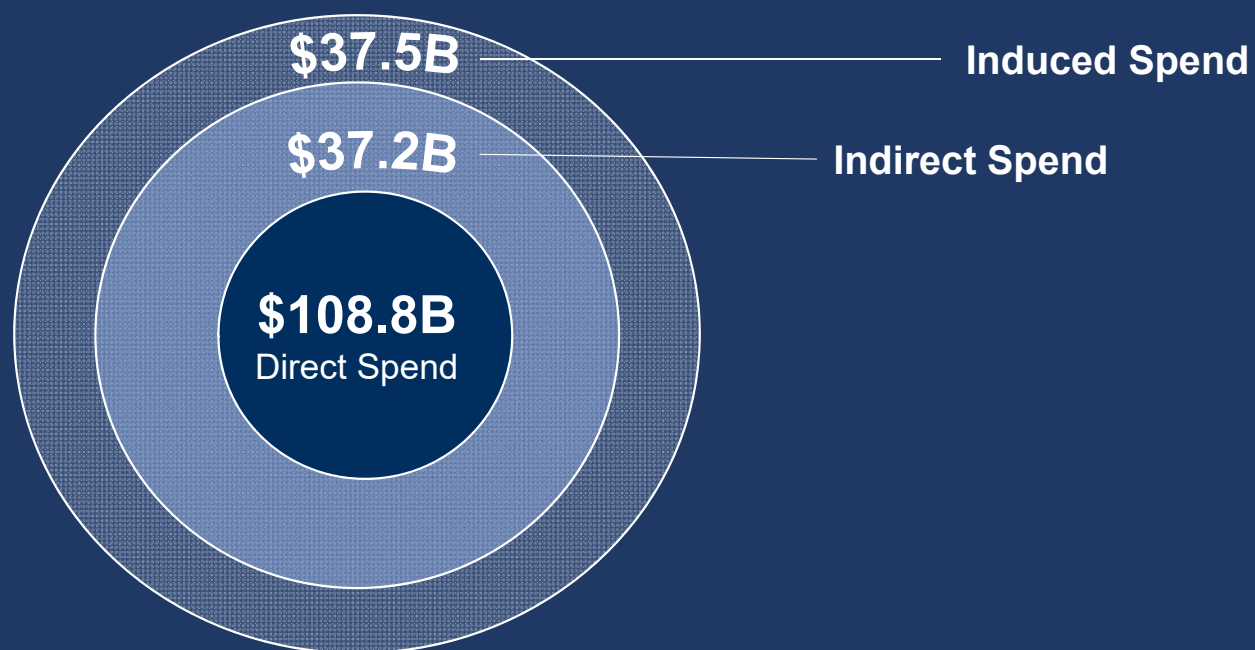
Florida Tourism Employment 2011-2015



Source: *The Economic Impact of Out-of-State Visitor Spending in Florida*, Tourism Economics

Note: The tourism employment total is the sum of direct, indirect and induced jobs supported by out-of-state visitor spending.

VALUE: ECONOMIC IMPACT BEYOND TOURISM



\$183.5B: Total economic impact of tourism to the state in 2015

WHAT'S AT STAKE?



**Budget cut
from \$30M to \$7M**

**Budget cut
from \$7M to \$0**

**Budget cut
from \$12M to \$0**



**Every \$1 cut = \$3.60
in lost tax revenue**

**Traveler spend grew
70% faster in MT
(competitor)**

**\$1.4B in traveler spend
lost within 1 year**

**\$600M lost tax revenue
2009-2014**

Source: US Travel Association

TOURISM MARKETING PAYS OFF



**Budget increased
\$43.3M**



**Travel Spending
Increased \$30B**



**Budget increased
\$50.1M**

**Travel Spending
Increased \$32.4B**



**Budget increased
\$10.5M**

**Travel Spending
Increased \$3.5B**



**Budget increased
\$4.6M**

**Travel Spending
Increased \$933M**

Source: US Travel Association

MINIMAL REDUCTION = MAJOR IMPACT

2% REDUCTION IN TRAVEL, FLORIDA WOULD **LOSE...**



\$2.2B in travel spending

\$225M in tax revenue



28,000 Florida jobs

Source: US Travel Association

VISITFLORIDA.

BREAKING RECORDS

- ❖ Q4 2016: **27.6M** up 6.1%YOY (Highest Q4 ever)
- ❖ CY2016: **112.8M** up **5.9% YOY** (Highest visitor volume ever recorded)

Source: DK Shifflet & Associates

Q&A

VISITFLORIDA®



THE FLORIDA SENATE
APPEARANCE RECORD

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

2/21/17

Meeting Date

Topic Visit FL Discussion

Bill Number (if applicable)

Name Cissy Proctor

Amendment Barcode (if applicable)

Job Title Executive Director of DEO

Address 107 E Meridian St
Street

Phone

Tallahassee FL 32399
City State Zip

Email

Speaking: ☐ For ☐ Against ☒ Information

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

Representing Department of Economic Opportunity

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/21/2017

Meeting Date

Bill Number (if applicable)

Topic

Name William TALBERT, III

Amendment Barcode (if applicable)

Job Title Visit Florida Board Chair

Address 701 Brichell Ave #2700

Street

Miami

FL

33131

City

State

Zip

Phone 305-539-3000

Email TALBERT@FMCVB.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing VF Board

Appearing at request of Chair: ☒ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

2/21/17
Meeting Date

N/A
Bill Number (if applicable)
N/A
Amendment Barcode (if applicable)

Topic VISIT FLORIDA Presentation

Name Ken Lawson

Job Title President & CEO, VISIT FLORIDA

Address 2540 W. Executive Center Circle
Street

Suite 200

Tallahassee
City

FL
State

32301
Zip

Phone 850-488-5607

Email klawson@visitflorida.org

Speaking: ☐ For ☐ Against ☒ Information

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

Representing VISIT FLORIDA

Appearing at request of Chair: ☒ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

CourtSmart Tag Report

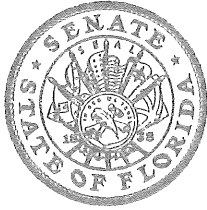
Room: EL 110 **Case No.:**
Caption: Senate Committee on Commerce and Tourism

Type:
Judge:

Started: 2/21/2017 9:04:57 AM
Ends: 2/21/2017 10:00:01 AM **Length:** 00:55:05

9:04:56 AM Meeting Called to Order
9:05:02 AM Roll Call
9:05:06 AM Quorum Present
9:05:18 AM Senator Gibson excused
9:05:59 AM Pledge
9:06:02 AM TP Senate Bill 364
9:06:21 AM Tab 1
9:06:26 AM Senator Stargel recognized to explain bill
9:06:42 AM Senator Stargel on SB 346
9:06:57 AM 1 Amendment on the bill
9:07:08 AM Senator Stargel explains amendment
9:07:20 AM Stargel closes on amendment
9:07:27 AM Amendment adopted
9:07:34 AM Stefan Rubin from Fictitious Names Registration waives in support
9:08:20 AM SB 346 reported favorably
9:08:32 AM Tab 2
9:08:45 AM SB 372
9:08:51 AM Senator Stargel on SB 372
9:09:03 AM Questions
9:09:06 AM Senator Rodriguez questions
9:09:19 AM Any questions?
9:09:46 AM Appearance forms
9:09:51 AM Carolyn Johnson FL Chamber in support
9:10:07 AM Cissy Proctor Reemployment Assistance Fraud in support
9:10:25 AM SB 372 reported favorably
9:10:34 AM Tab 3
9:10:40 AM Senator Passidomo co-sponsor speaking on SB 252
9:11:10 AM Questions?
9:11:57 AM Senator Latvala questions
9:12:07 AM Senator Rodriguez
9:12:55 AM Senator Passidomo
9:13:11 AM 1 amendment
9:13:36 AM Barcode 316012
9:13:48 AM Senator Passidomo speaks on amendment 316012
9:14:02 AM Questions?
9:14:09 AM Torrie Jasuwon from National Diaper Bank Network
9:15:25 AM Barbra Defrane from FLNOW in Support
9:16:32 AM Coleen Mackin from The Children's Campaign in support
9:16:46 AM Katie Phelps Babycycle Agency Coordinator supports
9:16:57 AM Any debate on bill?
9:17:04 AM Amendment is adopted
9:17:10 AM Bill SB252 is reported favorably
9:18:13 AM Discussion with Ken Lawson representing Visit Florida
9:19:13 AM Ken Lawson speaks
9:31:47 AM Chairman Montford
9:32:47 AM Questions?
9:32:50 AM Senator Rodriguez
9:32:58 AM Mr. Lawson
9:33:50 AM Senator Rodriguez
9:35:02 AM Ken Lawson
9:36:01 AM Chairman Montford
9:37:00 AM Senator Hutson

9:37:03 AM	Ken Lawson
9:37:40 AM	Senator Young
9:37:45 AM	Ken Lawson
9:38:58 AM	Senator Young
9:39:01 AM	Ken Lawson
9:39:14 AM	Senator Passidomo
9:39:23 AM	Ken Lawson
9:41:06 AM	Senator Passidomo
9:42:06 AM	Ken Lawson
9:42:52 AM	Senator Passidomo
9:43:43 AM	Senator Latvala
9:50:46 AM	Ken Lawson
9:51:45 AM	Questions?
9:51:51 AM	Senator Gainer
9:51:58 AM	Ken Lawson
9:52:56 AM	Chairman Montford speaks
9:53:44 AM	Chairman of Visit Florida William Talbert III
9:55:22 AM	Chairman Montford
9:56:21 AM	Senator Young
9:56:29 AM	Ken Lawson
9:56:58 AM	Cissy Proctor DEO in Support of Visit Florida
9:58:41 AM	Mr.Lawson
9:59:43 AM	No further questions?
9:59:49 AM	Meeting Adjourned



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Military and Veterans Affairs, Space, and
Domestic Security, *Chair*
Appropriations
Appropriations Subcommittee on
Transportation, Tourism, and Economic
Development
Commerce and Tourism
Judiciary
Regulated Industries
Joint Legislative Auditing Committee

SENATOR AUDREY GIBSON

6th District

February 20, 2017

Senator Bill Montford, Chair
Committee on Commerce and Tourism
310 Knott Building
404 South Monroe St.
Tallahassee, FL 32399

Chair Montford:

I respectfully request be excused from this week's committee meeting, because I am sick with the flu.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Audrey Gibson".

Audrey Gibson
State Senator
Senate District 6

A handwritten signature in black ink that reads "Bill Montford". Below the signature is the date "2/21/17".

REPLY TO:

- ☐ 101 E. Union Street, Suite 104, Jacksonville, Florida 32202 (904)359-2553 FAX: (904) 359-2532
- ☐ 405 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5006

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore